



3 December 2010

Mr S Martin
Chair NTLG Superannuation Sub-Group Working Party
Limited Recourse Borrowing Arrangements
Australian Taxation Office
By email: Stephen.Martin@ato.gov.au

Dear Mr Martin,

Limited recourse borrowing arrangements – single acquirable asset – submission ICAA

SISFA strongly supports and endorses the submission made to the Australian Taxation Office (ATO) by the Institute of Chartered Accountants in Australia (ICAA) on Thursday last on the question of limited recourse borrowing arrangements and the meaning of a single acquirable asset.

In reaching its conclusion that the appropriate test to apply in determining what is a “single acquirable asset” for the purposes of Section 67A(1) of the Superannuation Industry (Supervision) Act (SISA) is what for accounting purposes will constitute an or one asset. SISFA has drawn on the analysis and findings of the Financial Reporting Panel referred to in the ICAA Submission (Panel). It is noted from the Framework for the preparation and presentation of financial statements released by the Australian Accounting Standards Board (Framework) and referred to in the ICAA submission, in identifying an asset for accounting purposes “attention needs to be given to its underlying substance and economic reality and not merely its legal form”.

In applying these considerations the Panel concluded in its report referred to in and included with the ICAA submission “...that there is no requirement to recognise the separate components of an Investment Property”. Rather, the Panel looked to what had been purchased and in drawing from clause 49(a) of the Framework “an asset is a resource controlled by the entity arising from past events and from which future economic benefits are expected to flow to the entity”, then concluded:

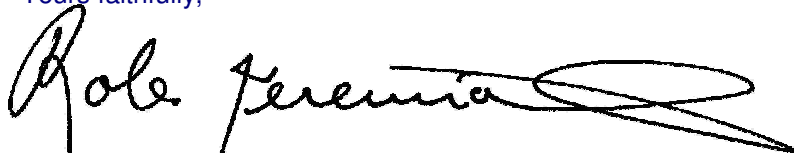
“These criteria led the Panel to an acceptance that the Fund’s Investment Property, in its entirety, meets this definition. The composite asset satisfies the criteria. It is the only asset that satisfies all of the criteria. So long as the Fund leases out its Investment Property to a tenant, the Fund does not control the individual components underlying the Investment Property. Nor, do the underlying assets derive benefits for the Fund individually.”

In supporting the submission of the ICAA it is SISFA’s submission that under the Australian Accounting Standards the component parts of any improvements to land which are attached to the land will, upon attachment, comprise part of a single acquirable asset, that being the land itself and all component parts which include all improvements to that land. Further, under the Australian Accounting Standards land acquired in a single acquisition whether comprising or comprised in one or more crown allotments or lots or one or more titles will be a single acquirable asset.

SISFA submits to the ATO, in support of the ICAA submission, that in interpreting the meaning of the words "single acquirable asset" in section 67A SISA the ATO adopt the meaning of that term as that term is to be interpreted under the Australian Accounting Standards.

If SISFA can be of any further assistance in considering this submission and the contents of that detailed in the submission of the ICAA please contact Rob Jeremiah on 03 9611 0103 or by email at rjeremiah@harwoodandrews.com.au.

Yours faithfully,

A handwritten signature in black ink that reads "Rob Jeremiah". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Rob Jeremiah
Director and Chair of Technical Committee
SISFA