



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

- 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

- 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:
 - a. name of the entity issuing the equity instrument
 - b. nature of the equity instrument (e.g. ordinary share, ordinary unit, with or without voting or distribution rights)

- c. identity of each holder of equity instruments
- d. number or percentage of equity instrument held of that type by each holder
- e. 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:

- a. name of the entity issuing the debt instrument
- b. nature of each debt instrument issued (e.g., type, term, principal, interest rate, subordination/security, external bank facility, investor loan)
- c. identity of each holder of the debt instrument
- d. amount provided by each holder under the debt instrument
- e. details of any derivative and/or guarantee associated with the debt instrument
- f. 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

- 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

- 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

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