2 November 2000

Peter Mullins
Assistant Commissioner
Australian Taxation Office
PO Box 900
CIVIC SQUARE ACT 2608

Dear Sir,

SUBMISSION
COMMENCEMENT OF THE ENTITY TAX REGIME FOR NON-FIXED TRUSTS

We are the registered tax agent for several non-fixed retail trusts who have been granted a Substituted Accounting Period ("SAP").

Purpose of our submission

The purpose of this submission is to request that non-fixed retail trusts who have a SAP be able to enter into the entity tax regime at the end of their SAP. The purpose of this is to ensure that the non-fixed trust does not need to prepare two income tax returns for the one income tax year.

Background

There are valid commercial reasons why some trusts have requested and have been granted a SAP. The adoption of a SAP is common in the retail industry. For example, in the 1980's, many trusts in the retail industry adopted a SAP of 31 July (in lieu of 30 June). This was on the basis that in the retail industry, there are two reporting periods for management accounting purposes. The first reporting period, being a winter season, covers six months from February to July. The second reporting period, being a summer season, covers six months from August to January.

Accordingly, the Australian Taxation Office ("ATO") has granted many retail trusts a SAP of 31 July (in lieu of 30 June) on the basis that it would be impractical and inefficient for these trusts to prepare financial accounts for the year ended 30 June and management accounts for the year ended 31 July.

Submission

Having regard to the New Business Tax System (Entity Taxation) Bill 2000, non-fixed trusts will be subject to the entity tax regime from 1 July 2001.

However, the proposed legislation does not recognise that non-fixed trusts can have a SAP. Accordingly, when the entity tax regime commences on 1 July 2001 but the non-fixed retail trust has a SAP of 31 July (in lieu of 30 June), the entity tax regime will commence during the trust's financial year. This will impose considerable administrative and financial burdens on these non-fixed retail

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trusts as they will be required to prepare two sets of reports and two income tax returns for the year ending 31 July 2001.

Pursuant to our informal discussions with the Australian Taxation Office (“ATO”), we have been advised that the entity tax regime will commence on 1 July 2001 irrespective of the balance date of the non-fixed trust.

Accordingly, where the SAP of the non-fixed retail trust is 31 July (in lieu of 30 June), the non-fixed trust will be required to prepare an 11 months income tax return for the period 1 August 2000 to 30 June 2001, and a 1 month income tax return for the period 1 July 2001 to 31 July 2001. As already advised, this would cause considerable administrative and compliance costs.

Pursuant to the above, we request that the exposure draft legislation be amended for non-fixed retail trusts with a SAP to ensure that the entity tax regime does not apply until after the end of the SAP.

This amendment should be implemented as a matter of priority to avoid the unnecessary complexities of preparing two income tax returns for the one financial year for non-fixed retail trusts.

We hope you consider our submission appropriate and make the relevant changes to the commencement date of the proposed legislation.

Should you have any questions in relation to the above, please do not hesitate to contact Craig Holland on (03) 9208 7586.

Yours sincerely,

Geoff Cowen
Director