

Annexure 2 to ACSA Senate Submission

ACSA AMIT WHT Example - Custodians

1. Australian Custodian holds units in the ASX-listed Canberra AMIT, a withholding MIT, on behalf of different beneficial unit holders during the year as follows:
 - At 31 December 2016 - 10,000 units on behalf of entity M
 - At 30 June 2017 – 10,000 units on behalf of entity R (40%) and entity G (60%) both foreign residents in an EOI jurisdiction
2. The custodial agreement between Australian Custodian and the clients provides that Australian Custodian will credit all income and other payments due in respect of the assets held on behalf of the clients to them.
3. On **31 December 2016**, Canberra AMIT made an actual fund payment to Australian Custodian of \$50,000. Australian Custodian credited the payment to entity M and gave them a fund payment notice under section 12-395. No withholding was required by Australian Custodian in respect of the payment.
4. On **30 June 2017**, Canberra AMIT makes an actual fund payment of \$50,000 to Australian Custodian. Australian Custodian credited the payment to entity R and entity G and withheld from the payment at 15%
5. On **15 August 2017**, Canberra AMIT issued Australian Custodian with an AMMA statement for the income year ended 30 June 2017. Canberra AMIT also notified Australian Custodian that it was paid a deemed payment that is a fund payment of \$20,000, in respect of the 2016/17 income year at that time.
6. In accordance with section 12A-205, Australian Custodian is deemed to have “on paid” an amount that is attributable to a fund payment to entity R and entity G.

Overall result – Australian Custodian must pay WHT in respect of the “deemed on-payment” of \$20,000 to the foreign clients even though there is no actual cash distribution to it when this liability arises. As both R and G are EOI country residents, the WHT is \$3,000 (15% of \$20,000).