

Collective investment scheme

CONTINUED FROM PAGE 1

Although the proposed changes appear to address the taxation of income received by collective investment schemes and distributions made by scheme fund managers should take note of the following issues which arise from the proposed changes:

■ The act does not specifically provide for the deduction of costs by a collective investment scheme, such as the management fees, and normal principles would therefore apply.

■ No changes have been proposed to the controlled foreign company rules as a result of the changes to the taxation of a scheme. This begs the question of whether investments by a scheme in a foreign company, where the scheme holds more than 50% of the participation rights, would constitute a controlled foreign company of such investment scheme or the unit holder in the scheme?

■ In practice at present a scheme may not be paying tax, but such a scheme is still subject to tax. Any income trapped in the collective investment scheme according to the provisions of the proposed section 25BA or the controlled foreign company rules, would in future be taxed at the rate of 40% instead of the companies' tax rate of 28%.