



Australian Government
Commonwealth Superannuation Corporation

Tax Code of Conduct



Commonwealth
Superannuation
Corporation

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RSE: R1000306
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ADF Super ABN: 90 302 247 344
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For information on each scheme visit csc.gov.au

1. Introduction

Given the inherent complexities of international tax laws, a systematic approach is required to manage tax risk. Commonwealth Superannuation Corporation (“CSC”) has developed a tax strategy that maintains a high level of diligence and accountability through the implementation and execution of tax policies and procedures that reflect ‘best practice’ as determined by the Australian Tax Office (“ATO”). A negative impact in relation to CSC’s management of tax risk can also give rise to significant implications on its reputation, as well as its relationship with the ATO and other regulators.

CSC’s Tax Code of Conduct (“TCC”) is being provided to investment managers to assist them in understanding CSC’s approach to managing tax risk, and to facilitate CSC in meeting its Australian tax compliance obligations.¹

1.1 Responsibilities to our customers

As the superannuation provider for Australian government and defence force employees, CSC seeks to maintain its reputation as a model taxpayer following best practice. CSC therefore must ensure that it not only operates within the confines of international tax laws, but it also avoids adopting aggressive tax positions and structures as determined by the ATO. CSC considers that its focus on acting with integrity and achieving strong tax compliance is consistent with its long-held objective of building, supporting and protecting better retirement outcomes for our customers and their families.

1.2 CSC’s low appetite to tax risk

In accordance with CSC’s Tax Risk Management (“TRM”) framework, CSC maintains a low appetite to tax risk and has developed a tax strategy to support this position. CSC will only adopt tax positions where the application of the tax law is straightforward or where there is clear authority to support the position. CSC may establish investment vehicles outside of Australia to allow international investments to be held on behalf of our customers in line with CSC’s wider investment objectives. Any such international related party dealings of CSC are entered into strictly for commercial reasons only. However, CSC does not shift or accumulate untaxed profits in low tax jurisdictions, nor does it use the laws of overseas jurisdictions to shelter its income or assets.² The key purpose of CSC’s TRM framework is to ensure its tax affairs are managed in a way that complies with its tax obligations and to ensure it pays the correct amount of tax in all jurisdictions.

1.3 Why a Tax Code of Conduct?

To facilitate the above strategy, CSC has developed a set of TRM principles for unlisted investments in the form of this TCC. The aim of this TCC is to help CSC’s investment managers understand our approach to TRM. CSC is aligned with the ATO’s view that strong TRM is at the forefront of maintaining strong tax corporate governance.

¹This TCC is neither prescriptive nor intended to provide tax advice to investment managers. It is intended to provide investment managers CSC’s tax risk management principles that its investment managers should give appropriate consideration to in making unlisted investments.

²For further information on CSC’s tax risk appetite, please refer to CSC’s latest Tax Transparency report, accessible from the following link: <https://www.csc.gov.au/Members/About-CSC/Corporate-governance>.

2. CSC's TRM principles

2.1 CSC's expectations of investment managers

CSC expects that its investment managers will give appropriate consideration to CSC's TRM framework in managing the tax affairs of our investment with them. The key principles of CSC's TRM framework include:³

- Ensuring that investments are compliant with all applicable tax legislation and regulations in all jurisdictions. This requires complying with both the letter and spirit of international tax laws;
- Entering into investment transactions which are based principally on commercial considerations;
- Maintaining an open, transparent, honest and cooperative approach when dealing with tax authorities;
- Adhering to tax policies and procedures in ensuring the maintenance of strong internal controls to facilitate accurate tax reporting;
- Applying consideration and foresight to tax law developments and international tax initiatives when considering potential investments;
- Operating with integrity and honesty in applying available tax incentives, reliefs, treaties and exemptions within the spirit of international tax laws which they are intended to apply;
- Exercising caution when considering investments structured through countries that are listed in the European Union's blacklist of non-cooperative tax jurisdictions; and
- Avoiding the use of contrived or artificial tax structures that are intended for tax avoidance and have little to no commercial substance.

³Please note that the following is not an exhaustive list, and is intended to highlight the key focus areas of CSC's TRM framework. This framework is developed with reference to the principles contained in the ATO's 'Tax risk management and governance review guide' <https://www.ato.gov.au/business/large-business/in-detail/key-products-and-resources/tax-risk-management-and-governance-review-guide/>.



2.2 Reliance on third party tax information

CSC is reliant on tax information received from its investment managers (“third party tax information”) to fulfil its tax obligations. Accurate third party tax information is important in allowing CSC to validate that the correct amount of investment income derived from its investments has been reported, as well as the claiming of any associated tax offsets and deductions. CSC’s TRM framework requires an assessment of the controls and processes in place to reduce the risks of reliance on third party tax information. As part of CSC’s due diligence process on an investment manager, it is important for CSC to obtain comfort that its investment manager is acting on CSC’s behalf in accordance with CSC’s low appetite to tax risk, and that the tax reporting provided to CSC is accurate and reliable.

Some examples in which investment managers can demonstrate strong controls over their investment tax information include:⁴

- Implementing processes and controls to identify and manage the tax consequences of foreign investments;
- Engaging with independent assurance providers (internal and external) on the effectiveness of the investment manager’s tax controls and the accuracy of tax data received and processed; and
- Undertaking ongoing review and testing of existing tax policies and procedures to ensure the accuracy of all investment tax data within the context of a continually changing international tax landscape.

⁴ We note that controls over third party tax information is currently under review by the ATO. Further information can be found here: <https://www.ato.gov.au/general/consultation/in-detail/matters/matters-under-consultation/?page=5>.

3. Tax planning



3.1 International tax developments

CSC supports the various international tax initiatives aimed at defining a set of coordinated international rules and eliminating tax avoidance, such as the OECD’s Base Erosion and Profit Shifting (“BEPS”) project. CSC actively engages in tax transparency and responsible tax management, including adopting Australia’s Board of Taxation’s voluntary Tax Transparency Code. Where possible, CSC encourages the investment manager to anticipate tax developments, and to seek to implement tax structures that are commercially viable. CSC expects the investment manager to consider and proactively manage tax risks arising from global developments to tackle BEPS, including the impact of the multilateral convention to implement tax treaty related measures. This may also involve direct engagement with its tax advisers and tax authorities to resolve any material tax uncertainties and complying with disclosure requirements such as EU Directive 2018/822, which obliges service providers and/or taxpayers to report on certain cross-border tax planning arrangements under the mandatory disclosure regime.

3.2 Tax structuring

As CSC has a fiduciary obligation to act in the best interests of its customers, it pursues tax strategies consistent with that obligation. CSC has a statutory obligation to consider the expected tax consequences when developing investment strategies, including a “best reasonable efforts” approach in considering optimal tax structures that prevent double taxation. At the same time, CSC does not engage in or support aggressive tax planning practices that fall outside the spirit of the law. CSC defines aggressive tax planning as the exploitation of technicalities in a tax regime for the primary purpose of reducing tax. Some examples of aggressive tax planning include structures designed to:⁵

- Reduce taxable income or increase deductions against income;
- Avoid tax and other tax related obligations entirely;
- Incorrectly classify revenue amounts as capital;
- Exploit concessional tax rates available; and
- Inappropriately allocate funds through several entities, such as a series of trusts, to avoid or minimise tax that would otherwise be payable.

CSC maintains strong lines of communication with the ATO and actively assists with current tax issues affecting the Australian superannuation industry. A collaborative approach built on transparency and trust is critical in maintaining CSC’s ongoing relationship with the ATO.

⁵ Examples provided are not intended to be an exhaustive list and reflect the views of the ATO on Australian tax issues only.

4. Further questions?

This TCC is an overview of CSC's TRM framework and our strategy for ensuring compliance with this. CSC encourages the investment manager to consult CSC if there are any questions or concerns in relation to this TCC, and welcomes the opportunity to work together with the investment manager to ensure that all parties are compliant with their ongoing tax obligations as global tax contributors.





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