



The Board of Taxation
c/- The Treasury
Langton Crescent
Canberra ACT 2600

By email: taxboard@treasury.gov.au

9 March 2011

Dear Sir

Subject: Submission on the review of tax arrangements applying to collective investment vehicles

Subdivision 118-F of the Income Tax Assessment Act 1997 (ITAA 1997) provides that capital gains made by early stage venture capital limited partnerships (ESVCLPs) from eligible venture capital investments are disregarded provided certain conditions are met.

On numerous occasions clients have asked whether it is possible for some investors to invest in an ESVCLP via a fixed or unitised trust structure. That is, the trust would be one of the limited partners. However, such structures negate the tax benefits afforded to ESVCLP partners because any distributions made by the trust would be subject to CGT event E4 (section 104-70 ITAA 1997)

Under the current legislation there is no adjustment to the "non-assessable part" of the distribution for the disregarded Subdivision 118-F capital gain as was the case with the Pooled Development Fund rules (see subsection 104-71(3) ITAA 1997). Consequently, the disregarded ESVCLP gain is effectively converted into a taxable CGT event E4 gain when distributed by the trust. We submit that this is contrary to the underlying intention of the ESVCLP regime.

We submit that a result more in keeping with the intention of the ESVCLP regime would arise from the introduction of a CGT Event E4 exemption for disregarded Subdivision 118-F capital gains.

Should you have any questions in relation to the submission please do not hesitate to contact the writer.

Yours sincerely,

Kel Fitzalan
Partner
Kel.fitzalan@au.pwc.com
T: 02 8266 1600
F: 02 8286 1600

PricewaterhouseCoopers, ABN 52 780 433 757
Darling Park Tower 2, 201 Sussex Street, GPO BOX 2650, SYDNEY NSW 1171
DX 77 Sydney, Australia
T +61 2 8266 0000, F +61 2 8266 9999, www.pwc.com.au

Liability limited by a scheme approved under Professional Standards Legislation.