

ARFP – Australia Taxation

Foreign ARFP funds and operators

- Under Australia's income tax law, non-residents are only taxed on their Australian sourced income. For certain income, the tax is generally collected through a final withholding tax, based on the non-resident's earnings in Australia in accordance with the following withholding rates:

Income	Tax rate*
Dividends	30%
Interest	10%
Royalties	30%
Managed Investment Trust fund payments (distributions referable to trust net income excluding dividends, interest, royalties, foreign source income and capital gains on assets that are not taxable Australian property)	15% for residents of countries that have an effective Information Exchange Agreement with Australia (Australia has an Information Exchange Agreement with each of the ARFP countries) 10% for fund payments from income from eligible clean buildings 30% for fund payments from certain non-concessional MIT income (NCMI)

* The withholding tax rates payable by non-resident investors may be reduced under Australia's bilateral tax treaties.

- In addition, if a foreign fund invests via an Australian fund manager, and provided it meets the appropriate tests, it will be able to disregard certain Australian income tax consequences.
- This is known as an Investment Manager Regime (IMR) concession and is outlined in more detail below.

Foreign (non-resident) investors in an Australian ARFP fund

- Australian ARFP funds are likely to be offered through either a Managed Investment Trust (MIT) or a corporate collective investment vehicle (CCIV, refer below). Both investment vehicle structures provide flow-through taxation and investors will generally be subject to the same tax outcome; that is, investors will be taxed as if they had invested directly.
- Non-residents are generally only subject to tax on Australian sourced income, including dividends, interest, royalties and MIT fund payments (distributions), which they have received or have had attributed to them. A MIT fund payment may include capital gains that relate to taxable Australian property.
- Income relating to foreign source income and capital gains on assets from non-taxable Australian property (including on the sale or redemption of units in the fund) is generally not subject to tax, for non-residents.

- Non-resident investors receive a withholding tax exemption for investments by an Australian fund in foreign assets.
- Higher rates of tax may be payable if the investor is itself a trustee or holds its investment in the ARFP fund through a permanent establishment in Australia.

Australian resident investors in either a foreign or an Australian ARFP fund

- Australian resident investors are generally taxed on distributions of Australian and worldwide sourced income and capital gains at year end (or in the case of trusts, the income attributable to an Australian resident investor).
- Resident investors generally receive a foreign income tax offset where the distribution they received includes foreign sourced income on which foreign tax has been paid.
- Tax is generally payable by the resident investor on capital gains made on sale or redemption of shares/units in an ARFP fund.
- Australia has a progressive tax system, meaning the tax rate applied to individuals is dependent on their taxable income. Higher levels of net taxable income are subject to higher tax rates.
- Investors that are companies are subject to a corporate tax rate: Entities with aggregated turnover less than \$50 million are currently subject to a corporate tax rate of 25 per cent (from 1 July 2021).
- The corporate tax rate for all other companies is 30 per cent.

Tax changes

Investment Manager Regime (IMR) changes

- The Government's IMR reform provides that, subject to meeting the appropriate tests, foreign funds that invest via an Australian fund manager are eligible to access IMR concessions, in relation to disposal gains and losses.
- That is, foreign entities can disregard certain Australian income tax consequences.
- This means that when a foreign investor invests in Australia through a foreign fund or an independent Australian fund manager it will be in the same tax position as if it had invested directly.

New collective investment vehicle

- The Government introduced the corporate collective investment vehicle (CCIV) in 2022 that provides non-resident investors with a vehicle structure that they are more familiar with.

- The CCIV is a flow-through tax vehicle which means that investors will be taxed as if they had invested directly.

MIT tax changes

- The Government introduced a new class of MITs in 2016. This new MIT is known as an attribution MIT – the attribution method of tax provides greater certainty for trustees and beneficiaries of MITs by aligning the commercial and tax consequences of the activities of a MIT, while still providing flow-through of income and tax offset amounts with particular tax characteristics. The tax outcomes for investors remain broadly aligned with those that apply to MITs.
- From 1 July 2024, foreign residents from an information exchange country are subject to a final MIT withholding tax rate of 15 per cent on income and gains derived from eligible build-to-rent projects.
- The Government announced to expand 10 per cent clean building MIT tax concessions to include energy-efficient data centres and warehouses. This will start after the passage of the legislation.
- The Government announced it will amend the tax laws to make clear that MITs whose members are ultimately owned by a single widely-held investor are able to access the MIT concessions. This will apply to fund payments from the date of announcement (13 March 2025).