Tax changes to support FinTech and innovation

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Worthwhile read for: Startups, investors
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The Federal Government has released exposure draft legislation and explanatory material as part of its commitment to promoting and developing Australia's fintech space. These proposed changes relate to the Tax Incentive for Early Stage (angel) Investors as well as the Venture Capital Limited Partnership and Early Stage Venture Capital Limited Partnership regimes.

The proposed changes

Currently, early stage venture capital limited partnerships (**ESVCLP**) and venture capital limited partnerships (**VCLP**) are unable to access the tax concessions offered on investments into fintech startups. This is because the tax concessions do not extend to startups involved in finance and insurance activities. The law will be amended so that ESVCLPs and VCLPs will be able to access tax concessions for their investments in startup fintech companies that have finance or insurance activities as their predominant activities.

What are the tax incentives?

Generally, limited partnerships are treated as a company for tax purposes. However, the relevant VCLP and ESVCLP regimes allow these limited partnerships to be taxed on a 'flow-through' basis. This means that the partners in these limited partnerships are taxed rather than the partnership itself.

For VCLP's, the key tax benefits include

- Certain foreign partners are exempt from income tax on capital and revenue gains arising from the disposal of their investments. Relevantly, corresponding losses are also disregarded.
- Amounts received by certain partners for their successful management of the VCLP's investments ('carried interests') are taxed on capital account. This means that they can access the 50% CGT discount (if they have been a partner for over 12 months).

For ESVCLP's, the key tax benefits include

- Both Australian and foreign investors are exempt from income tax on capital and revenue gains arising from the disposal of their investment. Any corresponding losses are disregarded.
- Income derived from the ESVCLP's investments (such as dividends) are exempt from income tax.

Takeaway points

- If passed, ESVCLPs and VCLPs will be able to access tax concessions for investments in fintech startups.
- For investors, it is important to note that these tax incentives are already available in respect of investments made to other startups.
- The Government is committed to developing Australia's fintech space. However, it remains to be seen whether these proposed changes will generate increased investment in the fintech space.

Public consultation for the draft legislation has now closed. We expect the legislation to be introduced into Parliament in the near future. For more information or discussion, please contact HopgoodGanim Lawyers' Taxation team.

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