

2004-2005-2006-2007
THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

TAX LAWS AMENDMENT (2007 MEASURES No. 5) BILL 2007

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendment to be moved on behalf of the Government

(Circulated by authority of the
Treasurer, the Hon Peter Costello MP)

Explanation of amendment

1.1 Schedule 8 to the Bill includes a measure that allows a stapled group of entities to restructure with an interposed head trust without triggering certain taxation consequences.

1.2 Under the measure, a restructure that involves interposing a head trust over a public unit trust stapled to a company will not result in the interposed head trust being taxed as a company under Division 6C of the *Income Tax Assessment Act 1936* (ITAA 1936). The amendments will enable Australian listed property trusts to be treated as a single entity for the purpose of overseas acquisitions and improve their capacity to acquire property and property-holding entities offshore.

1.3 Some stapled entities, however, consist of public unit trusts that are stapled to other trusts that, while taxed as companies, are not companies at law (ie, corporate unit trusts and public trading trusts taxed under Divisions 6B and 6C of the ITAA 1936).

1.4 Under this amendment, a restructure that involves interposing a head trust that directly or indirectly controls a public unit trust, which is stapled to a trust that is taxed like a company under Division 6B or 6C of the ITAA 1936, will also not result in the interposed head trust being taxed as a company.

1.5 This amendment will ensure that some stapled structures do not gain an unintended competitive advantage over other structures if they choose to restructure.