7 TAXATION

7.1 AUSTRALIAN TAX CONSIDERATIONS FOR AUSTRALIAN AND NEW ZEALAND RESIDENT INVESTORS

a) General

Set out below is a general summary of the Australian income tax, goods and services tax (**GST**) and stamp duty implications of the Retail Entitlement Offer for Eligible Retail Securityholders.

Neither APA nor any of its officers or employees, nor its taxation or other advisers, accepts any liability or responsibility in respect of any statement concerning taxation consequences, or in respect of the taxation consequences.

The comments in this section deal only with the Australian taxation implications of the Retail Entitlement Offer if you:

- are a resident for Australian or New Zealand income tax purposes; and
- hold your Existing Securities on capital account.

The comments do not apply to you if you:

- are not a resident for Australian or New Zealand income tax purposes; or
- hold your Existing Securities as revenue assets or trading stock (which will generally be the case if you are a bank, insurance company or carry on a business of share trading); or
- are a resident for New Zealand income tax purposes but you have a permanent establishment in Australia; or
- are subject to the Taxation of Financial Arrangement (**TOFA**) provisions contained in Division 230 of the Income Tax Assessment Act 1997; or
- acquired your Existing Securities in respect of which the Entitlements are issued under any employee share scheme or where the New Securities are acquired pursuant to any employee share scheme.

This taxation summary is necessarily general in nature and is based on the Australian tax legislation and administrative practice in force as at the date of this Retail Offer Booklet. It does not take into account any financial objectives, tax positions or investment needs of Eligible Retail Securityholders. As the taxation implications of the Retail Entitlement Offer will vary depending upon your particular circumstances, you should seek and rely upon your own professional tax advice before concluding on the particular taxation treatment that will apply to you.

In this section, we have referred to the following securities, which are stapled to form the Existing Securities, as 'constituent securities':

i) a unit in APT; and

ii) a unit in APTIT.

b) Issue of Entitlements

The issue of an Entitlement should be treated for Australian income tax purposes as an issue of two separate rights to acquire a new security in respect of each of the constituent securities. For the purposes of this summary, these rights are collectively referred to as the Entitlement.

The issue of the Entitlement should not, of itself, result in any amount being included in your assessable income.

c) Expiration or lapse of Entitlements

The Entitlements of Eligible Retail Securityholders who do not take up their Entitlement to acquire New Securities will lapse. Eligible Retail Securityholders may receive proceeds in respect of the lapsing of the Entitlement as set out below.

The Underwriters will subscribe, or procure subscriptions, for New Securities equal to the amount of Securities not taken up under lapsed Entitlements under the Retail Bookbuild process. Where the price under the Retail Bookbuild exceeds the Offer Price, the excess over the Offer Price (net of any withholding tax) (**Retail Premium**) will be remitted to Eligible Retail Securityholders whose Entitlements have lapsed.

i) APT units

The following discussion is relevant with respect to the proportion of the proceeds attributable to the Entitlement to subscribe for units in APT.

The Commissioner of Taxation (**Commissioner**) has released Taxation Ruling TR 2012/1 "Retail Premiums paid to shareholders where share entitlements are not taken up or are not available" which sets out the Commissioner's view as to how retail premiums should be taxed. In TR 2012/1 the Commissioner expresses his view that, in certain circumstances, retail premiums paid to shareholders are assessable as either an unfranked dividend or as ordinary income. You need to be aware that the Commissioner may seek to apply the tax treatment specified in TR 2012/1 to any Retail Premium attributable to the Entitlement to subscribe for units in APT, because APT is a public trading trust that is a head entity of a tax consolidated group, so it is effectively treated as a company for income tax purposes and securityholders are treated as shareholders for tax purposes.

In TR 2012/1, the Commissioner expresses an alternative view that, in certain circumstances, retail premiums form capital proceeds. If the alternative view were adopted, the following income tax implications are relevant:

- Australian resident Eligible Retail Securityholders who do not take up their Entitlement in full should derive a capital gain for CGT purposes equal to the amount of the Retail Premium received (assuming no eligible incidental costs are incurred);
- Australian resident Eligible Retail Securityholders who do not take up their Entitlement in full and who are individuals, complying superannuation entities or trustees that have held their Existing Securities for at least 12 months prior to the date their Entitlement were issued should be entitled to the CGT discount in respect of any capital gain resulting from the Retail Premium received (after the application of any current year or carry forward capital losses); and
- New Zealand resident Eligible Retail Securityholders who do not take up their Entitlements in full should be entitled to disregard any capital gain that arises provided certain conditions are met – see Section 7.1(f) for further details.

The Commissioner does not support the alternative view in TR 2012/1.

ii) APTIT units

With respect to the proportion of the Retail Premium attributable to the Entitlement to subscribe for units in APTIT, different consequences may arise as securityholders hold units in a managed investment trust and are not treated as shareholders in a company. The receipt of such proceeds may be considered proceeds in respect of a CGT event for Eligible Retail Securityholders. If CGT treatment applies, Eligible Retail Securityholders would make a capital gain if the proceeds received exceed their incidental costs associated with the Entitlements. For the purposes of applying the CGT discount rules to this amount, Eligible Retail Securityholders should be considered to have acquired their Entitlements on the date they acquired their original units in APTIT.

Consequently, Australian resident Eligible Retail Securityholders who are individuals, complying superannuation entities or trusts should be eligible to apply the CGT discount where the original securities have been held for at least 12 months.

New Zealand resident Eligible Retail Securityholders should be entitled to disregard any capital gain provided certain conditions are met – see Section 7.1(f) for further details.

Whilst TR 2012/1 strictly does not apply to this situation, it is possible that the Commissioner would reach similar conclusions to those reached with respect to the lapse of entitlements to shares in a company so that the Retail Premium is treated as ordinary income but not as an unfranked dividend.

iii) Summary of outcome

Given the uncertainty surrounding the tax treatment of retail premiums, APA recommends that you seek your own tax advice in relation to any renounced Entitlement.

APA will withhold tax from Retail Premiums paid to Australian resident Eligible Retail Securityholders in respect of each Entitlement unless you provide your TFN or ABN to APA prior to the close of the Retail Entitlement Offer or you have previously provided it to APA. If you do not provide your TFN or ABN, tax will be withheld at the rate of 49%.

APA will withhold tax from Retail Premiums paid to New Zealand resident Eligible Retail Securityholders as follows:

— In relation to the proportion of the Retail Premium attributable to the Entitlement to subscribe for units in APT, APA will treat this as an unfranked dividend and will deduct dividend withholding tax.
— The proportion of the Retail Premium attributable to the Entitlement to subscribe for units in APTIT is not an unfranked dividend and no withholding tax will be deducted.

d) Exercise of Retail Entitlements

No income tax or capital gains tax liability will arise for you on the exercise (i.e. taking up) of your Entitlements.

If you take up all or part of your Entitlements, you will acquire New Securities. Each New Security acquired upon exercising an Entitlement will comprise two separate capital gains tax (**CGT**) assets, being a unit in APT and a unit in APTIT. Eligible Retail Securityholders that acquire New Securities will need to determine their cost base for each of these CGT assets on the basis of a reasonable apportionment of the Issue Price payable for each New Security (plus a reasonable apportionment of any non-deductible incidental costs incurred in acquiring them).

New Securities will be taken to have been acquired on the day you exercise the Entitlement.

e) Distributions on New Securities as a result of Entitlements taken up

Any future distributions made in respect of New Securities will be subject to the same income taxation treatment as distributions made in respect of Existing Securities held in the same circumstances.

f) Disposal of New Securities

i) Australian resident securityholders

The disposal of a New Security will constitute a disposal for CGT purposes of each constituent security.

On any future disposal of New Securities, Eligible Retail Securityholders may make a capital gain or capital loss, depending on whether the capital proceeds of that disposal are more than the cost base or less than the reduced cost base of the New Securities. The cost base of each constituent security is determined as described above in Section 7.1(d). Specifically, the cost base in APTIT units will be reduced by prior non-assessable distributions received by Eligible Retail Securityholders. New Securities will be treated for the purposes of the CGT discount as having been acquired when the Eligible Retail Securityholder exercised the Entitlement. Accordingly, in order to benefit from the CGT discount in respect of a disposal of those New Securities, they must have been held for at least 12 months after the date of exercise before the disposal occurs.

On disposal of a New Security, you will make a capital gain if the capital proceeds on disposal exceed the total cost base of the New Security. You will make a capital loss if the capital proceeds are less than the total reduced cost base of the New Security. The cost base of New Securities is described above in Section 7.1(d).

Individuals, trustees or complying superannuation entities that have held New Securities for 12 months or more at the time of disposal should be entitled to apply the applicable CGT discount factor to reduce the capital gain (after offsetting capital losses). The CGT discount factor is 50% for individuals and trustees and 331/3% for complying superannuation entities.

If you make a capital loss, you can only use that loss to offset other capital gains from other sources; i.e. the capital loss cannot be used against taxable income on revenue account. However, if the capital loss cannot be used in a particular income year it can be carried forward to use in future income years, providing certain tests are satisfied.

ii) New Zealand resident securityholders

New Zealand resident Eligible Retail Securityholders will not be subject to Australian income tax on any capital gain provided their securityholding represents less than 10% of the total APA Group Securities on issue or, if their securityholding is 10% or more, the Securities do not constitute taxable Australian real property as defined in Subdivision 855-A of the Income Tax Assessment Act 1997.

g) Taxation of Financial Agreements (TOFA)

The TOFA provisions operate to make assessable, or deductible, gains or losses arising from certain “financial arrangements” (importantly, the CGT discount is not available for any gain that is subject to the TOFA provisions).

The TOFA provisions should not generally apply on a mandatory basis for the following taxpayers:

— Individuals;

— Superannuation funds and "managed investment schemes" if the value of their assets is less than A$100 million; or

— Other taxpayers whose aggregated turnover (having regard to the turnover of connected entities or affiliates) is less than A$100 million, the value of their assets is less than A$300 million, and the value of their financial assets is less than A$100 million.

Taxpayers who are not automatically subject to TOFA can elect to be subject to TOFA on a voluntary basis.

Securityholders who are subject to TOFA should obtain their own tax advice as the precise implications under TOFA (if any) will depend on their facts and circumstances and in particular what elections they may have made.

h) Other Australian Taxes

No GST or stamp duty will be payable by you in respect of the issue or exercise of Entitlements or the acquisition of New Securities. No GST or stamp duty will be payable in respect of the receipt of any payment as a result of allowing the Entitlements to lapse.

7.2 NEW ZEALAND TAX CONSIDERATIONS FOR NEW ZEALAND RESIDENT SECURITYHOLDERS

a) General

Set out below is a summary of the New Zealand tax implications of the Retail Entitlement Offer for Eligible Retail Securityholders who are residents of New Zealand for tax purposes and who hold their Securities on capital account.

The summary below does not deal with the tax implications for Eligible Retail Securityholders who are not residents of New Zealand for tax purposes, or who hold their Securities as revenue account assets or trading stock (such as banks, insurance companies and taxpayers carrying on a business of share trading) or whose Securities were acquired under an employee share plan. It is intended as a general guide only and is not an authoritative or complete statement of all potential tax implications for each Eligible Retail Securityholder.

Taxation is a complex area of law and the taxation consequences for each individual Eligible Retail Securityholder may differ depending on their own particular circumstances. Accordingly, Eligible Retail Securityholders should seek specific advice applicable to their own particular circumstances from their own financial or tax advisers.

The summary below is based on the law in effect as at the date of this Retail Offer Booklet.

b) Issue of Entitlements

The issue of the Entitlements should not itself result in any amount being included in the assessable income of an Eligible Retail Securityholder.

c) Entitlements not taken up - the Retail Bookbuild process

Eligible Retail Securityholders who choose not to take up some or all of their Entitlement may receive proceeds in respect of the lapsing of Entitlements as described in Section 7.1(c). The receipt of a Retail Premium by an Eligible Retail Securityholder should not give rise to assessable dividend income or any other form of assessable income for the Eligible Retail Securityholder.

In the event that no Retail Premium is paid to an Eligible Retail Securityholder as a result of the lapsing of their Entitlements, no New Zealand income tax consequences should arise to New Zealand resident Eligible Retail Securityholders.

d) Exercise of Entitlements

Eligible Retail Securityholders who exercise their Entitlements will be allocated New Securities. The exercise of Entitlements and subsequent allocation of New Securities should not, in itself, result in any assessable income being derived by Eligible Retail Securityholders.

e) New Securities

Eligible Retail Securityholders who exercise their Entitlements will acquire New Securities. These New Securities will be subject to the same income tax treatment as Existing Securities held in the same circumstances under New Zealand's Foreign Investment Fund (**FIF**) rules.

Generally, the Fair Dividend Rate (**FDR**) method should apply to foreign investments such as the New Securities, under which Eligible Retail Securityholders would be taxed on deemed income equal to 5% of the market value of their investment at the beginning of each income year. Where Eligible Retail Securityholders are individuals or certain family trusts they may elect instead for the New Securities and Existing Securities (together with all other qualifying investments) to be taxed on the movement in value over a year and including dividend receipts.

Under the FDR method, if an Eligible Retail Securityholder disposes of New Securities in the same income tax year as the New Securities are acquired, a specific "quick sale" adjustment would apply to calculate a taxable gain arising under specific methodology.

As the tax treatment of the New Securities will depend on each investor's specific circumstances, including the possible application of de minimus exemptions, Eligible Retail Securityholders who are New Zealand tax resident should seek independent advice on how the FIF rules will apply to their investment.

f) Taxation of Financial Arrangements

The New Zealand financial arrangement rules will not apply to the Entitlements as a share, or option to acquire a share, is an excepted financial arrangement for the purposes of New Zealand's income tax legislation.

g) Other New Zealand Taxes

No New Zealand Goods and Services Tax (**GST**) should be payable in respect of the grant or exercise of the Entitlements or the acquisition of New Securities. New Zealand does not have a stamp duty or general capital gains tax.