

Australian Government issues Exposure Draft Bill to amend the hybrid mismatch rules for public consultation

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On 13 December 2019, the Australian Treasury issued the Exposure Draft (ED) Bill, *Tax Integrity - Clarifying the Operation of the Hybrid Mismatch Rules*, to amend the hybrid mismatch rules. The ED is open for public consultation with comments due by 24 January 2020.

The ED contains changes announced in the 2019-20 Budget plus two additional technical corrections (dual inclusion + tier 1). Specifically, the ED:

- ▶ Clarifies that the rules apply to multiple entry consolidated groups (MEC groups) in the same way as consolidated groups.
- ▶ Clarifies that, for the purpose of applying the hybrid mismatch rules, the definition of "foreign income tax" does not include foreign, municipal or State taxes.
- ▶ Clarifies the operation of the hybrid mismatch rules for trusts.
- ▶ Ensures that the integrity rule appropriately applies to arrangements that have been designed to circumvent the operation of the hybrid mismatch rules, and specify that, in certain circumstances, the integrity rule can apply where other hybrid mismatch provisions have applied.

- ▶ Clarifies the operation of the dual inclusion income on-payment rule.
- ▶ Allows franking benefits on distributions made on Additional Tier 1 capital instruments, where the distributions give rise to an entitlement to a foreign income tax deduction and the Commissioner is notified that the foreign income tax deduction will not be claimed.

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