Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates 20-21 February 2008

Question: aet 26

Topic: **Withholding Tax**

Hansard Page: **E29**

Senator COONAN asked:

Senator COONAN—Is it the case that other countries have got lower rates of withholding tax on this class of income? Are you familiar with general arrangements in relation to other major jurisdictions?

Mr Ray—It is the case that some other countries have lower withholding rates on this class of income, yes.

Senator COONAN—Could you give us some idea of the arrangements that differ from Australia's?

Mr Ray—Again, we had the expert here. It would be better if I got the expert back to answer your question rather than that I mislead you.

Senator COONAN—Perhaps we might put that on notice.

Mr Ray—Which we could do.

Answer:

Jurisdictions tax this type of income (predominantly, rental income and capital gains from real property) to foreign residents differently. The tax payable on this class of income will, generally, depend on:

i. the tax base on which the withholding tax is levied; and

ii. the rate of withholding tax applied to REIT distributions.

Tax base

- **Australia:** Does not have a REIT regime. Investments in real property are undertaken via a trust structure. This means returns are taxed as if they were received directly by the investor. In relation to the existing 30 percent non-final withholding tax rate, the overall effect is only a relatively small part of the gross distribution received may be taxed. For example, foreign source income is exempt to foreign residents. In addition, 'tax preferred income', which is not part of the net income of the trust, is not subject to withholding tax.

REIT corporate structures: Where a REIT is set up as a company, the withholding tax is applied to the gross distribution (being the entire dividend) the company pays to its investors. While there may be differences between jurisdictions, broadly, a corporate REIT regime may result in tax preferred income being subject to withholding tax (which means withholding tax is levied on a broader tax base). Some jurisdictions may apply different rates of withholding to the income and capital gains components of the distribution.

- **REIT trust structures:** Depending on the specifics of the jurisdiction's REIT regime, there may be partial or complete flow-through of tax preferences (which affects the size of the tax base subject to withholding tax).

Arrangements of other major jurisdictions

	Tax Treatment	**REIT structure**
UK	• In general, a 22% final withholding tax for distributions. • A reduced treaty tax rate may be available, which is claimed retrospectively, following receipt of the distribution.	Corporate regime
US	• In general, there is 30% final withholding on income dividends; 35% final withholding on capital gains dividends; and 10% final withholding on return of capital. • A reduced treaty tax rate may apply under particular treaties.	Corporate regime
Japan	• In general, a 7% final withholding tax applies. This will rise to 15% from 1 April 2009. • A reduced treaty tax rate may apply under particular treaties.	Has both REIT company and trust regimes
Hong Kong	• While REIT distributions are not specifically tax exempt, the Inland Revenue Department's practice so far is not to tax them.	REIT trust structure

Singapore	• In general, corporate unit holders liable to a final withholding tax at the corporate tax rate, currently 18%. • Concessional 10% rate applies to individual unit holders from 18 Feb 2005 to 17 Feb 2010. • Foreign source income and capital gains component of dividends generally tax-exempt. • No further tax treaty relief.	Has both REIT company and trust regimes