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Sent: Friday, 3 June 2011 5:02 PM

To: McMahon, Paul

Cc: lynda.brumm@au.pwc.com; san-san.wu@au.pwc.com

Subject: Federal Budget Rollover amendment

Paul

Further to our recent discussion in relation to the proposed amendments to the capital gains tax roll-over provisions as part of the 2011-2012 Australian Federal Budget handed down on 10 May, we outline below our submission request in relation to these amendments.

As stated in Budget Paper No 2: Part 1: Revenue Measures which formed part of the 2011-12 Federal Budget, the proposed amendments to be made by the relevant measures are to ensure that:

"the roll-over for the exchange of shares in one company for shares in another company operates properly, so that there is deferral of a profit or loss where the original shares are held on revenue account at the time of the exchange. This change will have effect from 7.30 pm (AEST) on 10 May 2011." (emphasis added).

Based on our discussion, we understand that the measure is currently intended to address the intended operation of section 124-390 of the Income Tax Assessment Act 1997. In particular, to ensure that the consequences of obtaining roll-over under Subdivision 124-G for each relevant participating shareholder who holds their shares as revenue assets (as contemplated by section 124-390) will be that the disposal results in the deferral of any profit or loss that arises as a direct consequence of the exchange.

We submit that the scope of the proposed amendments should be broadened to capture circumstances relevant to Subdivision 124-H - exchange of units in a unit trust for shares in a company. In addition, we submit the rollover should include a similar clause to that in section 124-390.

By way of example, in a public announcement released on 8 February 2011 by Qube Logistics ("Qube") (a listed unit trust) it was stated that an in-principle determination had been reached to proceed with a change in Qube's corporate structure from a trust to a company.

In circumstances where there is an interposition of a non-operating holding company between the unit trust and its unit holders comprising:

- an exchange of units in the unit trust by their respective holders to the company; and
- in consideration for the units, the issue to each unitholder of a share in the company for each unit,

we submit that the proposed amendments to CGT rollover provisions should also ensure that under the operation of Subdivision 124-H, there is deferral of a profit or loss for each participating unit holder who holds their units as revenue assets immediately prior to the disposal under the exchange.

We consider this to be a reasonable approach on the basis that where the disposal of shares held on revenue account does not give rise to a taxing event under Subdivision 124-G, this outcome should be mirrored under Subdivision 124-H in the case of a disposal of units held on revenue account. In a

public situation such as this it seems unjust to tax a party when no economic gain has been realised and arguably they do not have control of the event which leads to taxation impost.

Should you have any queries in relation to this matter or would like to discuss further, please do not hesitate to contact me on (02) 8266 2979

Kind regards

Mark

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