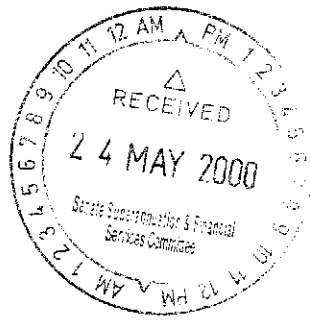


# **Senate Select Committee on Superannuation and Financial Services**

## **Main Inquiry Reference (b)**

**Submission No. 16**

**Submittor:** Mr William Packer  
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PACKER  
&  
CO. LTD

25 May 2000

Ms Sue Morton  
Secretary  
Senate Select Committee on Superannuation & Financial Services  
Parliament House  
CANBERRA ACT 2600

Dear Ms Morton

**SUBMISSION ON WITHHOLDING TAX ON CAPITAL GAINS APPLIED TO FOREIGN INVESTORS IN AUSTRALIAN-BASED UNIT TRUSTS**

We recommend that the withholding tax on capital gains applied to foreign investors in Australian-based unit trusts, be removed.

Packer & Co runs the Packer & Co Investigator Trust (ARSN 088 778 232), a \$107 million Australian-based trust that invests in Australian Equities and Bonds. We manage money for over 150 high net worth West Australians.

We have now reached a size where we would like to introduce overseas investors into our Australian-based trust. However we have found that this is virtually an impossible task, as we must withhold 29% of any capital gains distributed to them. This has created an anomaly, because those same foreign investors can buy shares directly in Australian companies and avoid any capital gains tax. They can also buy an overseas-based trust, with an identical portfolio to our own Australian-based fund yet avoid any capital gains tax. **In result we cannot attract any rational overseas investor.**

It needs to be pointed out that as a tax revenue earner for Australia, the withholding tax on capital gains for foreigners would currently generate very little tax revenue for Australia, due to the anomaly demonstrated above.

This anomaly has created an incentive for fund management companies to establish foreign domiciled trusts to cater for overseas investors wanting to invest in Australia.

If the withholding tax in relation to capital gains to foreigners was removed, an incentive would be created for the offshore investor to invest directly in Australian-based funds. As a result, the Australian government would get 36% (current corporate tax rate) of the increase in fund management fees. There would also be job creation within Australia as funds would not need to domicile operations offshore.

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It is crucial that the Australian fund management industry becomes a serious service export earner for this country. We have all the foundations to compete on the world market:-

- a well trained workforce;
- a strong legal system;
- a stable political environment;
- the English language;
- regional defence security; and
- a strong regulatory framework

Recent legislative changes in Japan and Singapore have effectively opened up huge markets for foreign financial service operators. This re-enforces the need to make ourselves attractive to overseas investors, particularly within the Asian region.

Recently, Australia exempted US-based funds from the onerous FIF (Foreign Investment Fund) tax and investment rules. The description in the information memorandum to the amendment was: "The exemption will encourage Australian Fund Managers to make their operations internationally competitive by exposing them to competition from US funds and facilitating portfolio allocation to such funds".

We agree with the philosophy that to make Australia a regional financial centre we need to be internationally competitive, however to do so, we must provide a level playing field and an opportunity for domestic based funds to be able to service foreign investors.

This can only be achieved with the removal of the withholding tax on capital gains distributions to foreign investors by Australian-based trusts.

I would like to send a copy of this letter to The Hon Joe Hockey, Minister for Financial Services & Regulation, if that meets with your approval.

Yours sincerely

**WILLIAM PACKER**  
**Managing Director**