Foreign Investment   
Application Checklist

# Appendix – Tax Checklist

The following tax information may be requested by the ATO during the application process. For large investment transactions, particularly infrastructure related transactions, it is expected that the following information will be required by the ATO.

## Post-Implementation Structure and Entity Details

For **each entity** in the post-action structure diagram provided in the application cover letter, a table describing:

### Tax character

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| --- |
| ☐ Name of the entity |
| ☐ Tax residence |
| ☐ Australian tax character (e.g. Head entity of a tax consolidated group, member of a tax consolidated group, flow-through trust, public trading trust, managed investment trust, complying superannuation fund, foreign pension fund that is withholding tax exempt under section 128B(3) of the *Income Tax Assessment Act 1936*) |
| ☐ The key role of the entity (e.g. holding entity, finance entity, operating entity) and a description of their income producing assets |

### Funding

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| ☐ The equity and debt instruments that are issued or will be issued that is relevant to, or, issued for the purpose of, or gives effect to, the action (for example – this should cover any existing debt or equity instruments that are issued/drawn down within the structure as a consequence of the action, but need not cover debt or equity issued at earlier times for unrelated asset acquisitions); |

* + **Equity instrument** – provide the following details:

name of the entity issuing the equity instrument

nature of the equity instrument (e.g. ordinary share, ordinary unit, with or without voting or distribution rights)

identity of each holder of equity instruments

number or percentage of equity instrument held of that type by each holder

amount paid by each holder for their equity instrument.

In every case of a private equity investment – ensure the ultimate beneficial owners’ domicile, percentage of ownership and the names and domicile of any interposed entities between the private equity fund and the Australian investment entity are included.

* + **Debt instrument** – provide the following details:

name of the entity issuing the debt instrument

nature of each debt instrument issued (e.g., type, term, principal, interest rate, subordination/security, external bank facility, investor loan)

identity of each holder of the debt instrument

amount provided by each holder under the debt instrument

details of any derivative and/or guarantee associated with the debt instrument

risk rating for each cross-border related party financing arrangement entered into, or to be entered into, by the parties as per Practical Compliance Guideline PCG 2017/4

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| ☐ Confirmation that there is no other type of financing of the entities in the structure not identified above or covered in responses to the FIRB Application Checklist. |

### Distributions

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| ☐ Distribution information (in respect of equity and debt instruments referred to above) that will be made by the entity: |

* + net income amount
  + dividends
  + interest income
  + return of capital/corpus
  + other tax deferred amount or other income
  + the applicable tax rate (including withholding tax rate) that will be applied to each amount in respect of each investor.

## Other Comments

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| ☐ Please provide any explanation or comments in the event that you are unable to provide any of the requested information |