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Parliament House CANBERRA

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Dear Alan

Senate Inquiry Submission – Additional questions on notice

Thank you for the opportunity to provide further information to specific questions asked during the Senate Corporate Tax Inquiry and provided subsequently.

To make the process as easy as possible for you, we have kept our answers direct and to the point.

Questions on Notice:

- 1) *How many REITS do we have and what would be the total capitalised value?*

On the information available from the ASX there are 49 listed REITs with a total value of about \$118.5bn.

On the information we sourced from Property Investment Research there are 256 unlisted REITs (ie REITs traded without being on an exchange like the ASX), with a total value of about \$125bn)

- 2) *What are the broad economic and social benefits that arise from property trusts (and trusts more generally) having a flow through tax structure?*

- **Nearly 12 million Australians are investors in property trusts, either directly or indirectly through their retirement savings.**
- **Property Trusts enable ordinary Australians to build wealth and financial self-sufficiency.**
- **Australia's property trust rules are designed to help Australians:**
 - **Invest in property assets they could not afford to own outright themselves**
 - **Broaden their investment portfolio to reduce the risk from market downturns**
 - **Benefit from the market experience and insights of professional asset managers.**
- **The property industry is the vital enabler of Australia's growing population and economic expansion.**
- **Property unit trust rules were designed ensure that ordinary investors have the same opportunity to invest in property as wealthy institutions.**

- Tax flow through is vital to ensure that ordinary Australians investing in rental property through trusts are treated no differently to those wealthy institutions who own property directly. Both have rental income taxed in their hands individually.
 - Stapled structures ensure there is a clear separation between passive rental activities (typically under a trust), and active trading activities (typically under a company).
 - Importantly, tax flow through and stapled structures are recognised by this government and internationally as vital for a healthy collective investment regime that will bolster economic prosperity.
 - In 2010, the OECD issued a report on the Tax Treaty Treatment of Collective Investment Vehicles which said:

“Most countries have dealt with the domestic tax issues arising from groups of small investors who pool their funds in collective investment vehicles (CIVs). In general, the goal of such systems is to provide for neutrality between direct investments and investments through a CIV.” (at para 6.8)
 - The Board of Taxation’s October 2008 Discussion Paper, *“Review of the Tax Arrangements Applying to Managed Investment Trusts”*, noted a core policy principle underpinning the trust taxation regime is:

“The tax treatment for trust beneficiaries who derive income from the trust should largely replicate the tax treatment for taxpayers as if they had derived the income directly.” (at para 1.7)
- 3) *To what extent should company tax be reformed more broadly to remove dividend imputation and adopt flow through tax structures?*
- The Property Council is in the process of canvassing the opinion of the industry on these points for the submission into the Government’s Tax Issues Paper.
 - While it makes sense for passive investment income to be flow through irrespective of the vehicle, if however Government were to get rid of dividend imputation for all income earned by the company, Australia would be on its own globally – we would need to think through the implications of this approach.
 - We will provide a full account and recommendations directly in our submission on the Tax Issues Paper.
- 4) *If dividend imputation was removed, would this provide opportunities for tax arbitrage?*
- The answer to this question depends entirely upon what you replace dividend imputation with and how the rules are framed. Reverting to the old pre-imputation

system will simply re-introduce unfair and unnecessary double taxation.

- **It is far more productive for government to focus on what the fair, equitable and innovative approach will be to ensure there is no double taxation or disincentives to investment – the integrity of the system will flow from there.**

Yours sincerely,

Andrew Mihno

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