



## Australian Private Equity & Venture Capital Association Limited

21 November 2016

General Manager  
Law Design Practice  
The Treasury  
Langton Crescent  
PARKES ACT 2600

By email: [lawdesign@treasury.gov.au](mailto:lawdesign@treasury.gov.au)

Dear Sir/Madam,

### **Improvements to the debt and equity tax rules**

Thank you for the opportunity to comment on the Government's proposed improvements to the debt and equity tax rules released on 10 October 2016, following the Board of Taxation's 2014 review (BOT Review).

The Australian Private Equity & Venture Capital Association Limited (AVCAL) is a national association which represents the private equity (PE) and venture capital (VC) industry in Australia, which manages around \$27 billion in funds on behalf of domestic and offshore investors. These funds supply capital for early stage companies, later stage expansion capital, and capital for management buyouts of established companies.

AVCAL welcomes the Government's commitment to implement the recommendations of the BOT Review given that the current rules can be rigid and prescriptive, which can create difficulty in identifying the precise policy intent. In our view, the proposed changes contained in the draft legislation and related legislative instrument will reduce uncertainty and compliance costs for market participants, while protecting the integrity of the overall system.

In particular, we are pleased that the draft legislative instrument provides tangible examples of how the new rules will operate in practice. For example, the "shareholder loan: no aggregation" (Part 2) and "chain of debt and equity: no aggregation" (Part 3) scenarios contained in the draft legislative instrument will provide clear guidance and certainty to market participants. Such certainty is critical, particularly to investors in the PE and VC industries where the investment horizon can be long term (typically five to seven years).

AVCAL supports the draft legislation containing transitional protections for taxpayers who anticipated that the 2011-12 Budget measure (clarifying the scope of section 974-80 of the *Income Tax Assessment Act 1997*) would be legislated as it was then announced. We note that this protection will apply from the date of the 2011-12 Budget announcement (10 May 2011) to the day before the currently proposed amendments commence.

If you would like to discuss any aspect of this submission further, please do not hesitate to contact me or Christian Gergis, Head of Policy and Research, on 02 8243 7000.

Yours sincerely

**Yasser El-Ansary**  
Chief Executive  
AVCAL