



22 April 2024

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Director
Corporate Tax Policy Unit
Corporate and International Tax Division
Treasury
Langton Cres
Parkes ACT 2600

Dear Director,

Re: Consultation into the Treasury Laws Amendment Bill 2024: Build to Rent Developments and the Capital Works (Build to Rent Misuse Tax) Bill 2024

Salta Properties would like to make a submission to the Treasury's Consultation into the Treasury Laws Amendment Bill 2024: Build to Rent Developments and the Capital Works (Build to Rent Misuse Tax) Bill 2024 (together, Bills) and thanks Treasury for the opportunity.

Salta Properties is a developer, owner, and operator of commercial, industrial, and residential properties in Victoria. We have a pipeline of more than 4,000 BTR units on current land holdings and are preparing to execute this pipeline with the assistance of foreign capital partners. We have been in discussions with capital partners for the past six months and one major impediment for these groups is the uncertain regulatory environment including until recently, the lack of detail around the application of MIT withholding tax.

Since the release of the draft BTR rules and following our review, it appears there are inconsistencies for BTR projects compared to the existing rules for commercial & industrial properties. Further the BTR rules appear complex and hard to administer. Having these inconsistencies and increased complexity creates a risk that investors will allocate capital to non-BTR asset classes and detract from much needed housing supply. For this reason, we strongly suggest aligning the BTR rules and concessions with the existing rules for commercial & industrial assets where practical. In addition, we would like to call out some specific and critical limitations which are summarised below.


1. **15% WHT rate to remain for 15 years only** – This will create a two-tiered market where assets will become less attractive to invest in over time. We are currently in discussions with prospective foreign capital partners and ability to exit the asset with a liquid secondary market is a critical component of their initial investment decision. The uncertainty the 15-year time limit creates will disincentivise foreign investment into BTR, and as such the legislation in its current form is completely ineffective.
2. **15% WHT rate to rent and not capital gains** - The 15% rate only applies to rental income during the 15-year holding period and not capital gains. We are currently in discussions with prospective foreign capital partners, who under these rules, will receive very little tax concession based on their investment horizon and style of returns. BTR is disadvantaged compared to other asset classes by the manner in which the draft is currently proposed. The inclusion of affordable housing equates to a reduction in capital value, and with no tax concession, there will be little incentive to provide affordable housing. As mentioned

above the inconsistency of this rule with other asset classes will re-direct foreign investment from much needed housing, into other asset classes.

3. **Affordable housing requirements erode commercial viability of projects with complex compliance, and they overlap with state and territory initiatives** - as currently drafted, requirements to include 10% dwellings as affordable tenancies will erode over half the advantage of shifting to a lower WHT of 15% and will create an uneven playing field for BTR compared to other asset classes. We have two BTR projects which already have state mandated affordable housing. It remains very unclear how the interaction between state and territory initiatives would work in practice. If there was a federal requirement in addition to the already agreed affordable housing requirements, these two projects would be unviable and would result in 2,000 homes not being built. We support in principle, the provision of affordable key worker housing as part of BTR projects however there needs to be an additional concession to offset the loss of rental income and lower investment returns. The 15% rate should apply to all BTR projects with an additional concession if affordable housing is incorporated.
3. **Reporting and Compliance including misuse tax** – The rules as currently drafted raise a number of questions and create a lot of uncertainty with more detail required. While we (and most groups) would endeavour to do the right thing, there is a potential for unintended and honest mistakes. As currently drafted, the misuse tax clawback exposes taxpayers to factors which are outside their control. Therefore, further detail around how this integrity measure will operate is needed.
5. **Exclusion of assets operating prior to 2023 Budget announcement** - failing to extend the 15% WHT risks these early BTR projects becoming stranded assets. As a result, these assets will likely be sold and hence remove stock from the rental market. All BTR assets should be treated the same, regardless of when they were built.
6. **15-year holding period by a single entity precludes tenants in common** - The definition of 'single entity' appears to preclude tenants in common. We are actively in discussion with foreign capital partners, who have raised and would like to explore different types of ownership structures. What's become clear is that flexibility is critical when structuring projects due to activities of groups, business structures, and different rules in foreign jurisdictions. Restricting holding of projects in a single entity will have a negative impact on capital investing into BTR, and will make it more challenging to sell a partial share in a project. It is very common for commercial and industrial assets to have co-ownership tenants in common, and for partial shares of assets to trade between investors on title. BTR should be treated the same as all other asset classes.

Thank you for your time and we would be happy to discuss any aspect of this submission with Treasury in more detail.

Yours faithfully,



Sam Tarascio
Managing Director