

DEED OF SETTLEMENT

BETWEEN

COMPANY NAME, c/- **Name of adviser**

AND

COMMISSIONER OF TAXATION of the Commonwealth of Australia of 26 Narellan Street, Canberra, ACT, 2600

Terms of Settlement

THIS DEED is made the <insert day> day of <insert month and year>

Between:

COMPANY NAME, c/- **Name of adviser**

("the Entity")

And

Commissioner of Taxation of the Commonwealth of Australia of 26 Narellan Street, Canberra, ACT 2600 ("the Commissioner")

Context

- A. The Entity, either by itself or through the use of an interposed entity, makes or has made taxable supplies including the provision of Management Services to Associated Trusts.
- B. The Entity holds the residual income unit issued by a particular Associated Trust which provides it with the right to receive the residual income distribution from that trust.
- C. The Commissioner has the general administration of, inter alia, the *A New Tax System (Goods and Services Tax) Act 1999* ("the GST Act").
- D. There presently exists a dispute between the Entity and the Commissioner on the application of the GST provisions in respect of Business Activity Statements (BASs) lodged by the Entity.
- E. The parties remain in dispute as to the alleged taxation liability or entitlement of the Entity.

F. The parties nonetheless wish to settle their dispute on the following terms.

Operative Provisions

In consideration of the mutual promises contained in this document, the parties to this Deed agree as follows:

1 The purpose of this Deed

- 1.1 It is the intention of the parties that the provisions of this Deed will have the effect of settling the liability of the Entity for GST, Penalty and General Interest Charge in respect of the provision of Management Services to an Associated Trust for all the tax periods in the prior period.
- 1.2 Further, it is the intention of the parties that the provisions of this Deed will govern the application of Division 72 to the GST liability of the Entity for all tax periods in the concessional period.
- 1.3 Further, it is the intention of the parties that the provisions of this Deed will govern the application of Division 72 to the GST liability of the Entity for all tax periods which commence on or after the Full Cost Recovery Start Date until variation or termination of this Deed.
- 1.4 Nothing in this Deed will restrict the powers of the Commissioner to investigate Other Issues.
- 1.5 Nothing in this Deed will restrict the powers of the Commissioner to investigate the Entity's calculations in relation to any GST liability arising from the application of Division 72 in respect of any tax period in the prior period or which commences after the end of the prior period.

2 Definitions and Interpretation

- 2.1 In this document:

Additional GST Liability means the amount by which the net GST payable in accordance with the formula set down in **Schedule 1** for a particular tax period in the prior period exceeds the net GST payable (if any) in accordance with the BAS lodged for that particular tax period.

Associated Trust means any trust, including a Securitised Trust or a Warehouse Trust, other than a trust which was wound up or vested during the prior period, which receives or has received Management Services from or in association with the Entity in connection with the provision and securitisation of loans.

BAS means a Business Activity Statement.

Commissioner means the Commissioner of Taxation of the Commonwealth of Australia and, as required, his successors or assigns and any delegate or authorised representative acting on his behalf.

Concessional period means the period from the end of the prior period to the day before the Full Cost Recovery Start Date.

Court Decision means a final decision given in any Court or Tribunal having jurisdiction in these matters where the appeal process (including any application for leave to appeal) has been exhausted or the decision has not been appealed or sought to be appealed.

Date of this Deed means the date on which this Deed is signed by a delegate of the Commissioner.

Entitlement means entitlement to input tax credits within the meaning of section 7-1(2) of the GST Act.

Full Cost Recovery Method means the method for the calculation of the market value of Management Services as set out in Schedule 2.

Full Cost Recovery Start Date means the date notified by the Commissioner to the Australian Securitisation Forum as the start date for the Full Cost Recovery Method.

General Interest Charge (“GIC”) means a general interest charge within the meaning of Part IIA of the TAA.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999*.

GST liability means a liability to pay GST.

Interest includes “delayed refund interest”, if any, that would be payable under the provisions in Part IIIAA of the *Tax (Interest On Overpayments and Early Payments) Act 1983*.

Management Services means services in respect to the origination and securitisation of mortgages that includes but is not limited to the provision of loan servicing services, loan origination services and trust management services to an Associated Trust.

net amount has the meaning given by section 195-1 of the GST Act.

Other Issues means the application of the GST Act to any business activity carried on by or in association with the Entity other than the application of Division 72 to the provision of Management Services to an Associated Trust.

party or parties means the Entity and the Commissioner of Taxation.

Penalty means an administrative penalty within the meaning of Part 4-25 of Schedule 1 to the TAA.

person means any natural person and includes a firm, corporation, body corporate, unincorporated association or any government authority.

prior period means the period between [1 July 2003] and [31 May 2009].

private ruling has the meaning given in Division 995-1 of the *Income Tax Assessment Act 1997*.

public ruling has the meaning given in Division 995-1 of the *Income Tax Assessment Act 1997*.

Reduced GIC means the amount of general interest charge that would be payable up to, and inclusive of, 31 March 2008 if the general interest charge rate for a day for the purposes of section 8AAD(1) of the TAA consisted of the base interest rate for that day and the additional 7 percentage points referred to in section 8AAD(1) and if the liability referred to in section 105-80 of Schedule 1 of the TAA consisted of the relevant amount of the Total Additional GST Liability x 25% that was unpaid on that particular day and the general interest charge on any of that liability.

RITCs means reduced input tax credits.

Securitised Trust means the special purpose vehicle (SPV) that acquires the right to the income stream and issues tradable instruments, such as mortgage backed securities (MBS).

Settlement Sum means the Total Additional GST Liability together with the amount of Reduced GIC.

TAA means the *Taxation Administration Act 1953*.

taxation law has the meaning given by section 995-1 of the *Income Tax Assessment Act 1997*.

tax period has the meaning given by section 195-1 of the GST Act.

Total Additional GST Liability means the total of the amounts of the Additional GST Liability for each tax period in the prior period.

Total Penalty means the total of the amounts of Penalty calculated by the Commissioner in accordance with clause 3.1.3.

Warehouse Trust means the entity that provides the loan to the borrower and includes a Lending Company.

2.2 In this document, unless the contrary intention appears:

2.2.1 a reference to this document means this Deed, and references to clauses and schedules are references to clauses and schedules of this Deed;

2.2.2 any word, term or expression for which a particular or special meaning has been attributed or ascribed by a taxation law, or a provision of a taxation law, shall be given that particular or special meaning in this Deed;

2.2.3 singular includes the plural and vice versa;

2.2.4 a reference to any one gender includes each other gender (as the case may require);

2.2.5 a reference to a person includes a reference to that person's executors, administrators, legal personal representatives, successors and permitted assigns; and

- 2.2.6 an agreement on the part of, or in favour of, two or more persons binds them or any one of them jointly and severally.
- 2.3 All headings in this Deed are for convenience only, and do not affect the meaning or interpretation of this Deed.
- 3 Obligations of the Commissioner and the Entity in respect of the provision of Management Services to an Associated Trust for all tax periods in the prior period.**
- 3.1 In respect of all tax periods in the prior period:
- 3.1.1 the Entity will provide all necessary information to the Commissioner to enable the Commissioner to calculate the Additional GST Liability of the Entity for each tax period in accordance with **Schedule 1**;
- 3.1.2 the Commissioner will calculate the Additional GST Liability of the Entity for each tax period in accordance with **Schedule 1**;
- 3.1.3 the Commissioner will calculate Penalty at the rate of 25% of any relevant shortfall amount for each tax period;
- 3.1.4 the Commissioner will calculate GIC in accordance with the provisions of Part IIA of the TAA; and
- 3.1.5 the Commissioner will calculate the amount of Reduced GIC for the period commencing at the start of the prior period and ending on 31 March 2008.
- 3.2 The Entity will comply with clause 3.1.1 by providing to the Commissioner the necessary information referred to in clause 3.1.1 prior to the date of this Deed.
- 3.3 The Entity will pay the Settlement Sum to the Commissioner as follows:
- 3.3.1 the Commissioner will notify the Entity in writing of the amount of its Total Additional GST Liability calculated in accordance with Schedule 1 for all tax periods in the prior period;
- 3.3.2 the Commissioner will notify the Entity in writing of the amount of Reduced GIC calculated up to, and inclusive of, 31 March 2008;
- 3.3.3 the Entity will pay the amounts notified to it by the Commissioner pursuant to clauses 3.3.1 and 3.3.2 within 14 days of the date of such written notification.
- 3.4 Provided the Entity pays the Settlement Sum in accordance with clause 3.3, and subject to clause 6.2, the Commissioner:
- 3.4.1 will remit Penalty to nil;

- 3.4.2 will remit GIC so that the amount remaining after remission will be equal to the amount of Reduced GIC notified to the Entity by the Commissioner pursuant to clause 3.3.2; and
- 3.4.3 will accept payment of the Settlement Sum in full and final satisfaction of the Entity's tax related liability in respect of the provision of Management Services to an Associated Trust for all tax periods in the prior period.
- 3.5 The Entity will:
- 3.5.1 not object to or request an amendment or review of the assessments referred to in clause 3.8 if the assessments are raised on the terms set out in this Deed;
- 3.5.2 not make or bring any other application, claim, demand or proceeding, in relation to the issues agreed as part of this settlement or related decisions; or seek any review of the issues agreed as part of this settlement, or of related decisions, under the *Administrative Decisions (Judicial Review) Act 1977* or administrative law generally, or any other law; and will not procure that a third party takes any such action or provides financial support or any other support for such action. However, this does not prevent the Entity from seeking review by the Ombudsman;
- 3.5.3 not seek a private ruling or a public ruling relating to any issues agreed as part of this settlement;
- 3.5.4 not seek disclosure under any Freedom of Information legislation, of the Commissioner's documents in relation to issues agreed as part of the settlement; and
- 3.5.5 waive any present or future claims for costs, interest, financial loss and or non-financial damages in relation to dealings associated and in connection with this Deed.
- 3.6 Nothing in this Deed shall prevent the Commissioner from reviewing the information provided by the Entity and/or from investigating the Entity's calculation of the market value of the provision of Management Services to an Associated Trust in relation to any tax period in the prior period.
- 3.7 The Entity will not claim a deduction for any GIC that relates to an unpaid amount of GIC in respect of any tax period in the prior period which GIC is not paid and/or which is remitted by the Commissioner pursuant to the provisions of this Deed.
- 3.8 The Commissioner will issue notices of assessment and/or notices of liability to the Entity for all tax periods in the prior period in respect of the calculations in clauses 3.1.2, 3.1.3, and 3.1.4.
- 3.9 Where the Entity becomes aware that an Associated Trust has claimed an input tax credit or reduced input tax credit based on a methodology which results in a higher input tax credit claim than would otherwise arise from using the calculation of Additional GST Liability in accordance with the formula set down in Schedule 1 for any tax period in the prior period, the Entity agrees to:

- 3.9.1 amend its BAS to reflect an increasing adjustment equal to 100/75 of the amount of the Associated Trust's higher input tax credit claim; and
- 3.9.2 indemnify the Commissioner in accordance with clause 10.1.

4 Obligations of the Commissioner and the Entity in respect of the provision of Management Services to an Associated Trust for all tax periods in the concessional period.

- 4.1 The Entity will calculate the GST payable for all tax periods in the concessional period in accordance with **Schedule 4**.

5 Obligations of the Commissioner and the Entity in respect of the provision of Management Services to an Associated Trust for all tax periods which commence on or after the Full Cost Recovery Start Date.

- 5.1 In respect of all tax periods commencing on or after the Full Cost Recovery Start Date the Entity will calculate the market value of the provision of Management Services to an Associated Trust in accordance with **Schedule 2**.

- 5.2 Nothing in this Deed shall prevent the Commissioner from reviewing the Entity's calculations which are made under clause 5.1 and taking steps to give effect to his calculations of the market value of the provision of Management Services to an Associated Trust in accordance with **Schedule 2** by:

- 5.2.1 notifying the Entity of his calculations;
- 5.2.2 requesting the Entity to recalculate the market value of the provision of the said Management Services in accordance with the Commissioner's calculations within thirty (30) days of receipt of notice of the request; and/or
- 5.2.3 issuing notices of assessment or amended assessments of net GST liability and/or any other notices, including notices of liability, to give effect to the Commissioner's calculations.

- 5.3 The parties agree that if, after the date of this Deed, there is

- 5.3.1 a Court Decision; or
- 5.3.2 a published public ruling; or
- 5.3.3 a substantive change to a taxation law,

that is inconsistent with the method of calculation provided for in Schedule 2 of this Deed, the Commissioner or the Entity may by 14 days notice in writing to the other advise that the calculation of market value provided for in Schedule 2 should no longer apply.

- 5.4 Upon receipt by the Entity of written notice pursuant to clause 5.3, the Commissioner will cease to be required to accept the calculation of the Entity's GST liability in accordance with Schedule 2 for any tax period commencing on a day later than the 14th day after receipt of such written notice.
- 5.5 Upon receipt by the Commissioner of written notice pursuant to clause 5.3, the Entity will cease to be required to calculate its net GST liability in accordance with Schedule 2 for any tax period commencing on a day later than the 14th day after receipt of such written notice.
- 5.6 If there is a Court Decision that is inconsistent with the method of calculation provided for in Schedule 2 of this Deed, in addition to any consequence resulting from clauses 5.4 and/or 5.5, the parties agree that nothing in this Deed will prevent the application of the Court Decision to the correct method of calculation in respect of any tax period that commences after the end of the prior period and is within four years before the date of the Court Decision.
- 5.7 The parties may vary or terminate this Deed by consent in writing.

6 Entity's warranty and acknowledgement

- 6.1 The Entity warrants that to the best of its knowledge and belief it has made a full and true disclosure of all relevant facts to the Commissioner prior to entering into this Deed.
- 6.2 The Entity acknowledges that, if there has not been full and true disclosure of all relevant facts to the Commissioner as required by clause 6.1, the Commissioner may in his absolute discretion take whatever further action he considers appropriate, including, without limitation:
 - 6.2.1 electing that this Deed be terminated;
 - 6.2.2 electing that this Deed is void (as if it had never been executed) as against all parties to this Deed (except insofar as the warranties or indemnities referred to in this Deed are concerned); or
 - 6.2.3 rescinding, reversing or amending any of the things referred to in clause 3.4.
- 6.3 The Entity acknowledges that, if it defaults in making payment under clause 3.3:
 - 6.3.1 the Commissioner will not exercise his discretion to remit Penalty to nil under clause 3.4.1;
 - 6.3.2 the Commissioner will not exercise his discretion to remit GIC in accordance with clause 3.4.2;
 - 6.3.3 the Total Additional GST Liability together with Total Penalty and GIC will become immediately due and payable and the Commissioner may take whatever action in his opinion is necessary to recover the balance of the amount then outstanding after allowing for amounts previously paid, including taking action to:
 - (i) obtain judgment against the Entity;
 - (ii) cause the Entity to begin to be wound-up.

- 6.4 The Entity acknowledges that payment is required to be made to the Commissioner under clause 3.3 even if all notices of assessment contemplated by this Deed have not been issued by the Commissioner.
- 6.5 The Entity acknowledges that if it does not comply with clause 5.2.2 within 30 days of receiving a request under clause 5.2.2 the Commissioner may take whatever action in his opinion is necessary to:
- 6.5.1 issue notices of assessment and/or any other notice, including notices of liability, to give effect to his calculations of the market value of the provision of Management Services to an Associated Trust in accordance with **Schedule 2**; and
- 6.5.2 recover the amount of the tax-related liability that is due and payable in respect of the said notices.

7 Authority to sign

- 7.1 The person signing this Deed is a delegate of the Commissioner who has the power to make, enter into and execute this agreement in his capacity as a delegate of the Commissioner.
- 7.2 It is acknowledged by the parties to this Deed that the delegate shall have no personal liability as a result of signing this Deed.

8 General

- 8.1 Subject to clause 6.2, and provided that the Entity pays the Settlement Sum in accordance with clause 3.3 the parties agree that this Deed constitutes a complete release and extinguishment of the Entity's Total Additional GST Liability, Total Penalty and General Interest Charge in respect of the provision of Management Services to an Associated Trust for all tax periods in the prior period.
- 8.2 The parties mutually covenant and agree that they will each do all the acts and things and execute all the deeds and documents as shall, from time to time, be reasonably required for the purpose of, and to give effect to, this Deed.
- 8.3 This Deed is confidential to the parties and shall not be disclosed by any of the parties, except:
- 8.3.1 as is required or permitted by any law;
- 8.3.2 where it is necessary to gain legal or financial advice;
- 8.3.3 where the other party gives written consent;
- 8.3.4 for the purpose of enforcing any term of this Deed.
- 8.4 This Deed constitutes the entire agreement and undertaking between the parties in relation to the subject matter, and supersedes any previous deeds, agreements, arrangements, and undertakings between them.

- 8.5 This Deed shall be construed and governed in accordance with the laws in force in **New South Wales**
- 8.6 The schedules to this Deed form part of the agreement set out by this Deed.
- 8.7 All parties acknowledge that this Deed is not to be considered a general precedent but applies only to the parties mentioned, and only on the merits of the case and for the years or periods covered by the settlement.
- 8.8 Each party agrees to pay its own costs and expenses (including legal costs) in relation to this Deed and any other matter related to this Deed.
- 8.9 The warranties, obligations and indemnities referred to in this Deed shall survive the expiration or earlier termination of this Deed.
- 8.10 No modification, variation or amendment of this Deed shall be of force unless such modification, variation or amendment is in writing, expressed to be a variation to this Deed and signed by the parties.

9 Default clause

- 9.1 Any party to this Deed, who becomes aware of a breach of any of the terms of the settlement contained herein, other than a breach of the Entity's agreement to pay under clause 3.3, may serve a written notice on the offending party specifying the breach and requiring that it be rectified.
- 9.2 Any defaulting party to this Deed who has received written notification under clause 9.1 above has fourteen (14) days to rectify the breach.
- 9.3 If the defaulting party fails to rectify the breach within the time required by clause 9.2, the non-defaulting party may, without further notice to the defaulting party, take whatever action is necessary (including injunctive or other relief) to require the defaulting party to rectify the breach.
- 9.4 If the Entity defaults in making payment in accordance with clause 3.3, then clause 6.3 will operate.

10 Indemnity

- 10.1 Where the Entity becomes aware that an Associated Trust has claimed an input tax credit or reduced input tax credit based on a methodology which results in a higher input tax credit claim than would otherwise arise from using the calculation of Additional GST Liability in accordance with the formula set down in Schedule 1 for any tax period in the prior period, the Entity:
- 10.1.1 hereby indemnifies the Commissioner from and against any loss, liability or expense arising from the Associated Trust's higher input tax credit claim; and
- 10.1.2 undertakes to pay the Commissioner the amount of the loss within 28 days from the Commissioner giving notice of the quantum of the loss.

11 Date of effect

11.1 This Deed takes effect upon execution and delivery by the Commissioner.

12 Goods and Services Tax (“GST”)

12.1 If GST is payable in relation to any supply made by the Entity pursuant to this Deed, the Entity has the right to recover the GST from the Commissioner and to set it off against the amount due to the Commissioner on account of the GST payable in respect of that supply. However, the Commissioner considers that the execution of this Deed will not involve a supply for consideration and, consequently, there will not be any GST payable.

13 Severability

13.1 The parties acknowledge and agree that:

13.1.1 if any clause of this Deed is held invalid, unenforceable or illegal for any reason, the Deed shall remain otherwise in full force apart from that clause which shall be deemed deleted; and

13.1.2 each of the clauses of this Deed shall be construed and take effect so that if any part of a clause renders or would render that clause unenforceable for any reason that part shall be severed from the relevant clause and the remainder of that clause shall operate and have effect.

14 Notices

14.1 Any notice, request or other communication to be given or served pursuant to this Deed shall be in writing and dealt with as follows:

14.1.1 if given by the Entity to the Commissioner – addressed and forwarded to the Commissioner for the attention of

Stephen Fenwick
c/- Tax Office, 390 Latrobe Street, Melbourne, Vic 3000

or at the address set out at the commencement of this Deed, or as otherwise notified by the Commissioner;

14.1.2 if given by the Commissioner to the Entity– signed by the Commissioner and forwarded to the Entity at the address indicated at the commencement of this Deed.

14.2 Any such notice, request or other communication shall be delivered by hand or sent by pre-paid security post, facsimile or e-mail, to the address of the party to which it is sent.

14.3 Any notice, request or other communication will be deemed to be received:

14.3.1 if delivered personally, on the date of delivery;

14.3.2 if sent by prepaid security post, upon the expiration of 2 business days after the date on which it was sent; and

14.3.3 if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

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Schedule 1

Calculation of Additional GST Liability for all tax periods in the prior period

For the purpose of determining the Additional GST Liability of the Entity for each tax period in the prior period, the acquisitions incurred by the Entity will be taken into account only to the extent that the acquisition has a GST component in the price. Types of direct and indirect acquisitions are listed in **Schedule 3**. The formula to be used to calculate the Additional GST Liability of the Entity for each tax period in the prior period is as follows:

The formula:

The Additional GST Liability for each tax period represents the difference between the refunds (if any) claimed in the relevant BAS periods and a net amount of zero (1A (GST payable) equals 1B (input tax credits entitlement)).

In applying the formula, adjustments (outlined below in steps 1 to 5) may be required to the Additional GST Liability (if applicable) as follows:

STEP 1 (if applicable)

The Commissioner will adjust the Additional GST Liability to the extent that GST paid and input tax credits incurred by the Entity relate to the provision of services to entities that are not associates of the Entity (that is, the provision of services to third parties) and consequently Division 72 of the GST Act does not apply.

STEP 2 (if applicable)

The Commissioner will adjust the Additional GST Liability to the extent that GST paid and input tax credits incurred by the Entity relate to the provision of services to entities that are associates of the Entity (that is, supplies by the Entity to related entities not in the securitisation structure nor in the GST group) and Division 72 of the GST Act does not apply.

STEP 3 (if applicable)

The Commissioner will adjust the Additional GST Liability to the extent that the Entity acquires services from an associated entity, to be used in providing Management Services to an Associated Trust, and that associated entity has provided the services to the Entity for consideration that is less than the costs incurred in providing the services to the Entity (excluding salaries) x 10%.

STEP 4 (if applicable)

The Commissioner will adjust the Additional GST Liability to the extent that the Entity provides Management Services to an associated 'interposed' entity and the associated 'interposed' entity provides Management Services to the Associated Trusts. The GST paid and input tax credits incurred by both the Entity and the associated 'interposed' entity must be reflected in the calculation of Additional GST Liability.

STEP 5 (if applicable)

The Commissioner will adjust the Additional GST Liability to the extent that GST paid and input tax credits incurred by the Entity relate to the provision of Management Services to a Securitised Trust, and those Management Services are **solely connected** to the issue of mortgage backed securities to overseas investors. You must determine the extent of the connection with reference to **Schedule 3**.

The remaining Additional GST Liability after adjustments will be the relevant Additional GST Liability for the purposes of this Deed.

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Schedule 2

Calculation of the market value of Management Services for tax periods commencing on or after the Full Cost Recovery Start Date

The market value of the Management Services provided by the Entity to an Associated Trust is determined on a full cost recovery basis in accordance with the following steps. Full cost recovery applies to all costs (except where explicitly excluded) incurred by the Entity irrespective of whether GST is included in the cost. Types of direct and indirect costs are listed in **Schedule 3**. The method used to calculate the market value of the Management Services provided by the Entity to an Associated Trust for tax periods commencing on or after the Full Cost Recovery Start Date is as follows:

STEP 1

- You must identify the total value of costs incurred by the Entity in respect to the provision of Management Services to the Associated Trusts.

The market value of Management Services is the total *value of costs incurred by the Entity in respect to its supplies. *"Value" means the GST exclusive market value of the supply or acquisition.

STEP 2 (if applicable)

- You must exclude from the calculation all supplies made and acquisitions incurred by the Entity that relate to the provision of services to entities that are not associates of the Entity (that is, the provision of services to third parties) and consequently Division 72 of the GST Act does not apply.

STEP 3 (if applicable)

- You must exclude from the calculation all supplies made and acquisitions incurred by the Entity that relate to the provision of services to entities that are associates of the Entity but are not in the securitisation structure, or are not in the same GST group with the Entity and Division 72 of the GST Act does not apply.

STEP 4 (if applicable)

- You must make an adjustment to the market value to the extent that the Entity acquires services from an associated entity, to be used in providing Management Services to an Associated Trust, and that associated entity has provided the services to the Entity for consideration that is less than the costs incurred in providing the services to the Entity.

STEP 5 (if applicable)

- You must make an adjustment to the market value to the extent that the Entity provides Management Services to an associated 'interposed' entity and the associated 'interposed' entity provides Management Services to the Associated Trusts. The market value must reflect the supplies and acquisitions incurred by both the Entity and the associated 'interposed' entity.

STEP 6 (if applicable)

- You may make any adjustment to the market value in respect to interest charges incurred by the Entity on a bank facility that relates to the provision of Management Services to an Associated Trust.

STEP 7 (if applicable)

- You make an adjustment to the market value to the extent that supplies made and costs incurred by the Entity relate to the provision of Management Services to a Securitised Trust, and those Management Services are **solely connected** to the issue of mortgage backed securities to overseas investors. You must determine the extent of the connection with reference to **Schedule 3**.

The GST payable is the GST exclusive market value x 10%.

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Schedule 3

The application of Division 72 of the GST Act to Management Services provided by the Entity to an Associated Trust

The value of taxable supplies made by the Entity to an Associated Trust shall be calculated in accordance with the following methodology:

1. Warehouse Trusts

The Warehouse Trust may make only input taxed financial supplies, being the provision of loans and the assignment of the income stream. The Warehouse Trust does not acquire the Management Services for a creditable purpose. Therefore Division 72 of the GST Act applies to all supplies made by the Entity to the extent that the supplies were made for no or inadequate consideration.

2. Securitised Trusts

The Securitised Trust may make both input taxed financial supplies, being the acquisition of the income stream and the issue of mortgage backed securities to domestic investors, and GST-free supplies, being the issue of mortgage backed securities to overseas investors. Division 72 of the GST Act applies to supplies made by the Entity to the Securitised Trust, except to the extent that the Entity is able to satisfy the Commissioner that those supplies are **solely connected** to the issue of mortgage backed securities by the associated Securitised Trust to overseas investors.

3. The value of taxable supplies made by the Entity to an Associated Trust shall take into account the following costs:

3.1 Costs

3.1.1 Prior period and Concessional period

For all tax periods in the prior period and the Concessional period the Entity shall have regard only to costs with GST included in the price for the purpose of calculating an Additional GST Liability (refer to **Schedule 1** for the prior period and **Schedule 4** for the Concessional period).

3.1.2 All tax periods commencing on or after the Full Cost Recovery Start Date

For all tax periods which commence on or after the Full Cost Recovery Start Date all costs, other than interest incurred on a bank facility (refer below), shall be taken into account for the purpose of calculating GST liability (refer to **Schedule 2**).

3.2 Direct Costs

3.2.1 Upfront commissions - GST included.

Division 72 of the GST Act applies to all upfront commissions. The GST liability incurred by the Entity should reflect the BAS period in which the input tax credits were or will be claimed by the Entity, that is, the amortised amount should not be used.

3.2.2 Other direct costs – GST included.

- Trailing commissions - Division 72 of the GST Act applies to all trailing commissions.

- Mortgage backed securities (MBS) issuance costs – Division 72 of the GST Act applies to all costs except when the supply to the Securitised Trust is **solely connected** to the provision of MBS to overseas investors. If Division 72 of the GST Act applies, the GST liability incurred by the Entity should reflect the tax period in which the input tax credits were or will be claimed by the Entity, that is, the amortised costs should not be used.
- Lenders mortgage insurance (LMI) - Division 72 of the GST Act applies to all costs in respect of LMI. The GST liability incurred by the Entity should reflect the tax period in which the input tax credits were or will be claimed by the Entity, that is, the amortised amount should not be used.

3.3 Indirect costs

3.3.1 Other indirect costs – GST included.

- Overheads – auditing and accounting, consulting, directors' fees, insurance fees, legal fees, lease rentals, printing and stationary are examples of costs that are incurred by the Entity and indirectly connected to the various Management Services supplied by the Entity to an Associated Trust.
- Depreciation of fixed assets – The depreciation cost reflects previously acquired 'capital acquisitions'. For all tax periods commencing on or after the Full Cost Recovery Start Date the Entity will use the depreciated charge for inclusion in the calculation of market value. The Entity will not use the actual capital acquisition value. Depreciation costs related to capital acquired prior to the Full Cost Recovery Start Date may be excluded.

3.3.2 Indirect costs – GST not included in the price.

- Salaries and other expenses with no GST included in the price - Salaries and other expenses are incurred by the Entity and indirectly connected to the Management Services supplied by the Entity to an Associated Trust. For all tax periods commencing on or after the Full Cost Recovery Start Date the Entity will use salaries and other expenses with no GST in the price for inclusion in the calculation of market value.

4. Interest

- Interest Charges on a bank facility incurred by the Entity is excluded from the calculation of market value for the purposes of Division 72 of the GST Act.

Schedule 4

Calculation of the GST payable on Management Services for all tax periods in the concessional period

The GST payable on the Management Services provided by the Entity to an Associated Trust for each tax period in the concessional period takes into account acquisitions incurred by the Entity only to the extent that the acquisition has a GST component in the price. Types of direct and indirect costs are listed in **Schedule 3**. The calculation of the GST payable on the Management Services provided by the Entity to an Associated Trust is determined on a concessional basis in accordance with the following steps.

STEP 1

- You must identify the total value of input tax credits incurred by the Entity in respect to the provision of Management Services to the Associated Trusts.

STEP 2 (if applicable)

- You must exclude from the calculation all GST payable and input tax credits incurred by the Entity that relate to the provision of services to entities that are not associates of that Entity (that is, the provision of services to third parties) and consequently Division 72 of the GST Act does not apply.

STEP 3 (if applicable)

- You must exclude from the calculation all GST payable and input tax credits incurred by the Entity that relate to the provision of services to entities that are associates of the Entity but are not in the securitisation structure, or are in the same GST group with the Entity and Division 72 of the GST Act does not apply.

STEP 4 (if applicable)

- You must make an adjustment to the GST payable and input tax credits to the extent that the Entity acquires services from an associated entity, to be used in providing Management Services to an Associated Trust, and that associated entity has provided the services to the Entity for consideration that is less than the costs incurred in providing the services to that Entity (excluding salaries) x 10%.

STEP 5 (if applicable)

- You must make an adjustment to the GST payable to the extent that the Entity provides Management Services to an associated 'interposed' entity and the associated 'interposed' entity provides Management Services to the Associated Trusts. The GST paid and input tax credits incurred by both the Entity and the associated 'interposed' entity must be reflected in the calculation of the GST Payable on the Management Services provided by the Entity to the Associated Trusts.

STEP 6 (if applicable)

- You must make an adjustment to the GST payable to the extent that GST paid and input tax credits incurred by the Entity relate to the provision of Management Services to a Securitised Entity, and those Management Services are **solely connected** to the issue of mortgage backed securities to overseas investors. You must determine the extent of the connection with reference to **Schedule 3**.

Deed of Settlement

Signing Page

Dated on the date first appearing on the Deed of Settlement

Executed as a deed

EXECUTED by COMPANY NAME (ACN) in)
accordance with section 127 of the)
Corporations Act 2001)

.....
Signature

.....
Signature

.....
Print Name

.....
Print Name

.....
Office held

.....
Office held

SIGNED SEALED and DELIVERED by
STEPHEN HOWLIN)
a delegate of the Commissioner of)
Taxation in the presence of)

.....
Stephen Howlin
Assistant Commissioner of Taxation
Delegate of the Commissioner of
Taxation

.....
Signature of Witness

.....
Name of witness (block letters)