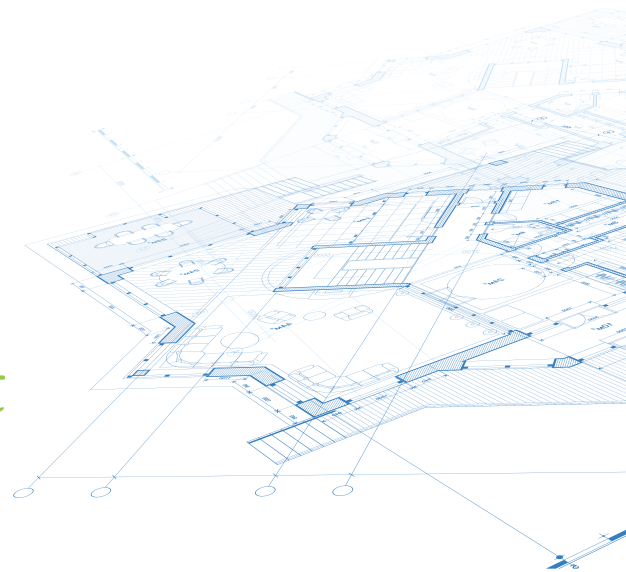


Property Intellectual

Constructive comments on Australian real estate issues

2009-10 Federal Budget



The 2009-10 Federal Budget continues the drive to promote Australia as a financial services hub for the Asia-Pacific region. Below is a brief outline of three major initiatives that are likely to have a significant impact on the property industry.

Trust rollover

A new capital gains tax (CGT) roll-over will be introduced for assets transferred between fixed trusts with the same beneficiaries. A CGT roll-over will generally defer the crystallisation of any capital gains (or capital losses) on the transfer of assets.

The introduction of a roll-over for trusts should provide much needed flexibility to undertake internal restructuring, refinancing or to 'spin-off' particular assets.

The trust roll-over announcement will apply to CGT events happening after 31 October 2008.

Guaranteed CGT treatment

New measures will allow eligible Australian managed investment trusts (MITs) to make an election to apply the CGT regime to the disposal of qualifying assets. This election may alleviate concerns within the property industry regarding the classification of the taxation of profits arising from the disposal of real property.

The election will be irrevocable and will apply to all disposals of eligible assets in the 2008-09 income year or later years (including where the election is made in a later year).

Foreign Income Attribution

The Government has responded to the Board of Taxation's recommendations in respect of Australia's foreign income accruals taxation provisions. Highlights include:

- Australia's Foreign Investment Fund provisions are to be repealed. This should result in reduced costs and simplified compliance obligations in respect of investments in non-controlled off-shore property entities
- the Controlled Foreign Company (CFC) rules are to be re-written and the definition of passive income will be modernised
- complying superannuation funds will be exempt from the CFC rules.

The Federal Government is conducting further consultation regarding the amendments and as yet no commencement date has been announced.

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