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QC 81995

Trans-Tasman imputation special rules

Check Trans-Tasman imputation rules that allow New Zealand companies to enter the Australian imputation system.

Last updated 1 December 2016

There are special rules for Trans-Tasman imputation which are slightly different to the general Australian imputation rules.

The Trans-Tasman imputation measures allow a New Zealand (NZ) resident company to choose to enter the Australian imputation system

and gain access to Australian franking credits. Primarily, this will be when a NZ company pays Australian income tax.

The measure allows a NZ company to maintain an Australian franking account and to attach Australian franking credits to dividends it pays to its Australian shareholders. These Australian franking credits can then be passed on to Australian shareholders, who have invested in the NZ company in Australia. This alleviates double taxation of dividends paid to them. It avoids the taxation of company profits when earned by a company and again when a shareholder receives a dividend.

The measure does not allow recognition of NZ imputation credits (the NZ equivalent of Australian franking credits) attached to dividends received by Australian resident shareholders.

A NZ company that chooses to use the Trans-Tasman imputation rules will generally be subject to the Australian imputation rules in the same way as they apply to an Australian company.

The special rules apply to ensure that the measure operates appropriately and to preserve the integrity of the Australian imputation system.

See also

- Imputation – for details on the general rules that apply to the Australian imputation system
- New Zealand Inland Revenue – for Australian companies wishing to elect into the NZ imputation system

Making a choice to join the Australian imputation system

The Australian imputation rules will apply to a NZ resident company that has chosen to give notice to the Australian Commissioner of Taxation that they wish to be part of the Australian imputation system (making a franking choice). A NZ company that makes this choice will be known as a NZ franking company.

A NZ resident company choosing to enter the Australian imputation system has an income year (which is the Australian income year) from 1 July to 30 June, unless we have approved some other substituted accounting period.

A NZ resident company must notify us of their franking choice by lodging a *Trans-Tasman imputation election* form.

The notice must be lodged with us at least one month before a NZ company begins to make any franked distributions. For example, a NZ company must lodge the notification at least on or before 1 September 2016 if it wishes to start franking distributions from 1 October 2016.

A NZ franking choice will generally be in force from the start of the income year in which the notice was given to us. If a later income year is specified by a company, the company's NZ franking choice will be in force from the start of the specified income year. A NZ franking choice will continue in force until it is revoked by the company or cancelled by the Commissioner.

If a NZ company does not have an Australian tax file number (TFN), we will issue a TFN once you have made your franking choice.

Next step

- Trans-Tasman imputation – election form

Revoking or cancelling a franking choice

A NZ franking company may revoke its franking choice by notifying the Commissioner using the *Trans-Tasman imputation revocation form*.

We may cancel a company's NZ franking choice if the NZ franking company does not pay its franking deficit tax or over-franking tax liability by the due date or fails to provide a franking return to us when required.

When a NZ franking choice ceases to be in force, either

- a franking debit will arise to cancel any surplus in the franking account
- a franking deficit tax liability will arise if there is a deficit in the franking account.

Next step

- Trans-Tasman imputation – revocation form

Australian shareholder receiving NZ dividends and other distributions

The tax treatment, for Australian income tax purposes, of dividends paid by a NZ franking company to Australian resident shareholders is the same as dividends received from Australian franking entities. However, there are some additional aspects to be considered.

Australian shareholders must include the dividends paid by a NZ company and the attached Australian franking credits in their assessable income. Any supplementary dividend paid by the NZ company is also included in assessable income.

The Australian shareholder is entitled to a tax offset, equal to the franking credits included in their assessable income, against Australian income tax payable on the dividend. They are also entitled to a foreign income tax offset, in respect of any NZ withholding taxes, against Australian income tax payable on the dividend and the supplementary dividend.

Where a supplementary dividend is received by an Australian resident shareholder and the shareholder is also entitled to a foreign income tax offset, the franking credits included in the assessable income are reduced by the amount of the supplementary dividend. This will also result in a reduction of the franking credit tax offset by a similar amount.

Note: The NZ income tax rules do not provide for exemption from NZ withholding tax in respect of a dividend paid by a NZ company to a foreign resident from taxed corporate profits. Instead, NZ withholding tax imposed on the dividend is effectively refunded to the foreign resident in the form of a supplementary dividend. The supplementary dividend is also subject to NZ withholding tax.

Refer to Item 20: Foreign source income and foreign assets or property for details on completing your income tax return for NZ dividends and supplementary dividends that you received as an Australian resident shareholder.

See also

- Receiving dividends and other distributions

Requirements for a NZ franking company

Franking accounts and credits

An Australian franking account operates on a tax-paid basis. This means that if a company pays $30 of Australian tax it would generate a credit of $30 in its franking account.

A NZ franking company is required to keep its franking account in Australian currency. It must operate in accordance with the Australian imputation rules – for example, recording franking credits or debits, including recording a liability to a franking deficit tax.

See also

- Franking account

Allocating franking credits

A NZ franking company franks a distribution by allocating franking credits to it. Only distributions that are frankable can have franking credits allocated to them.

Frankable distributions can only be franked to the maximum franking credit amount. The maximum franking credit for a distribution is equal to the maximum amount of income tax that the entity making the distribution could have paid, at the current corporate tax rate, on the profits underlying the distribution.

A NZ franking company will not be able to allocate any franking credits and pay a franked distribution until one month after the election form is lodged notifying of their NZ franking choice.

Other distributions paid by NZ franking companies that are unfrankable include conduit tax relief additional dividends and supplementary dividends.

A NZ franking company can attach both Australian franking credits and NZ imputation credits to the same dividend.

See also

- Franking distributions
- Allocating franking credits

Issuing distribution statements

If a shareholder receives dividend distributions from a NZ franking company with Australian franking credits attached to it they should receive a distribution statement for that dividend as well.

The NZ franking company is required to provide shareholders with a distribution statement on or before the day the dividend is paid (if it is a public company) or within four months of the end of the company's income year (if it is a private company).

In addition to the information required in a Distribution Statement, the statement from a NZ franking company must include the:

- amount, if any, deducted by way of NZ non-resident withholding tax
- currency in which all amounts are expressed
- exchange rate on the day the decision to pay the distribution was made
- amount of any NZ supplementary dividend paid in connection with the dividend
- the amount of NZ imputation credits attached to the dividend.

See also

- Issuing distribution statements

The benchmark rule and the disclosure requirements

The benchmark rule requires a franking entity to frank all frankable distributions within a franking period to the same extent. This rule is designed to achieve a similar effect to the NZ rule about benchmark dividends.

The benchmark rule is applied to a NZ franking company in the same way as an Australian franking company. Further information about the benchmark rule can be found on the link below.

See also

- Benchmark rule

Franking period

The imputation rules generally apply in relation to a NZ franking company's income year.

The franking periods that apply are similar to those of an Australian company.

See also

- Franking period

Franking account tax return

A franking account tax return must be lodged by a franking entity, which includes a NZ franking company, when there is a:

- liability to pay franking deficits tax
- a liability to pay over-franking tax
- or where the company is obliged to disclose a significant variation in its benchmark franking percentages to us
- written notice from the Commissioner to the franking entity requiring a franking account return.

If the NZ franking company does not meet the above criteria, there is no need to lodge a franking account tax return.

If the Australian resident NZ franking company is required to lodge an income tax return, the franking account tax return should be lodged separately. If the franking account tax return is lodged at the time the income tax return is due, the franking account tax return may be late and a general interest charge may apply to any outstanding tax amounts.

The franking account return is due one month after the end of the income year. This is also the date by which any franking deficit tax and over-franking tax is payable.

An early balancing NZ franking entity with an approved substituted accounting period of, for example, 31 March will need to lodge its franking account tax return and pay any franking tax liabilities by 30 April.

Early balancing entities should use our pre-printed Franking account tax return. The form is generally available from July of the income year. Early balancing entities will need to use a previous year's form. For example, if the NZ entity has a 31 March 2016 year-end, the NZ franking entity will need to use the *Franking account tax return 2015*. The NZ franking entity will need to cross out the year '2015' and write '2016' instead.

Entities with approved substituted accounting periods will also need to specify the period that the income year relates to. For example, a March year-end NZ entity will specify '01/04/2015 to 31/03/2016' in the

period boxes at the top of the Franking account tax return, above Section A.

See also

- Franking account tax return

Integrity rules

Integrity rules are in place to ensure that the imputation system is not used to benefit members who don't have a sufficient economic interest in the entity or prefer some members over others.

For NZ entities, the exempting entity rules (relating to the integrity rules on franking credit trading) are modified to allow a NZ franking company to be 'looked through' to find effective Australian ownership. This is so NZ franking companies will not automatically be treated as exempting entities.

A NZ-listed company that is a NZ franking company, along with its Australian or NZ 100% owned subsidiaries will also not be treated as exempting entities.

In cases of wholly owned groups that include a company that is not resident in Australia or NZ, if the NZ parent company is a NZ franking company and is not treated as an exempting entity, then none of the companies in that wholly owned group will be an exempting entity.

Refer to the links below for more details on the imputation integrity rules affecting franking entities, which includes a NZ franking company.

See also

- Integrity rules
- Imputation rules for exempting and former exempting entities

Transfer of franking credits and debits where a group includes a non-Tasman company

In the case of a wholly owned group which includes a company that is not resident in Australia or NZ, special rules will apply to make sure credits are not lost in wholly owned groups where:

- there is an NZ parent company
- all NZ companies in the group have made a NZ franking choice

- interposed between Australian and/or NZ resident companies is a company that is not resident in either country.

In general terms, franking credits and debits are transferred up the group structure to the franking account of the NZ company that holds shares in the interposed company.

Joint and several liability

All members of the same wholly owned group that are Australian or NZ residents may be held jointly and severally liable for any outstanding franking related liabilities of the NZ franking company, unless they are prevented by an Australian or NZ law from entering into an arrangement to make them jointly or severally liable.

Penalties

General interest charge (GIC) applies to outstanding tax liabilities that are not paid by the due and payable date.

Penalties may also apply for failure to meet certain tax obligations (including lodging returns when required), and if there is a shortfall of tax in certain circumstances.

Additional penalties can also apply where entities fail to meet their obligations under tax laws in relation to making false or misleading statements, taking positions that are not reasonably arguable, entering into schemes, refusing to provide documents to the Commissioner and disregarding private rulings.

See also

- Interest and penalties

QC 50645

Franking deficit tax offset calculations, reduction rule and exclusions

Find out how to calculate your franking deficit tax (FDT) offset.

Last updated 1 November 2023

Overview

The following information explains how to calculate the amount of your FDT offset for an income year.

If the FDT offset reduction rule applies, the offset amount you can claim is reduced by 30%. This rule applies when certain franking debits exceed 10% of the amount of franking credits that arise in the income year.

An exclusion to the FDT offset reduction rule may apply either:

- in your first taxable income year if you are a private company
- where the Commissioner of Taxation exercises his discretion in your favour because of events outside your control.

Our franking account tax return and instructions provides information on how to complete your tax return.

How to calculate the amount of FDT offset

You can calculate your FDT offset amount for an income year using the following method.

Special rules

The calculations are also subject to:

- special rules excluding the application of the FDT offset reduction rule if you are a private company without any previous tax liabilities
- special rules to calculate your FDT liability if you are a late balancing corporate tax entity.

Calculating the FDT offset amount

A 7 step method to calculate the amount of your franking deficit tax (FDT) offset for an income year.

Step 1

Work out the amount of FDT liability that the entity has incurred in the income year.

Step 2

Did any franking debits arise in your franking account under items 1, 3, 5 or 6 of section 205-30 of the *Income Tax Assessment Act 1997*?

If yes, go to step 3.

If no, the FDT offset reduction rule does *not* apply. Claim the amount of FDT liability from step 1 as a tax offset. Show this amount at the **Offsetable portion of current year FDT** label on the franking account return. Go to step 5.

Step 3

Work out the amount of FDT liability attributable to items 1, 3, 5 and 6, plus any item 2 franking debits.

To do this, add together the opening balance (if any) of the franking account and any franking credits that arose in the account for the year (*see note below). Subtract from this amount the total of the items 1, 2, 3, 5 and 6 debits.

If the result is zero or positive, the FDT offset reduction rule does *not* apply. Claim the amount of FDT liability from step 1 as a tax offset. Show this amount at the **Offsetable portion of current year FDT** label on the franking account return. Go to step 5.

If the result is negative, this is the amount of franking deficit tax attributable to items 1, 2, 3, 5 and 6. Go to step 4.

***Note:** When you calculate the total amount of franking credits that arise in the franking account in the income year:

- **don't include** the opening balance of the franking account for the income year
- **include** credits that arise at the beginning of the income year as a result of a franking deficit tax liability that was incurred at the end of the previous income year.

Step 4

If the step 3 amount for the year is negative and is less than or equal to 10% of the total franking credits that arose in the franking account in the same year, the FDT offset reduction rule does *not* apply. Claim the

amount of FDT liability from step 1 as a tax offset. Show this amount at **Offsetable portion of current year FDT** label on the franking account return. Go to step 5.

If the step 3 amount for the year is negative and is greater than 10% of the total franking credits that arose in the franking account in the same year, the FDT offset reduction rule applies as follows:

1. Work out 30% of the step 3 amount – this is the reduction amount.
2. Reduce the amount of FDT liability from step 1 by the reduction amount – the result is the amount you can claim as a tax offset.
3. Show this amount at the **Offsetable portion of current year FDT** label on the franking account return – go to step 5.

Step 5

Repeat steps 1 to 4 for each previous income year in which the entity did not meet the residency requirement. Use this to work out the amount of a previous year's FDT liability that is eligible to be claimed as an offset and that has not previously been claimed as an offset.

Add up the amounts covered by step 5 for all previous income years the entity did not meet the residency requirements.

Step 6

Work out the amount of any excess FDT offset from a previous year (that has not been utilised in a previous year after applying all other tax offsets).

Step 7

Add up any amounts in the **Offsetable portion of current year FDT** label on the franking account return from steps 2, 3 or 4 plus any offsetable portions of previous year FDT amounts from step 5 and 6. This is the total amount of current year and previous year FDT offset the entity is entitled to claim for the income year. Show this amount at the **Franking deficit tax offset** label **in the calculation statement** on the company tax return.

If the FDT offset amount is greater than the income tax liability for the income year, the excess amount will be taken into account in calculating the amount of FDT offset in the following income year.

Example: Calculating the FDT offset

EKW Ltd is an Australian resident company for imputation purposes. EKW Ltd had a deficit in its franking account at the end of the 2015–16 income year of $80,000 and is liable to FDT of $80,000. EKW Ltd had an opening balancing in its franking account at the beginning of the 2015–16 income year of $10,000. The only franking credits to arise in the franking account during the income year were PAYG instalments of $500,000 that were paid by the entity.

During the income year the entity made the following debits to the franking account:

- $510,000 of franking credits allocated to distributions (item 1 franking debits)
- $60,000 as a result of a refund of income tax (item 2 franking debits)
- $20,000 as a result of the Commissioner making a determination under the dividend streaming provisions (item 7 franking debits)
- In addition, EKW Ltd had a $900 excess FDT offset from the 2014–15 income year.

EKW Ltd's FDT offset for 2015–16 is calculated as follows:

Steps	Amount
Step 1: FDT liability for the 2015–16 income year.	$80,000
Step 2: Did any item 1, 3, 5 or 6 franking debits arise in your franking account?	Yes, go to step 3
Step 3: Work out the amount of FDT liability attributable to items 1, 3, 5 and 6, plus any item 2 franking debits: To do this add together the opening balance (if any) of the franking account and any	[$10,000 + $500,000] - [$510,000 + $60,000] = ($60,000)

franking credits that arose in the account for the year and subtract the item 1, 2, 3, 5 and 6 debits.	
Step 4: If this amount is greater than 10% of the total amount of franking credits, work out 30% of the step 3 amount. This is the FDT offset reduction amount. Reduce the amount of FDT liability by the reduction amount.	$60,000 is greater than $50,000 (10% of the credits that arose in the account of $500,000). As a result the reduction applies. The reduction amount is $18,000 (60,000 × 30%) $80,000 – 18,000 = $62,000
Step 5: For each previous income year in which the entity did not meet the residency requirement, repeat steps 1 to 4.	This step does not apply as EKW Ltd met the residency requirement.
Step 6: Work out the amount of any excess FDT offset from a previous year.	$900 carried forward from 2014–15 income year
Step 7: Add up all the amounts from steps 2, 3 or 4 plus any offsetable portions of previous year FDT amounts from step 5 and 6. This is the total amount of previous and current year FDT offset the entity is entitled to claim for the income year in the **Franking deficit tax offset label in the calculation statement on the company tax return**.	$62,000 + $900 = $62,900

EKW Ltd calculated that it is entitled to an FDT offset of $62,900 in 2015–16.

EKW Ltd's tax on taxable income in 2015–16 is $60,000 and it has no tax offsets other than the FDT offset.

An FDT offset is applied against an entity's income tax liability after taking into account all other tax offsets to which the entity is entitled, including foreign tax credits. As EKW Ltd has no other

tax offsets, it applies the FDT offset of $62,900 against its income tax liability of $60,000 and its tax payable is nil.

As the amount of FDT offset is greater than EKW Ltd's income tax liability for 2015–16, it results in an excess amount of $2,900. This means that $2,900 of EKW Ltd's FDT offset cannot be applied in the 2015–16 income year. When calculating the FDT offset for the 2016–17 income year, this $2,900 will be accounted for at steps 6 and 7 and can be applied against EKW Ltd's income tax liability for the 2016–17 income year.

FDT offset reduction rule

The amount of FDT offset you can claim is reduced by 30% when the FDT offset reduction rule applies.

The 30% FDT offset reduction rule is triggered when certain franking debits give rise to a deficit (debit greater than credits) that is greater than 10% of the total franking credits in the franking account in an income year.

These franking debts arise where an entity has either directly or indirectly franked a distribution or received a refund of income tax.

The applicable franking debits are specified at subsection 205-70(8) of the *Income Tax Assessment Act 1997* (and section 205-71 of the *Income Tax (Transitional provisions) Act 1997*).

The applicable franking debits that would trigger the reduction rule are:

- item 1, when an entity franks a distribution
- item 3, when an entity franks a distribution in contravention of the benchmark rule
- item 5, when a distribution by one entity is substituted by a distribution by another entity
- item 6, when a tax-exempt bonus share is issued in substitution for a franked distribution.

If franking debits first arose under any of the above items, then the applicable franking debits also includes item 2 when an entity receives a refund of income tax.

There are 2 situations where this reduction rule may not apply:

- in a private company's first taxable income year, or
- when the Commissioner has exercised his discretion in an entity's favour because of events outside the entity's control.

For more information see:

- section 205-15 of the Income Tax Assessment Act 1997
- section 205-30 of the Income Tax Assessment Act 1997

Exclusions to the FDT offset reduction rule

Explains the 2 exclusions to the 30% franking deficit tax (FDT) offset reduction rule.

On this page

- When the exclusions apply
- Private company's first taxable income year
- Commissioner's discretion

When the exclusions apply

There are 2 exclusions to the 30% franking deficit tax (FDT) offset reduction rule. The rule will generally not apply either:

- in the first income year in which a private company has an income tax liability where it meets certain conditions
- where the Commissioner has exercised his discretion because he is satisfied that the franking deficit arose from events outside the entity's control.

Private company's first taxable income year

The 30% FDT offset reduction rule does not apply to determine the amount of the offset from the 2004–05 and later income years when the following conditions are satisfied:

- the entity is a private company (defined in section 995-1) for the relevant year (the income year in which it satisfies the residency requirements for a FDT offset)

- if the company did not have the tax offset (but had all its other tax offsets) it would have had an income tax liability for the relevant year
- the amount of the income tax liability for the relevant year is at least 90% of the amount of the deficit in the company's franking account at the end of the relevant year
- the company has not had an income tax liability for any income year before the relevant year.

Commissioner's discretion

The Commissioner of Taxation can make a determination in writing to disregard the FDT offset reduction rule where the franking deficit was due to circumstances that could not be anticipated or events outside of the entity's control.

The Commissioner will generally consider the events that gave rise to the deficit as outside the entity's control if they were not readily foreseeable and could not be influenced by the company or did not involve the broader exploitation of the imputation system.

The Commissioner does not consider that a franking deficit arising due to improper tax planning, bad management, inadvertent errors, or expansion of business are circumstances that are unanticipated or beyond the entity’s control.

You can make an application for the Commissioner to exercise discretion in the approved form for events that occurred on or after 1 July 2002.

Example 1: Commissioner's discretion – unexpected circumstances

A company franks a distribution partway through an income year. It has a reasonable expectation that future quarterly PAYG instalment payments will be similar in that year.

However, an unexpected downturn in business results in the company's future quarterly PAYG instalment payments being less than expected. This results in a deficit in its franking account at the end of the income year.

In this case, it would be expected that the Commissioner would make a determination to allow the full tax offset because of unexpected circumstances.

Example 2: Commissioner's discretion – circumstances outside the entity's control

A tax consolidated group's franking account is in deficit because it receives refunds of tax paid in earlier income years. This happens as a result of retrospective changes to the consolidation legislation.

At the time that it allocated franking credits, it did not have a reasonable expectation that the franking account would be in deficit. For example, the *Tax Laws Amendment (2010 Measures No 1) Act 2010* introduced many changes which applied retrospectively from the commencement of the consolidation regime on 1 July 2002.

In this case, it would be expected that the Commissioner would make a determination to allow the full tax offset because of circumstances outside the entity's control.

Next step

Information on how to apply for an exception or Commissioner's discretion is in the Franking account tax return instructions.

QC 50647

Dividend washing in detail

Learn about dividend washing - when a taxpayer takes advantage of the special ASX trading market.

Last updated 1 December 2016

The Australian Securities Exchange Ltd (ASX) sometimes operates what is known as a special market independent of the normal ASX

market. Shares that are trading on an ex-dividend basis (without the right to a dividend) on the normal ASX market may be traded on a cum-dividend (CD) basis (with the right to a dividend) on the special ASX market.

Dividend washing occurs when a taxpayer tries to take advantage of the special ASX trading market to generate an unintended outcome. They do this by:

- selling shares on the ordinary market on an ex-entitlement basis, thereby retaining the right to receive a franked dividend
- purchasing a substantially identical parcel of shares on the ASX special market on a cum dividend basis, conferring an entitlement to the franked dividend on these shares also
- thus receiving a dividend on the original parcel of shares and a corresponding dividend in relation to the substantially identical parcel of shares.

In these circumstances, the tax offset entitlement for any franking credits attached to the second distribution is denied.

Dividend washing can also occur if a connected entity buys or sells either of the parcels of shares. This is if it can be objectively concluded that either transaction took place only because at least one of the entities expected that the other transaction had occurred or would occur.

Substantially identical interest

The dividend washing measure applies where a taxpayer acquires a second parcel of shares (the washed interest) that is very alike to the first parcel of shares disposed of (the substantially identical membership interest). A substantially identical membership interest includes an economically equivalent, or fungible, interest. This means that interests may be considered to be substantially identical where they:

- are held indirectly
- are in different forms or classes of shares
- involve different numbers of shares.

In some circumstances, holding shares in two different companies may be a substantially identical interest. For example, where one company is predominantly owned by the other company, or where shares in one company can be exchanged at a fixed rate for shares in the other company.

> Example: Substantially identical interest
>
> Anne sold 100 shares in Z Ltd, and then repurchased shares in Y Ltd. If Z Ltd was predominantly owned by Y Ltd, or shares in Y Ltd could be exchanged at a fixed rate for shares in Z Ltd, then the shares could be considered to be substantially identical.

Corresponding dividend

Two franked dividends received are corresponding if they have ultimately arisen from the same source, or from closely connected sources.

This would occur when both dividends arise from a company declaring various dividends for different types of shares (such as preference or ordinary shares) in connected processes, or in relation to profits that arose over the same period.

The dividend washing integrity rule

The effect of the dividend washing integrity rule is that if you receive a dividend as a result of dividend washing, you are not entitled to a tax offset for the franking credits associated with the dividend received on the shares purchased on the special ASX trading market.

You are also not required to include the amount of the franking credits on the shares purchased on the special ASX trading market in your assessable income. You must still declare all assessable dividends in your assessable income.

Where you receive a dividend indirectly as a result of dividend washing – for example, as a partner in a partnership, or as a beneficiary of a trust – the integrity rule applies to you in the same way as if you had received the dividend directly.

The rule applies to distributions received on or after 1 July 2013.

Example: Dividend washing integrity rule for an individual

Elizabeth, an Australian resident taxpayer, holds 100 ordinary shares in OT Ltd. On 14 April 2015, OT Ltd declares it will pay a franked dividend of 10 cents to all holders of its ordinary shares.

Elizabeth sells her shares shortly after the shares start trading ex-dividend, retaining the right to receive a franked dividend in relation to the 100 shares that she has sold.

After selling the shares, Elizabeth purchases 175 ordinary shares in OT Ltd on the special ASX trading market, and is entitled to a franked dividend in relation to these shares.

In this case, 100 of the new parcel of shares is economically equivalent to the original 100 shares. Elizabeth will not be entitled to any of the franking credits attached to the dividend she received for these shares. However, as Elizabeth has purchased a parcel of shares that goes beyond her original parcel, her interest in the remaining 75 new shares is not substantially identical to the original parcel.

Elizabeth is only entitled to the benefit of the franking credits she received for :

- 100 of the original parcel of shares that she sold
- 75 of the new parcel of 175 shares that she has purchased. This assumes no other integrity rules apply (such as the holding period and related payment rules – refer to Anti-avoidance rules).

Elizabeth must include all the dividends received in her assessable income, except for the amount of the franking credits that she is not entitled to.

Exceptions to the rule

The dividend washing integrity rule generally applies to all resident taxpayers, but there is an exception.

The rule generally does not apply to **individuals** who receive $5,000 or less in franking credits in a year. We call this the **small holder exemption**.

This exception only applies to dividends received by an individual directly. It does not apply to dividends received indirectly from an interest in a trust or partnership.

However, individuals who receive $5,000 or less in franking credits in an income year may still be subject to the general anti-avoidance rules. This will apply if they have entered into a scheme for the purpose of obtaining franking credit benefits

See also:

- Refunding excess franking credits – individuals
- You and your shares 2019

General anti-avoidance rules

The general anti-avoidance rules do not usually apply where another specific provision prevents the obtaining of a tax or franking credit benefit. Where dividend washing arrangements involve distributions made before the integrity rule commenced application on 1 July 2013, the general anti-avoidance rules will apply to deny franking credits. Our view on this is explained in Tax Determination TD 2014/10.

See also

- Refunding excess franking credits
- You and your shares
- Tax and Superannuation Laws Amendment (2014 Measures No 2) Act 2014 and Explanatory Memorandum
- TD 2014/10 *Income tax: can section 177EA of the Income Tax Assessment Act 1936 apply to a 'dividend washing' scheme of the type described in this Taxation Determination?*
- Section 207-157 of the *Income Tax Assessment Act 1997*

QC 50649

Last-in first-out method for the holding period requirement

How to apply the last-in first-out (LIFO) method for the holding period requirement.

Last updated 9 February 2024

Franking credit trading and franking offsets

Franking credit trading occurs when franking credits are diverted from the true economic owners of the membership interests to others with more use for the credits.

To be entitled to a franking offset, a shareholder must be a 'qualified person' in relation to a franked dividend. A shareholder is generally a qualified person if they satisfy the holding period requirement under the qualified person rule.

Working out which shares a shareholder holds

The last-in first-out (LIFO) method applies to determine which shares or interests in shares are subject to testing for the purposes of the holding period requirement. This will generally be when the shareholder bought and sold primary securities and certain related securities held in the same company during the relevant qualification period.

If a shareholder purchases substantially identical shares over a period, the holding period requirement applies with a ‘last-in first-out’ method to establish which shares are tested for the purposes of the requirement. The LIFO method prevents taxpayers from manipulating the period they held shares in a company at risk by buying new shares and selling other shares held in the company for a longer period.

Primary securities

The primary securities are the shares or interest in shares held by a taxpayer during the relevant qualification period that carry an entitlement to a particular franked dividend. Shares or an interest in shares bought after the ex-dividend date or that don't carry an entitlement to the dividend are not considered to be primary securities.

The related securities include all substantially identical shares or interests in shares that are held by connected entities during the relevant qualification period.

Grouping securities

The LIFO method groups together the primary securities and related securities you hold in a company. The holding period requirement applies to this group. Once the group is established, any shares in the group that you sell are taken to be sold on a last-in first-out basis.

When a taxpayer sells a share included in the group (of shares) during the relevant qualification period, the date when that share was acquired is taken to be the date of acquisition of the most recently acquired shares in the group.

If (after applying the LIFO method) the shares or interest in shares weren't held at risk for a continuous period of at least 45 days during the relevant qualification period, the taxpayer isn't a qualified person in relation to the franked dividend. They won't be entitled to the relevant franking credits.

The LIFO method prevents taxpayers from manipulating the period that they held shares in a company at risk by buying new shares and selling other shares held in the company for a longer period.

Example: buying and selling multiple parcels of shares

Jenny purchased and sold shares in a company. On:

- 3 May 2023, she purchased parcel one of 10,000 shares
- 13 May 2023, she purchased parcel 2 of 10,000 shares
- 26 May 2023, she made her first sale of shares (2,000 shares)
- 5 June 2023, she purchased parcel 3 of 10,000 shares
- 15 June 2023, she purchased parcel 4 of 10,000 shares
- 26 June 2023, she made her second sale of shares (6,000 shares)

- 1 July 2023, it was the ex-dividend date for the company's ordinary dividend
- 5 July 2023, she purchased parcel 5 of 25,000 shares
- 15 July 2023, she made her third sale of shares (25,000 shares).

To use the LIFO method, Jenny goes through the following steps.

Step 1: Jenny determines the group of shares on hand as at the ex-dividend date. The pre ex-dividend date sales are grouped and matched on a last-in, first-out basis. She matches the:

- first sale with parcel 2, resulting in 8,000 parcel 2 shares on hand (10,000 minus 2,000)
- second sale with parcel 4, resulting in 4,000 parcel 4 shares on hand (10,000 minus 6,000).

The group on hand as at the ex-dividend date is 32,000 shares. This is made up of:

- 4,000 shares on hand from parcel 4
- 10,000 shares from parcel 3
- 8,000 shares on hand from parcel 2
- 10,000 shares from parcel 1.

Step 2: Jenny applies the LIFO method to the third sale of shares (sold after the ex-dividend date).

Jenny meets the holding period requirement in relation to the ordinary dividend paid on the parcel 2 shares as Jenny held this parcel of shares for more than 45 days.

She matches the third sale against (in order):

- parcel 4 (4,000 shares)
- parcel 3 (10,000 shares)
- parcel 2 (8,000 shares)

Jenny acquired parcel 5 after the ex-dividend date and isn't entitled to the dividend or franking credits on these shares. So, the parcel 5 shares aren't part of the group of shares against

which the sale 3 shares need to be matched for the purposes of the LIFO requirement.

The result is that Jenny doesn't meet the holding period requirement in relation to the franked dividend and therefore a franking credit entitlement isn't available for parcel 4 shares (4,000 shares) and parcel 3 shares (10,000 shares). Jenny meets the holding period requirement for parcel 1 and the balance of parcel 2 as these parcels were held for more than 45 days, applying the LIFO method.

Result

Unless other integrity rules apply, Jenny can claim the franking credits attached to the ordinary dividend paid on 18,000 shares (10,000 shares from parcel 1 and 8,000 from parcel 2). As Jenny doesn't meet the holding period requirement for the other 14,000 shares (10,000 shares from parcel 3 and 4,000 shares from parcel 4), she isn't a qualified person in relation to the franked, ordinary dividend paid on these shares.

Securities to include in the group

The LIFO method requires that the primary securities in a company are grouped together with all related securities in the company. Once you have established this group, any sales of shares from the group are taken to be on a last-in first-out basis.

The related securities include all substantially identical shares or interests in shares that are held by connected entities during the relevant qualification period.

Substantially identical

'Substantially identical' is defined in broad terms. It includes securities that are fungible or economically equivalent to a share or an interest in a share. Any shares or interests in shares held by a connected entity that don't carry an entitlement to receive the particular franked dividend aren't considered to be substantially identical to the primary securities.

For example, the additional shares aren't primary securities or substantially identical shares to the shares that are entitled to receive the special dividend where both of the following apply – a shareholder:

- receives a franked, special dividend payment on shares held in a company, and
- acquires additional shares in the company that don't confer an entitlement to receive the special dividend payment.

Therefore, the additional shares are excluded from the group for considering the application of the LIFO method in respect of the special dividend.

There may be situations where a shareholder:

- participates in an off-market share buy-back conducted by a company by selling shares held in the company
- acquires additional shares in the company that don't confer an entitlement to participate in the buy-back, but for which the shareholder is entitled to receive an ordinary dividend
- is also eligible for the ordinary dividend on the shares that were subsequently bought back.

In these situations, for the ordinary dividend, the additional shares in the company – which the shareholder acquired before the ex-entitlement date for that dividend – are either:

- primary securities
- substantially identical shares to those held by the shareholder that were eligible for sale into the buy-back.

This is the case even though the shareholder was unable to sell the additional shares into the buy-back.

Therefore, in this example, the additional shares are included in the group to which the LIFO method applies for the ordinary dividend. Any disposal from this group, including by selling shares in the buy-back, is subject to the LIFO method.

The following example shows how to apply the LIFO method of a special dividend that is received on shares that a shareholder sold into an off-market share buy-back where the shareholder acquired additional shares.

Example: payment of a special dividend in connection with a share buy-back

Terry acquires 10,000 shares in MegaMetal Pty Ltd on 31 January 2023. On 1 June 2023, MegaMetal announces that it will:

- undertake an off-market share buy-back for all eligible shareholders who are registered on the buy-back record date of 7 June 2023
- pay a fully franked special dividend on 6 July 2023 to all shareholders who are registered holders on the dividend record date of 26 June 2023.

Terry tenders 1,000 shares into the buy-back on 20 June 2023 and acquires another 1,000 shares on the following day. On 6 July 2023, he receives the special dividend payment on 11,000 shares. Terry is also notified on 18 July 2023 that MegaMetal purchased the 1,000 shares tendered into the buy-back.

The special dividend is paid on the 11,000 shares. These are the securities that are tested for LIFO purposes in respect of the special dividend. For the purposes of applying the LIFO method to the special dividend, the shares not entitled to participate in the buy-back are grouped together with the shares entitled to participate in the buy-back. This is because both sets of shares were eligible to receive the special dividend.

Accordingly, the disposal of the 1,000 shares tendered into the buy-back is considered to come from the entire group of securities eligible for the special dividend, such that the LIFO method operates to treat the 1,000 shares disposed of in the buy-back on 18 July 2023 as the additional shares acquired on 21 June 2023. This is a period of less than 45 days.

In these circumstances, Terry:

- doesn't satisfy the holding period requirement for the special dividend paid on the 1,000 shares sold in the buy-back
- as a consequence, is therefore not a qualified person for the franking credits attached to the special dividend paid on the 1,000 shares that MegaMetal bought back, and
- satisfies the holding period requirement and, as such, is a qualified person of the remaining 10,000 shares.

Connected entities

Connected entities include:

- the taxpayer (including other members of a consolidated group)
- an associate of the taxpayer (where the associate is party to an arrangement with the taxpayer)
- if the taxpayer is a company, other companies in the same wholly owned group.

What not to include in the group

You should generally exclude any shares or interest in shares where the entity has elected to use the benchmark portfolio method for being a qualified person for applying the LIFO method.

This applies as long as you haven't bought or sold your shares or interest in shares to avoid applying the LIFO method. Generally a share that is subject to the benchmark portfolio method won't be part of the bundle of related securities. It wouldn't affect the application of the LIFO method.

The LIFO method also doesn't 'double count' disposals of securities. It doesn't apply:

- where the sale of the shares or interest in shares wouldn't satisfy the holding period requirement even if the shares weren't included in the group
- in a disposal of a security from one member of a wholly owned group to another member of the same wholly owned group.

Applying the last-in first-out method

You need to take a consistent approach in applying the LIFO method. This is when you have bought and sold primary and related securities before the ex-dividend date during the relevant qualification period.

For example, if you have a staggered acquisition of 40,000 shares and a staggered disposal of 8,000 shares before the ex-dividend date during the relevant qualification period, the group on the ex-dividend date will be 32,000 shares.

In these circumstances, there are a number of methods to determine when you acquired the shares that are part of the group held at the

ex-dividend date. This includes some practices acceptable from a capital gains tax (CGT) perspective, such as first-in first-out (FIFO) and 'loss max'.

However, these methodologies aren't consistent with the LIFO method. The LIFO method is an integrity rule that stops taxpayers circumventing the holding period requirement of the qualified person rule. For this reason, you ought to apply the LIFO method consistently across your portfolio.

You should apply this method consistently to determine the respective purchase dates of shares or interests in shares that form part of your group at the ex-dividend date and for any sales of shares after the ex-dividend date.

QC 50650

Applying to depart from the benchmark rule

Work out if you can apply for permission to depart from the benchmark rule.

Last updated 1 December 2016

A corporate tax entity may apply for permission to depart from the benchmark rule. You must apply in writing to the Commissioner of Taxation. You can apply either before or after a distribution is made.

The Commissioner will permit a departure in extraordinary circumstances only. Generally, these circumstances would be unforeseeable and beyond the control of the entity, its members and controllers. A change in ownership of an entity would rarely amount to extraordinary circumstances.

You should include all relevant information in support of your application. In particular, you should address the following factors:

- the entity’s reasons for departing, or proposing to depart, from the benchmark rule

- the extent of the departure or proposed departure from the benchmark rule
- if the circumstances are within the entity's control, the extent to which the entity has previously sought permission for departure from the benchmark rule in the past
- whether a member of the entity has been or will be disadvantaged by the departure or proposed departure (for example, because the member will receive a distribution with a lower franking percentage than the distribution received by another member)
- whether a member of the entity will receive franking (imputation) benefits in preference to other members of the entity as a result of the departure
- any other matter that you believe the Commissioner would consider relevant.

Allocation of a franking credit at a percentage specified by us under this provision will be taken to comply with the benchmark rule.

QC 50651

How to calculate over-franking tax and under-franking debit

Work out over-franking tax, which must be paid by franking entities that over-frank distributions.

Last updated 27 April 2018

If a franking entity over-franks a distribution, it must pay over-franking tax. This is equal to the amount of franking credits in excess of the benchmark. If the entity under-franks a distribution, it must debit its franking account. This amount is equivalent to the franking credits that would have been used if the entity franked the distribution to its benchmark percentage.

Find out about

- Over-franking tax

- Under-franking debit

Over-franking tax

If the franking entity over-franks a distribution it must pay over-franking tax. This is equal to the amount of franking credits allocated in excess of the benchmark.

When paid, this tax does not generate a credit in the entity's franking account. The over-franking tax is included in the franking account tax return. This must be lodged by the last day of the month following the end of the income year.

Formula to calculate over-franking tax

Work out the amount of over-franking tax using the following formula:

Amount of the frankable distribution	×	Franking % differential	÷	Applicable gross-up rate

The franking percentage differential is the difference between the franking percentage for the distribution, and either:

- the entity's benchmark franking percentage for the franking period in which the distribution is made
- the franking percentage permitted by us in response to an application from the entity.

The applicable gross-up rate is the corporate tax gross-up rate of the entity making the distribution for the income year in which the distribution is made.

Formula to calculate corporate tax gross-up rate

The corporate tax gross-up rate is calculated using the following formula:

$$\frac{100\% - \text{your corporate tax rate for imputation purposes}}{\text{your corporate tax rate for imputation purposes}}$$

For the 2017–18 income year, your corporate tax rate for imputation purposes will be 27.5% if either of the following apply:

- your aggregated turnover in 2016–17 was less than $25 million, and 80% or less of your assessable income was base rate entity passive income
- this is the first year you are in business.

Otherwise, your corporate tax rate for imputation purposes will be 30%.

Under-franking debit

If an entity franks a distribution at a rate lower than the benchmark franking percentage, it is required to debit its franking account with an amount equivalent to the unused franking credits.

This debit arises on the day on which the frankable distribution is made.

The debit is equal to the difference between the franking credit that was attached to the distribution and the franking credit that should have been attached to comply with the benchmark rule.

Formula to calculate under-franking debit

The amount of under-franking debit is worked out using the same formula as the over-franking tax.

Work out the amount of under-franking debit using the following formula:

Amount of the frankable distribution	×	Franking % differential	÷	Corporate tax gross-up rate

The franking debit cancels the unused credit. The franking credit that could have been passed on to members is wasted. The member receiving the distribution can only claim the amount of credit on the distribution statement.

Example 1: Under-franking debit

On 31 August 2017, Do Pty Ltd makes its first frankable distribution of $7,000 to its shareholders. The balance in its

franking account at the time is $10,000. As Do Pty Ltd has a 30% corporate tax rate for imputation purposes, the maximum franking credit that Do Pty Ltd can allocate to this distribution is $3,000 ($7,000 x (1 ÷ the corporate tax gross-up rate which is 2.33333)). Do Pty Ltd chooses to allocate franking credits of $1,500 to the distribution. The franking percentage for this distribution is 50% ($1,500/$3,000). As this is the first frankable distribution made in the franking period its benchmark franking percentage is also 50%.

On 18 December 2017, Do Pty Ltd makes a frankable distribution of $7,000 to its shareholders. The balance in its franking account at the time is $8,500. Do Pty Ltd chooses not to allocate any franking credits to this frankable distribution. Do Pty Ltd's benchmark franking percentage is 50% which means that Do Pty Ltd should have allocated $1,500 of franking credits on the distribution. As Do Pty Ltd did not allocate any franking credits to the distribution it will be subject to a franking debit of $1,500 ($7,000 × 50% ÷ 2.33333).

Whilst Do Pty Ltd must debit its franking account with this amount, its shareholders will not be entitled to any tax offset in relation to the amount of franking credits that should have been allocated to the distribution. That is, the distribution statement will show that the amount of franking credit allocated to the distribution is $0.

Example 2: Over-franking tax

Using the facts above, if on the 31 January 2018, Do Pty Ltd makes a frankable distribution of $7,000 (franked to 70%), Do Pty Ltd will incur an over-franking tax of $600 ($7,000 × 20% ÷ 2.33333).

See also

- Allocating franking credits

QC 50652

Co-operative company franked and unfranked distributions

Subject to available franking credits, a co-operative company can choose to frank distributions to shareholders.

Last updated 1 December 2016

A corporate entity that is a co-operative may choose how it distributes income to its shareholders. Franked distributions are generally subject to the simplified imputation rules. If a co-operative company chooses not to frank a distribution, it can claim a tax deduction for the distribution it makes to its members. A co-operative company can also make distributions with both a franked and unfranked part (partly-franked).

Franked distributions

A co-operative company can choose to frank distributions to shareholders, subject to available franking credits. If it does so, then:

- it will generally be subject to the simplified imputation rules – these will apply in the same way as they do for other corporate tax entities that are franking entities
- it will not be entitled to a deduction for that part of the distribution that it has franked.

A co-operative company may generally choose to frank:

- so much of its assessable income for the current income year that it distributes among its members as rebates or bonuses based on business done by members with the company, or interest or dividends on shares
- realised profits from sources other than assessable income for the current income year that it distributes to its members
- distributions from retained profits that has arisen from previous income years.

Franked distributions made by a co-operative company are treated in the same way as franked distributions made by other corporate tax entities. These include companies, public trading trusts and limited partnerships.

Where a co-operative company makes a distribution to its members and allocates some franking credits to this distribution, it must provide a distribution statement, in the approved form, to members. The distribution statement will show how a distribution has been franked.

See also

- Issuing distribution statements

Unfranked distributions

If a co-operative company chooses not to frank a distribution made to its members, it can claim a tax deduction for the distribution made. The deduction is available for the unfranked part of the distribution that is funded from the cooperative company's assessable income for the current year.

If a co-operative company chooses not to frank the distributions made to its members, it is not obliged to provide a distribution statement to its members.

When claiming a deduction for unfranked distributions, a co-operative company can treat distributions paid within three months after the end of an income year, or such further time allowed by the Commissioner of Taxation, as if they were paid on the last day of the income year.

Example 1

JLO, a co-operative company, has assessable income of $7,000 that it wants to distribute to its members. It has sufficient franking credits in its franking account to fully frank this distribution.

On 1 June 2015 it decides to distribute its entire assessable income of $7,000 to its members and allocate the maximum amount of franking credits of $3,000 to the distribution. This means that the distribution is fully franked.

No deduction will be allowed for the $7,000 that JLO distributes to its members, as no part of this distribution represents an

unfranked distribution.

Example 2

LIX, a co-operative company, makes a distribution of $150,000 to its members for the 2014–15 income year. As it does not allocate any franking credits to the distribution, the entire distribution is unfranked. This distribution is funded from assessable income of $150,000 that it derived in the 2014–15 income year.

As the distribution is wholly funded from LIX's assessable income, it will be entitled to a deduction of $150,000.

Example 3

XIL, a co-operative company, makes a distribution of $200,000 to its members for the 2014–15 income year. As it does not allocate any franking credits to this distribution, the entire distribution is unfranked. This distribution is funded from assessable income of $150,000 for the 2014–15 income year and from retained earnings of $50,000.

XIL will be allowed a deduction of only $150,000, as this is the amount of distribution that is unfranked and funded from the company's assessable income. The balance of the distribution ($50,000) is not allowed as a tax deduction.

Partly-franked distributions

A co-operative company can make a distribution to its members that have both a franked and unfranked part. This means the distribution will be partly franked. The franking percentage for the distribution is less than 100%. A deduction is allowable only for the unfranked part of the distribution that is funded from the co-operative company's assessable income.

Example: Partly-franked distribution

GDC, a co-operative company, distributes $70,000 to its members for the 2014–15 income year. GDC chooses to frank only 90% of this distribution. The distribution is wholly funded from GDC's assessable income for the 2014–15 income year.

GDC can claim a tax deduction for $7,000 (that is, $70,000 × 10%). This is the unfranked part of the distribution funded from its assessable income for the 2014–15 income year.

See also

- Franking distributions

Distributions partly-franked and not funded from assessable income

Where a partly-franked distribution is paid and it is:

- partly from assessable income of the income year
- partly from another source, for example, retained earnings or a pre-capital gains tax (CGT) gain

you need to identify the part of the distribution that is franked **and** not sourced from assessable income for the purpose of calculating the allowable deduction. This is because sub-section 120(5) of the ITAA 1936 assumes that the franked part of the distribution is sourced to the maximum extent possible from sources other than assessable income.

This approach maximises the amount of the deduction available to a co-operative company where the co-operative does not allocate the maximum franking credit allowable to a distribution made to shareholders in an income year.

Example: Partly-franked and not funded distribution

MJL, a co-operative company, distributes $10 million to its members for the 2014–15 income year. This distribution is franked to 60%. It is funded partly from a capital gain of $9 million made on the disposal of pre-CGT assets (this amount is not part of MJL's assessable income) and $1 million of

assessable income for the 2014–15 income year. MJL's assessable income for 2014–15 was $15 million.

To maximise MJL's deduction, it is assumed that the franked part of the distribution (that is, $6 million) is funded from sources other than MJL's assessable income for the 2014–15 income year. That is, the entire $6 million is funded from the capital gain made on the disposal of pre-CGT assets. Of the $4 million distribution that is the unfranked part, $3 million is funded from the balance of the capital gain made on the disposal of pre-CGT assets (the non-assessable income) and $1 million is from MJL's assessable income for 2014–15.

MJL is therefore entitled to a deduction of $1 million. This is the unfranked part of the distribution that is funded from its 2014–15 assessable income.

QC 50653

Special rules for consolidated groups and multiple entry consolidated groups

Check imputation rules that include rules to accommodate consolidated groups and multiple entry consolidated groups.

Last updated 1 December 2016

The imputation rules include a number of rules for consolidated groups and multiple entry consolidated (MEC) groups. These rules apply to franking accounts, distributions and the treatment of franking deficit tax (FDT) and offsets. There are also modifications to the integrity rules for franking credit trading.

See also

- For further information on consolidated groups or MEC groups, refer to the Consolidation reference manual.

Franking accounts

A number of rules in the *Income Tax Assessment Act 1997* (ITAA 1997) apply to the franking accounts of consolidated groups (subdivisions 709-A to subdivision 709-C) and multiple entry consolidated (MEC) groups (subdivision 719-H).

Forming or joining a consolidated group

At formation the head company (or provisional head company (PHC of a MEC group) maintains its franking account. All joining entity franking account balances are transferred to the head company.

If at the time they join, a subsidiary member's franking account is in:

- surplus – transfer the balance to the head company, setting the subsidiary member's franking account balance to zero
- deficit – the subsidiary member becomes liable for franking deficit tax (FDT). There is a corresponding credit in the franking account. This sets its franking account balance to zero. Any excess FDT offset entitlement is transferred to the head company.

You also need to make certain assumptions about the franking account balances when calculating the tax cost setting amounts for assets transferred to the group at the joining time:

- for consolidated groups – refer to Division 705 of the ITAA 1997.
- for further modifications for MEC groups – refer to subdivision 719-C of the ITAA 1997.
- for transitional groups with substituted accounting periods – refer to section 701-30 of the *Income tax (Transitional Provisions) Act 1997*.

See also

- Franking deficit tax

During the consolidated period

While a group is consolidated, the head company of a consolidated group (or a provisional head company (PHC) of a MEC group) maintains and operates a single franking account for the group as a whole. The franking accounts of subsidiary members continue to exist with a nil balance but become inoperative (no debits or credits can arise).

Any activities that would have caused a franking credit or debit in the franking account of a subsidiary member will instead give rise to a franking credit or debit in the franking account of the head company (or PHC of a MEC group).

If the head company's franking account is in deficit at the end of an income year, the head company of the group would be liable for FDT. They can claim the FDT offset in later years. The FDT offset is not available where the 30% FDT offset reduction rule applies. Note: there are certain exclusions to the FDT offset reduction rule.

The head company of a consolidated group (or PHC of a MEC group) is the only member that can frank distributions payable during the consolidated period. See below for the special rules relating to franking distributions.

See also

- Franking deficit tax offset calculations, reduction rule and exclusions

Leaving the consolidated group

When an entity leaves the consolidated group (or MEC group) it leaves behind all franking credits or debits resulting from transferred surpluses or excess franking deficits tax offsets.

The entity leaves with a nil balance at the leaving time. If a credit (due to a liability) or debit (due to a refund) arises after it leaves the group, it will arise in the franking account of the head company. This is because the credit or debit arose when they were jointly and severally liable as a subsidiary member of the 'old' group.

Franking distributions

The head company (or PHC of a MEC group) is the only member of the consolidated group (or PHC of a MEC group) that can frank distributions.

However, there are special rules that allow a subsidiary member of a consolidated group (see subdivision 709-A of the ITAA 1997) and MEC group (see subdivision 719-H of the ITAA 1997) to make certain distributions. Distributions made by subsidiary members are treated as a frankable distribution made by the head company (or PHC of MEC group).

The special rules allow for a subsidiary member of a consolidated group to make a frankable distribution for shares or interests that relate to:

- disregarded employee shareholdings
- non-share equity interests
- membership interests in a foreign held subsidiary that are held by a non-resident.

The special rules, relating to distributions by a subsidiary member of a MEC group, provide for:

- the transfer of the franking account balance from a provisional head company (PHC) that ceases to be the PHC of a group to a newly appointed PHC of the group
- frankable distributions made by eligible tier-1 companies to be taken to have been made by the provisional head company of the group
- frankable distributions made by a foreign-held subsidiary member of a MEC group to an entity that is not a member of the MEC group. This is to be taken to have been made by the provisional head company of the group.

See also

- Franking deficit tax
- Franking deficit tax offset calculations, reduction rule and exclusions

Integrity rules

Existing anti-avoidance measures that counter abuse of the imputation system were extend to cover consolidated groups (see section 177EB, ITAA 1936). There are also modifications to Division 208 relating to exempting entities or former exempting entities (see subdivision 709-B, ITAA 1997).

To determine whether a consolidated group is an exempting entity (either subsidiary member or head company) or a former exempting entity (only a head company can be a former exempting entity), apply the tests in Division 208 ITAA 1997 to the head company of the group. There are some additional rules that can alter the way Division 208

applies to a consolidated group. These are set out in sections 709–160 to 709–175.

In applying those rules to the entity that is a member of a consolidate group:

1. apply Division 208 before the additional rules.
2. apply this division just after the entity became a member of the group. It is applied on the assumption that the subsidiary member was not a member of the group at that time.

Paragraph (b) above allows Division 208 to have application to a subsidiary member of a consolidated group at the joining time.

See also

- Integrity rules for imputation
- Rules for exempting and former exempting entities
- Sections 709–160 to 709–175 of the ITAA 1997 for the special rules modifying Division 208

QC 50654

Utilising franking tax offsets and effect on losses – corporate tax entities

Find how corporate tax entities can use franking tax offsets to determine their current year tax loss position.

Last updated 1 December 2016

The following information assists corporate tax entities with franking tax offsets to determine their current year tax loss position. It also explains the extent to which they can utilise prior year tax losses.

When a corporate tax entity receives a franked dividend, the receipt is effectively neutral from a tax perspective. This is because it is entitled to a franking tax offset for the franking credit attached to the dividend.

The offset generally matches the tax liability of the dividend income derived.

If a corporate tax entity (such as a company) has taxable income, the franking tax offsets it receives can reduce its income tax liability to nil, but is not refunded if it exceeds its liability. This is likely to occur when the entity's other taxable income is in a net loss position disregarding the dividend income derived.

In this situation, a corporate tax entity doesn't lose these excess franking tax offsets, but can convert the excess franking offsets to an equivalent tax loss. The converted tax loss is then aggregated with any current year tax losses. These current year losses are carried forward to future years along with any other prior year losses.

Where a corporate tax entity has no current year losses (and despite having franking tax offsets it has no excess franking credits) it may be able to choose to deduct an amount of prior year losses. This choice is subject to certain limitations. Alternatively, it may choose not to deduct prior year losses so it can pay enough tax to frank its distributions.

Note: You should record any offset and loss amounts in the income tax return of the corporate tax entity receiving the franked dividend. This includes both the excess franking offset and any current year tax loss created by converting the excess franking offset.

See also

- Refunding excess franking credits
- Receiving dividends and other distributions
- Income Tax Assessment Act 1997 Division 36 – in particular subdivision 36-A *Deductions of losses earlier income years*, and subdivision 36-C *Excess franking offsets*

Converting excess franking tax offsets into a current year loss

A current year tax loss arises when both:

- the taxpayer's allowable deductions exceed their assessable income in the income year
- their excess is greater than any net exempt income (NEI) for the year.

A corporate tax entity will have an amount of excess franking offsets to the extent that its franking tax offsets exceed its income tax liability. In this case, the entity will convert the excess amount to an equivalent amount of tax loss by dividing it by the corporate tax rate (CTR).

This converted tax loss is then aggregated with any current year tax loss under the general provisions. If a corporate tax entity has any NEI, this amount is subtracted from the aggregate loss amount. The final aggregated amount becomes the tax loss for the income year resulting is a current year tax loss.

Note: The term 'excess franking offset' has the same meaning as 'excess franking rebate' as it appears in the company tax return instructions 2016.

The meaning of 'current year tax loss' and 'loss year' for a corporate tax entity with excess franking offsets was modified for a corporate tax entity with an amount of excess franking offset, from 2002.

See also

- How to claim a tax loss – general information on how losses are set-off against net exempt income.

Method statement to work out tax loss

Follow the steps in the method statement below to work out a corporate tax entity's current year tax loss. These steps also explain how to determine the excess franking credits and to what extent they can be converted to tax losses and form part of the entity's current year tax losses. These calculations are based on the provisions of the *Income Tax Assessment Act 1997* (ITAA 1997), particularly section 36-55 of the ITAA 1997.

Method statement – steps to determine current year tax loss and excess franking offsets

Step 1	**Work out the current year tax loss (if any) under the general provisions. See section 36-10, 165-70,175-35 or 701-30 of the ITAA 1997 disregarding net exempt income (NEI).** **See also:** • How to claim a tax loss

Step 2	**Convert the excess franking offsets** into a tax loss, using the following approach: **(a)** Calculate franking tax offsets: • add the amount of franking tax offset from receiving franked distributions (including those received indirectly) • add the amount of venture capital tax offsets • subtract any amount of franking tax offsets that are refundable tax offsets (refer to section 67-25 of the ITAA 1997 *Refundable tax offset rules*). **Note:** corporate tax entities will generally not be entitled to refundable franking tax offsets. The **sum** of this calculation will be the entity's total franking offsets. These are available for consideration in calculating the entity's excess franking offsets. **(b)** Calculate the amount of income tax: • Subtract allowable deductions from assessable income. Then apply the corporate tax rate (the assessable income includes the gross-up amount of franked dividends). • Reduce the amount of income tax by all tax offsets (this includes foreign tax credits) with the exception of the following tax offsets – franking tax offsets calculated under (a) – offsets subject to tax offset carry forward rules – offsets subject to refundable tax offset rules – offsets subject to franking deficit tax offset rules. That is, don't reduce the income tax by the above tax offsets but by all other tax offsets. **(c)** Determine if there is an amount of excess franking offsets: • Where the amount of franking tax offsets exceeds the amount of income tax calculated at (b), the amount of the excess franking offsets is equal to the difference. **(d)** Convert the excess franking offsets into a loss: • To convert this excess into a tax loss, divide the excess franking offsets by the corporate tax rate.

Step 3	Add the loss amounts from Step 1 and Step 2. That is add the amount of the loss, if any, under the general provisions plus the tax loss from the converted excess franking offsets.
Step 4	Reduce the amount of loss determined at Step 3 by the entity's NEI (if any). If the result is a: • **Positive amount** – the corporate tax entity is taken to have a current year tax loss equal to that amount. The entity will be able to carry forward its current year tax loss and any prior year tax loss to the next income year. • **Nil or a negative amount** – the corporate tax entity does not have a current year tax loss. It will need to determine whether it can choose to deduct a prior year tax loss. Refer to Limitations on deducting prior year tax losses.

Example 1: Company A – determining the excess franking tax offset amount that can be converted

In the 2015–16 income year, Company A has:

- assessable income (AI) of $100 ($70 franked dividends and $30 franking credits)
- $200 allowable deductions (DED)
- no net exempt income.

Determine if the entity has a current year tax loss, as follows (using the method statement):

Determine current year tax loss		
Step	Tax loss disregarding NEI	**$100** ($200 DED – $100 AI)

1		
Step 2	**(a)** Franking tax offsets (FTO)	$30
	(b) Income tax (IT)	$Nil
	(c) Excess franking offsets (EFO)	$30 (FTO exceeds IT) (Show amount at **Item 8 Label H – Excess franking rebate** of the company tax return)
	(d) EFO/CR tax rate	**$100** ($30/30%)
Step 3	Step 1 + Step 2	**$200**
Step 4	Step 3 – NEI	**$200**

The amount of $200 yielded by using the method statement is **a positive amount**. The entity is taken to have a $200 current year tax loss. The entity does not need to choose to deduct a prior year tax loss.

The tax position of Company A for the 2015–16 income year is:

- $200 current year tax loss (include amount at Item 13, Label U – Tax losses carried forward to later income years of the company tax return)
- $30 is recorded as an excess franking offset (Item 8, Label H)
- Nil tax is payable.

Limitations on deducting prior year tax losses

A corporate tax entity that has no current year tax loss (despite having franking tax offsets, it has no excess franking credits) can choose to deduct prior year tax losses in an income year, subject to certain

limitations. Alternatively, it may choose not to deduct prior year losses so it can pay enough tax to frank its distributions, also subject to certain limitations.

The limitation applies where the method statement used to determine current year tax losses with franking tax offsets results in a nil or negative amount.

A corporate tax entity will **only have a choice** in how much prior year tax losses it can deduct where:

- the entity's total assessable income exceeds the entity's total deductions and the entity does not have net exempt income – see example 2 and example 3
- the entity's total assessable income exceeds the entity's total deductions and the entity has net exempt income – see example 4.

However, a corporate tax entity will **not have a choice** in how much prior year tax losses it can deduct where its total deductions exceed the entity's total assessable income.

See also:

- How to claim a tax loss

Limits to prior year tax losses an entity can choose

Where there is a choice, there are two limits restricting when a corporate tax entity can choose the amount of prior year tax losses it applies. This stands whether or not it has net exempt income.

These restrictions prevent the refreshing of prior year tax losses into current year tax losses. This impacts on the application of the tests for deductibility of prior year tax losses, specifically the continuity of ownership tests.

See also

- Companies information under *How to claim a tax loss*.

Limits

There are two limits where an entity cannot deduct prior year tax losses. The entity must apply one of these limits.

Limits where an entity can't deduct prior year tax losses

Limit	Description and choice
Limit 1	**Where there is an amount of excess franking offsets – the choice is limited to a nil amount.** The entity must choose a nil amount if, disregarding tax losses, the entity would have an amount of excess franking offsets for that year. The choice is limited to a nil amount. This is because the tax on taxable income has already been fully absorbed by the franking tax offset. If Limit 1 applies, the entity will be in a nil tax payable position.
Limit 2	**Where there is no amount of excess franking offsets – the entity must not choose an amount of prior year losses that would result in excess franking offsets.** If, disregarding tax losses, the entity would not have an amount of excess franking offsets for that year, the entity must not choose an amount of prior year tax losses that would generate excess franking offsets for that year. Limit 2 will need to be considered where there is an amount of income tax payable after applying the franking tax offsets. Refer to Determining the extent of prior year losses that can be used.

Determining the extent of prior year losses that can be used

An entity will need to consider Limit 2 when determining what the amount of prior year losses that can be used against income tax payable (after applying the franking tax offsets).

Limit 2 will apply to restrict the losses deducted so that excess franking offsets are not generated to avoid refreshing prior year tax losses to current year losses.

Rules for optional use of prior year tax losses

Determine if Limit 2 applies
Follow these steps to determine if Limit 2 applies:

(a) Calculate franking tax offsets.

(b) Calculate the amount of income tax. (Note that this amount does not take into account the franking tax offsets.)

Note: Calculate (a) and (b) in same way as you would in determining excess franking credits in Step 2 (a) and Step 2 (b) in the method statement to determine current year losses.

(c) Determine the amount of income tax payable after applying franking tax offsets against income tax:

Where the amount of income tax exceeds the amount of franking tax offsets –this amount is the income tax payable. Limit 2 may apply. Go to paragraph (d) below.

(d) Calculate the maximum prior year tax loss amount that can be utilised without generating excess franking offsets:

Divide the amount of the income tax payable by the corporate tax rate. This will yield the maximum prior year tax loss amount that can be utilised that would not generate excess franking offsets.

Making a choice

The entity can choose an amount of prior year tax loss (if available) that does not exceed this maximum amount.

The entity can choose a nil amount. If they choose nil, the entity will have income tax payable which will generate franking credits. It will carry forward any unused prior year tax losses.

Example 2

Example 2: Company B – no current year tax loss and no net exempt income

In the 2014–15 income year, Company B has:

- assessable income (AI) of $200 (franked dividend of $70 and franking credits of $30 and $100 other income)
- $50 allowable deductions (DED)
- $120 prior year tax losses (P/Y).

Firstly determine if the entity has a current year tax loss, as follows (using the method statement):

Step 1:	Tax loss, disregarding net	$Nil ($150 taxable income (TI) = $200 AI

	exempt income (NEI)	less $50 DED)
Step 2:	(a) Franking tax offsets (FTO):	$30
	(b) Income tax (IT):	$45 ($150 TI x 30%)
	(c) Excess franking offsets (EFO):	$Nil (IT exceeds FTO)
	(d) EFO/CR tax rate:	$Nil
Step 3:	Step 1 + Step 2	$Nil
Step 4:	Step 3 – NEI	$Nil

The amount yielded by using the method statement is a nil amount. Therefore, the entity is taken not to have a current year tax loss.

The entity should now consider whether to deduct prior year tax losses. They can determine the extent to which prior year tax losses can be absorbed or choose not to use them.

The entity needs to determine the extent of prior year losses that can be used.

Determine if Limit 2 applies	
(a) Franking tax offsets (FTO):	$30
(b) Income tax (IT):	$45 ($150 TI x 30%)
(c) Apply FTO against IT:	$15 ($45 IT – $30 FTO) (income tax payable)
(d) Divide the amount of income tax payable (ITP) by the corporate tax rate (CTR) to get the maximum amount of P/Y loss that can be utilised that would not generate EFO:	$50 ($15 ITP/30%)
Making a choice	

The maximum prior year tax loss amount the entity can choose from its available amount of prior year tax loss of $120 is $50.
Alternatively, the entity may choose a nil amount and pay $15 income tax, thereby generating franking credits in their franking account.

The tax position of the entity for the 2014–15 income year, assuming that it chooses $50 prior year tax losses (include amount at Item 7 Label R – Tax losses deducted of the company tax return), is:

- nil current year tax loss
- $70 prior year tax losses remaining (include amount at Item 13 Label U – Tax losses carried forward to later income years of the company tax return)
- nil tax payable.

Example 3

Example 3: Company C – no current year tax loss and no net exempt income

In the 2014–15 income year, Company C has:

- assessable income (AI) of $300 ($70 franked dividends, $30 franking credits and $200 other income)
- $100 allowable deductions (DED)
- $50 prior year tax losses (P/Y).

Firstly the entity should determine if it has a current year tax loss, as follows (using the method statement):

Step 1:	Tax loss disregarding NEI	$Nil ($200 TI = $300 AI – $100 DED)
Step 2:	(a) Franking tax offsets (FTO):	$30
	(b) Income tax (IT):	$60 ($200 TI x 30%)

	(c) Excess franking offsets (EFO):	$Nil (IT exceeds FTO)
	(d) EFO/CR tax rate:	$Nil
Step 3:	Step 1 + Step 2	$Nil
Step 4:	Step 3 – NEI	$Nil

As the amount yielded by using the method statement is a nil amount, the entity is taken not to have a current year tax loss.

The entity should now consider:

- whether to deduct prior year tax losses
- the extent to which prior year tax losses can be absorbed
- if a choice is available.

The entity needs to determine the extent of prior year losses that can be used.

Determine if Limit 2 applies	
(a) Franking tax offsets (FTO):	$30
(b) Income tax (IT):	$60 ($200 TI x 30%)
(c) Apply FTO against IT:	$30 ($60 IT – $30 FTO) (income tax payable)
(d) Divide the amount of income tax payable (ITP) by the CTR to get the maximum amount of prior year losses that can be utilised that would not generate EFO:	$100 ($30 ITP/30%)
Making a choice The maximum prior year tax loss amount the entity can choose is $100. However because the amount of available prior year tax loss is $50, the entity can only choose a maximum of $50.	

Alternatively, the entity could choose a nil amount and pay $30 income tax, thereby generating franking credits in their franking account.

The tax position of the entity for the 2014–15 income year, assuming that it chooses $50 prior year tax losses (insert amount at Item 7 Label R –- Tax losses deducted of the company tax return), is:

- nil current year tax loss
- nil prior year tax loss to carry forward
- $15 tax payable.

This is because after applying P/Y loss of $50 against TI of $200, there will be an amount of $150 TI remaining. The IT on this amount will be $45, which will be offset by $30 FTO. There will be $15 income tax payable.

Example 4

Example 4: Company D – no current year tax loss and has net exempt income

In the 2014–15 income year, Company D has:

- assessable income (AI) of $150 ($70 franked dividends, $30 franking credits and $50 other income)
- $100 allowable deductions (DED)
- $50 prior year tax losses (P/Y)
- $100 net exempt income (NEI).

Firstly the entity should determine if it has a current year tax loss, as follows (using method statement):

Step 1:	Tax loss disregarding NEI	$Nil ($50 TI = $150 AI – $100 DED)
Step 2:	(a) Franking tax offsets (FTO):	$30

	(b) Income tax (IT):	$15 ($50 TI x 30%)
	(c) Excess franking offsets (EFO):	$15 (FTO exceeds IT)
	(d) EFO/CR tax rate:	$50 ($15 EFO/30%)
Step 3:	Step 1 + Step 2	$50
Step 4:	Step 3 – NEI	– $50 ($50 – $100 NEI)

The amount yielded by using the method statement is a negative amount of $50. Therefore, the entity is taken not to have a current year tax loss.

If the amount of tax loss is disregarded there is an amount of excess franking offsets. As a result, **Limit 1** applies. Company D's choice is limited to a nil amount. That is, the corporate entity is unable to utilise any of the $50 prior year losses.

The tax position of the entity for its 2014–15 income year is:

- Nil current year tax loss
- $15 excess franking offset is not recorded but used to reduce NEI
- $50 prior year tax loss remains unutilised (continues to be recorded at Item 13, Label U)
- nil tax payable.

Note: Limit 2 has no application in this example as excess franking offsets exist.

QC 50655

Deduction for non-portfolio dividends for resident company

Check your eligibility for a deduction on your non-portfolio dividends for resident companies.

Last updated 1 December 2016

If a resident company wholly owned by a non-resident company receives unfranked non-portfolio dividends from other resident companies, it may be entitled to a deduction. The deduction is equal to the amount of any unfranked non-portfolio dividend that it pays on to its non-resident parent. This relies on meeting certain conditions and anti-avoidance rules.

A non-portfolio dividend (as defined in section 317 of the *Income Tax Assessment Act 1936* (ITAA 1936)) is a dividend paid to a company with a voting interest in the payee company. The voting interest must amount to at least 10% of the voting power (within the meaning of section 334A of the ITAA 1936) in the company paying the dividend.

When a deduction applies

The deduction will generally apply where:

- a resident company (Company A) pays a non-portfolio unfranked or partly franked dividend to another resident company (Company B)
- Company A and Company B are not members of the same wholly owned company group in the year in which the dividend is paid
- Company A and Company B are not prescribed dual residents
- Company B was entitled to a rebate under former section 46 of the ITAA 1936 for the unfranked amount of the original dividend before the amendment.

  (Note: This ignores the amendments made by Schedule 1 to the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*. The inter corporate dividend rebate was repealed except for subsections 46AB(1), 46AC(2) and subparagraph 46F(2)(a)(i) of the ITAA 1936. Hence, the rebate will still apply to the unfranked portion of the dividend.)
- Company B on-pays that amount to its sole non-resident owner as an unfranked or partly franked dividend (the flow-on amount)

- the flow-on amount does not exceed the amount in Company B's unfranked non-portfolio dividend account
- the flow-on amount is not greater than the unfranked amount of the dividend on-paid
- Company B makes the relevant declaration in writing before paying the dividend. This is the **flow-on declaration**. It specifies the amount to be on-paid under these provisions.

Company B must be a resident company. It must be wholly owned by the same non-resident company at all relevant times. These times are when it receives the original dividend from Company A, makes the flow-on declaration, and pays the dividend to its non-resident parent.

Where the requirements are met, Company B may claim the on-payment as a tax deduction. This frees the unfranked non-portfolio dividend from income tax.

The amount you can claim as a tax deduction is the percentage of the dividend specified in the flow-on declaration multiplied by the unfranked amount of the dividend.

The dividend will be directly freed from tax if the distribution is made in the same income year that Company B derives the dividend.

As the distribution to the non-resident is unfranked, it will usually be subject to dividend withholding tax.

When a resident company is wholly owned by a non-resident company

A resident company (Company B) is wholly owned by a non-resident company if the non-resident company (Company C) directly owns all of the shares in Company B (both beneficially and legally). However, if a third party is in a position to affect rights between Company B and Company C, either now or in the future, then Company B is not wholly owned by a non-resident company.

The definition of wholly owned by a non-resident company is based on the definition of 100% subsidiary in section 975-505 of the ITAA 1997.

A person is in a position to affect rights of Company C in relation to Company B if, for any reason, they are able to acquire those rights, or to somehow prevent either Company B or Company C from exercising those rights as it chooses.

Unfranked non-portfolio dividend account

Generally, a resident company can claim a deduction for an unfranked non-portfolio dividend that it declares and pays to the non-resident parent company (who is not part of the same wholly owned group). This is where its non-portfolio dividend account is in surplus (the excess of total credits over total debits).

If the amount in the declaration is more than the surplus in the unfranked non-portfolio dividend account (the account) when the declaration is made, a deduction is only allowed for the amount that is actually in the account. This is because the account cannot be in deficit.

Once the declaration is made, the amount is debited to the unfranked non-portfolio dividend account.

Unfranked non-portfolio dividend deduction and conduit foreign income choice

Under the income tax provisions, incidences may arise where the Australian company wholly owned by a foreign company may be entitled to:

- a deduction for the unfranked non-portfolio dividend it pays to the foreign parent company, while at the same time
- the unfranked non-portfolio dividend is treated as non-assessable non-exempt income under the conduit foreign income rules.

As a result of this potential double benefit, the company must make a choice. It can choose to either treat the dividend as non-assessable non-exempt income or claim a deduction when on-distributed. It cannot claim both.

See also

- Additional requirements for listed investment companies
- Receiving dividends and other distributions – conduit foreign income

Imputation rules for exempting and former exempting entities

Check imputation rules that apply for exempting and former exempting entities.

Last updated 1 December 2016

Imputation rules apply for exempting and former exempting entities.

An exempting entity is a corporate tax entity that is effectively owned by prescribed persons.

Broadly, a prescribed person is either:

- a company or natural person who is exempt from tax or is a non-resident
- a partnership or trust where all the partners or beneficiaries are exempt from tax or are non-resident
- the Commonwealth, states and territories.

A corporate tax entity is effectively owned by prescribed persons if either:

- 95% or more of the accountable membership interests in the entity are held directly and indirectly by prescribed persons
- 95% or more of the accountable partial interests in the entity are held directly or indirectly by prescribed persons
- having regard to any arrangement of which the corporate tax entity is aware with respect to the accountable membership interest, it would be reasonable to conclude that the risks and opportunities resulting from holding the membership interests substantially accrue to prescribed persons.

A former exempting entity is a corporate tax entity that has ceased to be an exempting entity and has not again become an exempting entity.

The exempting entity and former exempting entity rules have been modified to support the integrity rules relating to franking credit trading. These will apply if:

- you or a member of your group is a New Zealand company **(NZ franking company)** that chose to enter the Australian imputation system (see also Trans-Tasman imputation special rules)
- you are part of a consolidated group or multiple entry consolidated group (MEC) (see Special rules for consolidated groups and MECs).

Imputation on exempting entities

Exempting entities frank a distribution by applying franking credits to frankable distributions in the same way ordinary companies do.

Franked distributions made by exempting entities are generally treated as unfranked distributions in the hands of the recipient. They only provide benefits to recipients in the form of:

- an exemption from dividend withholding tax for non-resident members
- a tax offset entitlement for franked distributions arising to members holding eligible employee shares and corporate tax entities in certain cases. This is generally when the receiving entity is itself subject to the exempting entity rules
- a franking credit arising in the franking account of a recipient exempting entity in certain cases.

Consistent with the rules that apply to ordinary companies, the franking account balances of exempting entities will be maintained on a tax-paid basis.

Imputation for former exempting entities

The effects of imputation on former exempting entities are outlined as follows.

Quarantining exempting accounts

Where an exempting entity ceases to be effectively owned by prescribed persons, it is taken to be a former exempting entity. In these cases, the franking account (of the entity when it was an exempting entity) is converted to an exempting account.

The exempting account is quarantined so that franking benefits funded from the existing balance of franking credits are only able to confer on

eligible continuing substantial shareholders or members holding eligible employee shares.

A new franking account is established for the entity to record franking credits or debits after it ceases to be an exempting entity.

Franking a distribution

A former exempting entity can pay either franked distributions franked with franking credits or exempting credits. However, it must first frank the distribution by allocating franking credits to the distribution. It must have regard to the entity's benchmark franking percentage for the franking period, in the same way that the rules apply to ordinary companies. The entity can attach exempting credits to that part of a distribution that is unfranked with franking credits.

A former exempting entity may frank a distribution with exempting credits by allocating exempting credits to the distribution. The amount of the exempting credit on a distribution is stated in the distribution statement unless the amount stated exceeds the maximum franking credit for the distribution. In that situation the amount of the exempting credit on the distribution is taken to be nil.

Distributions to be franked with exempting credits to the same extent

All frankable distributions made within a franking period should be franked to the same extent with an exempting credit. If this rule is breached, distributions made within the period with an exempting credit attached are taken not to have been franked with an exempting credit.

Converting exempting accounts into tax paid basis

The franking and exempting account balancers of exempting and former exempting entities will be maintained on a tax-paid basis. This is consistent with the rules that apply to ordinary companies.

Share capital account tainting rules

Learn about share capital account tainting rules - integrity rules for companies in Division 197 of the ITAA 1997.

Last updated 1 March 2021

The share capital account tainting rules are integrity rules that prevent a company from:

- transferring profits into a share capital account, and
- distributing those amounts to shareholders disguised as a non-assessable capital distribution.

The share capital account tainting rules are in Division 197 of the *Income Tax Assessment Act 1997* (ITAA 1997).

Once a company's share capital account becomes tainted, it will remain tainted. This is until the company chooses to untaint the account. A company can make a choice to untaint their share capital account at any time. However, once the choice is made it cannot be revoked.

A share capital account is either:

- an account that the company keeps of its share capital
- any account created on or after 1 July 1998 where the first amount credited to the account was an amount of share capital.

If the company has more than one account, the accounts are taken to be a single account for the tainting rules.

Share capital takes its ordinary meaning. Share capital can include:

- amounts received by a company in consideration for the issue of shares
- unpaid amounts owed by members for issued shares.

When a company’s share capital account becomes tainted

A company's share capital account will become tainted if:

- there is a transfer of an amount to the share capital account that is **not** an excluded amount
- the company was an Australian resident immediately before the transfer took place.

Excluded amounts include:

- an amount that can be identified as share capital
- certain amounts that are transferred under debt or equity swaps
- an amount transferred by a non-*Corporations Act 2001* company to remove shares with a par value
- certain amounts that are transferred from an option premium reserve
- certain amounts that are transferred in connection with the demutualisation of certain non-insurance and insurance companies. This is where the method of demutualisation is permitted by the *Income Tax Assessment Act 1936* (ITAA 1936) or the *Income Tax Assessment Act 1997* (ITAA 1997).

Broadly, a company's share capital account is not tainted where amounts are transferred to its share capital account under a dividend re-investment plan (refer to subsection 6BA(5) of the ITAA 1936 and TD 2009/4).

See also

- TD 2009/4 *Income tax: in accounting for a Dividend Re-investment Plan, can a company taint its share capital account for the purposes of Division 197 of the Income Tax Assessment Act 1997?*

Consequences of tainting a share capital account

If a company's share capital account is tainted, then:

- a franking debit arises in the company's franking account at the end of the franking period in which the transfer occurs
- any distribution from the account is taxed as an unfranked dividend in the hands of the shareholder
- the account is generally not taken to be a share capital account for the purposes of the ITAA 1936 and ITAA 1997.

Note: A company's share capital account will remain tainted until the company chooses to untaint the account. Once the choice is made it cannot be revoked.

Find out about

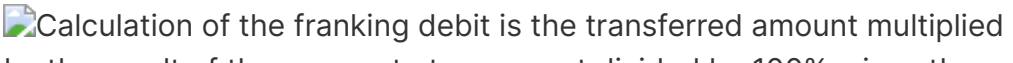
- Untainting a share capital account

Calculating the franking debit from tainting

When an amount is transferred to a company's share capital account (transferred amount) that causes the account to become tainted, a franking debit arises in the company's franking account. The debit arises immediately before the end of the franking period in which the transfer occurs.

Additional franking debits can also arise in a company's franking account for any subsequent transfers to a tainted share capital account.

Calculate the amount of the franking debit under section 197-45 of the ITAA 1997, as follows:


Calculation of the franking debit is the transferred amount multiplied by the result of the corporate tax amount divided by 100% minus the corporate tax rate and then multipled by the applicable franking percentage.

The applicable franking percentage is either:

- the company's benchmark franking percentage for the franking period in which the transfer occurred
- 100% if the company does not have a benchmark franking percentage for the period.

Example: Working out the franking debit from a tainted account

A company's share capital account becomes tainted when an amount of $700 is transferred to the account from another account. The company has a benchmark franking percentage of 80% for the franking period in which the tainting occurred.

The corporate tax rate is 30% at the time, so the franking debit arising from the transfer at the end of the franking period is calculated as:

- ($700 × 30%) ÷ (70% × 80%) = $240.

See also

- Franking account
- Benchmark rule
- Applying to depart from the benchmark rule

Untainting a share capital account

If a company's share capital account becomes tainted, it will remain tainted until the company chooses to untaint the account.

A company that has a tainted share capital account may make a choice using the approved form to untaint the account. The choice can be made at any time, but once the choice is made it cannot be revoked.

If a company chooses to untaint its share capital account, the company may have:

- a further franking debit to its franking account
- a liability to pay untainting tax.

Any untainting tax is due and payable 21 days after the end of the franking period for which the choice was made.

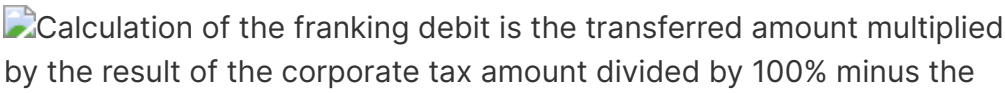
Calculating further franking debits from untainting

If a company chooses to untaint its share capital account, one or more franking debits may arise in the company's franking account.

Franking debits will arise in the company's franking account where the company's applicable franking percentage (at the end of the franking period in which the choice to untaint is made) is greater than its applicable franking percentage (at the end of the franking periods in which the transfer of an amount which most recently tainted the share capital account, or in which amounts that have been transferred since then that would have tainted the account if it had not already been tainted).

The franking debits, if they arise, will arise in the company's franking account immediately before the end of the franking period in which the choice to untaint is made.

Where a franking debit arises, the amount of the franking debit is the amount by which the following formula exceeds the amount that arose under section 195-45 of the ITAA 1997 in relation to the transferred amount:


Calculation of the franking debit is the transferred amount multiplied by the result of the corporate tax amount divided by 100% minus the corporate tax rate and then multipled by the applicable franking percentage.

The applicable franking percentage is either:

- the company's benchmark franking percentage for the franking period in which the choice to untaint was made
- 100% if the company does not have a benchmark franking percentage for the period.

Example: Working out a further franking debit after untainting

A company's share capital account becomes tainted when an amount of $700 is transferred to the account from another account. The company's benchmark franking percentage at the end of the franking period in which the share capital account was tainted is 80%. A franking debit of $240 was made to the company's franking account at that time.

The company chooses to untaint its share capital account. Its applicable franking percentage at the end of the franking period when it chose to untaint is 100%. The corporate tax rate is 30%. A further franking debit which arises in the company's franking account at the end of the franking period in which the choice to untaint is made is calculated as:

- [(700 × 30%) ÷ (70% × 100%)] − 240 = $60.

See also

- Applying to depart from the benchmark rule

Calculating the untainting tax liability

A company that chooses to untaint its share capital account may be liable to pay untainting tax.

The untainting tax recoups any tax that may have been avoided by the shareholders receiving non-assessable distributions from a tainted share capital account.

The amount of untainting tax liability is calculated under section 197-60 of the ITAA 1997 as follows:

The applicable tax amount minus the sum of section 197-45 franking credits and section 197-65 franking debits.

Section 197-45 franking debits are the franking debits that arise from the transfer of an amount that taints the share capital account.

Section 197-65 franking debits are the franking debits that arise from the choice to untaint the share capital account.

The applicable tax amount is calculated as:

The sum of the tainting amount at the time of choice to untaint and the notional franking amount, then multiplied by the applicable tax rate.

The tainting amount includes the amount that was transferred to the share capital account that most recently resulted in the account becoming tainted. It also includes any other amounts that have been transferred since then that would have tainted the account if it had not already been tainted.

The applicable tax rate is:

- if the company has only lower tax members in relation to the tainting period – the corporate tax rate
- if a company has higher tax members in relation to the tainting period – the sum of 3% plus the top marginal tax rate that applies in the income year in which the choice to untaint is made. This is specified in Part 1 of Schedule 7 to the Income Tax Rates Act 1986).

The applicable tax rate for a company with higher tax members in relation to the tainting period was increased to the sum of 3% plus the top marginal rate from 1 July 2014 by the Tax Laws Amendment (Untainting Tax) (Temporary Budget Repair Levy) Act 2014External Link. Prior to 1 July 2014, the applicable tax rate was 2.5% plus the top marginal rate.

This legislative amendment also increases the applicable tax rate where a company has higher tax members by an additional 2%. This is where the choice to untaint is made in the 2014–15 to 2016–17

financial years. It corresponds with the increase due to the temporary budget levy. For example, in the 2014–15 financial year the applicable tax rate for a company that has higher tax members would be 50%.

A company will have only lower tax members in relation to the tainting period if all members of the company were either other companies, complying superannuation entities or foreign residents in that period. If not, the company will have higher tax members in relation to the tainting period.

The notional franking amount is calculated as:

The product of the tainting amount at the time of choice to untaint multiplied by one divided by the applicable gross-up rate.

Where the company is liable for untainting tax, this amount is due and payable at the end of 21 days after the end of the franking period in which the choice to untaint was made.

You can send your payments to us at:

- **Australian Taxation Office**
  PO Box 9990
  PENRITH NSW 2740.

Example calculations

Example 1: Working out the additional franking debit

ABC company's share capital account becomes tainted when an amount of $700 is transferred to the account. The company's benchmark franking percentage is 80% at the end of the franking period in which the account was tainted.

The franking debit arising from the transfer at the end of the franking period is $240.

ABC chooses to untaint its share capital account. Its applicable franking percentage at the end of the franking period in which it chose to untaint is 90%.

At this time, the corporate tax rate is 30%. The applicable tax rate where the company has higher tax members is 47.5%.

The franking debit arising from the choice to untaint is calculated as:

The transferred amount multiplied by the applicable franking percentage divided by the applicable gross-up rate.

less the amount of franking debits arising under section 197-45 of the ITAA 1997 from the transfer of the amount that tainted the company's share capital account.

The franking debit arising from the choice to untaint is $30, calculated as:

- ($700 × 30%) ÷ (70% × 90%) = $270
- $270 – $240 = $30.

Example 2: Working out the untainting tax liability where the company has only lower tax members

For ABC company in Example 1:

- Step 1. Work out the notional franking amount, calculated as:

The product of the tainting amount at the time of choice to untaint multiplied by one divided by the applicable gross-up rate.

In this case, the notional franking amount is calculated as $700 × 30/70 = $300.

- Step 2. Work out the applicable tax amount, calculated as:

The sum of the tainting amount at the time of choice to untaint and the notional franking amount multiplied by the applicable tax rate.

The applicable tax amount is calculated as (700 + 300) × 30% = $300.

- Step 3. Workout the liability for untainting tax, which is:

The applicable tax amount minus the sum of section 197-45 franking credits and section 197-65 franking debits.

In this case, the company's liability for untainting tax is 300 – (240 + 30) = $30.

Example 3: Working out the untainting tax liability where the company has higher tax members

For ABC company in Example 1:

- Step 1. Work out the notional franking amount, calculated as:

The product of the tainting amount at the time of choice to untaint multiplied by one divided by the applicable gross-up rate.

In this case, the notional franking amount is calculated as $700 × 30% ÷ 70% = $300.

- Step 2. Work out the applicable tax amount, calculated as:

The sum of the tainting amount at the time of choice to untaint and the notional franking amount multiplied by the applicable tax rate.

The applicable tax amount is calculated as (700 + 300) × 47.5% = $475.

- Step 3. Work out the liability for untainting tax, which is:

The applicable tax amount minus the sum of section 197-45 franking credits and section 197-65 franking debits.

In this case, the company's liability for untainting tax is 475 – (240 + 30) = $205.

See also

- Franking credits and debits
- Benchmark rule

Making a written notice of choice to untaint

The company makes the choice to untaint its share capital account by providing a written notice in the approved form to the Commissioner of Taxation. Your notice must be signed by the company's public officer, and include:

- the company's name and tax file number (TFN)
- the date on which the choice to untaint the company's share capital account was made.

It is helpful to also supply the following information:

- any amount of untainting tax the company is liable to pay as a result of the choice to untaint its share capital account
- any additional franking debits that may arise from the choice to untaint.

Send your notice and any additional information to us at:

- **Australian Taxation Office**
  PO Box 9990
  PENRITH NSW 2740.

See also

- Section 388-50 of the Taxation Administration Act 1953 – Approved forms

QC 50658

Imputation tax offset and franking credit refunds – trustees

Understand how to find out if trustees are eligible for a tax offset or refund of excess imputation credits.

Last updated 1 December 2016

A trustee is liable to be assessed on a share of the trust's net income where there is either:

- no beneficiary presently entitled (section 99 or 99A of the *Income Tax Assessment Act 1936* (ITAA 1936))

- a beneficiary is under legal disability (section 98 of the ITAA 1936).

A trustee is entitled to a tax offset for any franking credit included in their share of net income on which they are assessed. This is from all forms of income, not just dividend income. Their tax offset will reduce their tax liability for the income year.

However, they are not entitled to a refund for any excess franking credits except in limited circumstances. This is only when the trustee is assessed under section 99 of the ITAA 1936.

Eligibility for the tax offset and thus the refund is subject to imputation integrity rules In Division 207 of the ITAA 1997, in particular the franking credit trading rules. The trustee must be a qualified person and be considered the true economic owner of the shares. They can meet this test by satisfying the holding period rule or the related payments rule.

If the trust has no net income (as determined under section 95 of the ITAA 1936) or has made a loss for tax purposes, there is no trust amount assessed to the trustee. The benefit of the imputation credits attached to the franked dividends is lost.

See also

- Integrity rules for imputation

Trustees assessed under section 98 or section 99A

Trustees liable to be assessed under section 98 or section 99A of the ITAA 1936 can claim imputation credits as a tax offset, subject to the integrity rules. They are not eligible for a refund of excess imputation credits.

Section 98

A trustee is assessed under section 98 of the ITAA 1936 when a beneficiary is presently entitled to a share of the net income of the trust but is under a legal disability (for example, the beneficiary is under 18 years old). The trustee is assessed on the beneficiary's share of the net income as if it were the income of an individual taxpayer.

If the beneficiary is also assessed on the trust income, they are entitled to a credit for the tax paid or payable by the trustee. Where

the trust income to which eligible resident beneficiaries are presently entitled includes franked dividends, the eligible beneficiary can claim the imputation credits as a tax offset and, if there are excess imputation credits, the excess would be available to the individual beneficiary as a refund.

Section 99A

A trustee is assessed under section 99A of the ITAA 1936 when there is net income of a trust to which no beneficiary is presently entitled, and where section 99 of the ITAA 1936 does not apply. The trustee is taxed on this net income at the highest marginal rate of tax (49% in the 2016–17 income year).

Trustees assessed under section 99

Trustees assessed under section 99 of the ITAA 1936 can claim imputation credits as a tax offset, subject to the integrity rules. They are also eligible for a refund of excess imputation credits.

A trustee is liable to be assessed under section 99 of the ITAA 1936 where:

- there is an amount of net income of the trust (as determined under section 95 of the ITAA 1936) to which no beneficiary is presently entitled
- we think it unreasonable for the trustee to be assessed under section 99A of the ITAA 1936
- the trust estate either:
  - is a deceased estate
  - is a bankrupt estate administered by the official receiver or a registered trustee
  - consists of property that was transferred to the trustee for the benefit of the beneficiary by way of damages. This may be for:
    - loss of parental support
    - mental or physical injury
    - workers' or criminal injury compensation
    - death benefits under life insurance policies or similar

- property received from a public fund for the relief of persons in necessitous circumstances
- property received in certain family breakdown situations.

Trustees of resident trust estates who are liable to be assessed under section 99 of the ITAA 1936 are taxed on the net income of the trust to which no beneficiary is presently entitled. They are taxed at resident individual rates without the tax-free threshold.

The tax-free threshold applies for deceased estates less than three years old. This is before the end of the income year the trustee is liable to be assessed in.

Franking credit refunds

The trustee may receive a refund where:

- the resident trust estate is liable to be assessed under section 99 of the ITAA 1936 on undistributed trust income
- the undistributed trust income includes franked dividends
- the basic tax liability for the income year is less than their total imputation credits attached to the dividends – this is after taking into account any other tax offsets they are entitled to.

A trust is a 'resident trust estate' if at any time during the year of income, either:

- a trustee was a resident of Australia
- the central management and control of the trust estate was in Australia.

The amount the trustee is refunded reflects the excess of any imputation credits, after applying the imputation credits and any other tax offsets. It reduces the basic income tax liability of the trustee down to nil.

How to apply for the refund

Trustees who are eligible for a refund of excess imputation credits can claim the refund in their trust tax return.

They must retain the dividend statements from the company that paid the franked dividends or the trust that made the franked distributions in their records. These statements should show the amount of the dividend and the imputation credit, together with the date of payment.

QC 50659

Trans-Tasman imputation election form - Instructions

Work out how a New Zealand company wishing to have an Australian franking account and pay Australian-franked credits.

Last updated 3 October 2012

Introduction

Access a downloadable (PDF, 431KB) version of the instructions and form

A New Zealand company wishing to maintain an Australian franking account and pay dividends franked with Australian franking credits must make a New Zealand franking choice to allow them to do so. This form allows a New Zealand company to make that choice.

> Some questions on the Trans-Tasman imputation form must be completed for the form to be a valid New Zealand franking choice. These questions are marked with an asterisk (*). Ensure you answer these questions and sign the declaration.

Eligibility

1*	**Is this company incorporated in New Zealand?**

The law provides that a company that is a New Zealand resident may choose to enter the Australian imputation system. A company is a New Zealand resident if:

- the company is incorporated in New Zealand, or
- the company is not incorporated in New Zealand but carries on business there and either:
  - has its central management and control there
  - has its voting power controlled by members who are New Zealand residents.

Place an X in the **Yes** box if the company is incorporated in New Zealand. Then answer question 3.

Place an X in the **No** box if the company is not incorporated in New Zealand. Then answer question 2.

2 Is business carried on in New Zealand and the company either has its central management and control there or its voting powers controlled by members who are New Zealand residents?

If the company is not incorporated in New Zealand, in order to be eligible to choose to enter the Australian imputation system, the company must carry on business in New Zealand and either:

- have its central management and control there
- have its voting power controlled by members who are New Zealand residents.

A member will be a New Zealand resident if:

- the member is a company and it meets the test for a New Zealand resident company described in question 1, or
- the member is a natural person and he or she resides in New Zealand, or their domicile is in New Zealand (unless the Australian Commissioner of Taxation is satisfied that their usual place of abode is outside New Zealand), or they have actually been in New

Zealand continuously or intermittently for more than half the income year (unless the Australian Commissioner of Taxation is satisfied that their usual place of abode is outside New Zealand and they don't intend to take up residence in New Zealand).

The definition of New Zealand resident for the purposes of the Australian Trans-Tasman imputation rules excludes Australian residents. Therefore, if you are an Australian resident these rules will not apply to you. For example, you may be a dual resident of Australia and New Zealand. If a company is a resident of Australia it is already entitled to maintain an Australian franking account, even if it is also a resident of another country.

Print X in the Yes box if the company is carrying on business in New Zealand and either has its central management and control there or has its voting power controlled by members who are New Zealand residents. Go to question 3.

Print X in the No box to answer no. If you have answered no, the company is not a New Zealand resident company and is not eligible to choose to enter the Australian imputation system.

For more information

- visit the Trans-Tasman imputation page
- phone us on +**61 13 24 78**.

Applicant information

3*	**What is the legal name of the company?**

Print the legal name of the company. This should be the name of the company that appears on all official documents or legal papers. It may be different from the name the company trades under.

4	**What is the main trading name of the company? (if different from the legal name)**

The main trading name is the name the company trades under or is known as by suppliers or customers. It may be different from the

company's legal name.

It may be a trading or business name that is registered with another government department.

If the company has more than one trading name, please provide the main trading name.

5 What is the company's certificate of incorporation (COI) number in New Zealand?

Print the company's certificate of incorporation (COI) number in New Zealand. A COI number would have been allocated by the New Zealand Companies Office to the company if it is incorporated in New Zealand.

If you do not know the COI number, you should contact the New Zealand Companies Office at www.companies.govt.nz

6* What is the date of incorporation of the company?

Print the date the company was incorporated.

7 What is the company's New Zealand Inland Revenue Department number?

Print the company's New Zealand Inland Revenue Department (IRD) number. This number is issued by the New Zealand Inland Revenue Department. If you do not know the New Zealand IRD number, you should contact the New Zealand Inland Revenue Department at www.ird.govt.nz

You are not required to quote the company's New Zealand IRD number, but not quoting it may increase the risk of administrative error. The New Zealand IRD number serves as an appropriate proof of identity. If a New Zealand IRD number is not supplied, the Australian Taxation

Office will contact you to supply a copy of a certificate of incorporation (COI) as proof of identity of the company.

8 What is the company's Australian tax file number (TFN)? (if the company has one)

The Australian Taxation Office may have previously provided an Australian tax file number to the company. If so, print the tax file number of the company in the boxes provided. You are not required by law to quote the company's tax file number, but not quoting it may increase the risk of administrative error.

If the company does not have a TFN, one will be allocated to it based on the details provided in this form and subject to appropriate proof of identity.

Appropriate proof of identity includes:

- verification by the New Zealand Inland Revenue Department of the New Zealand IRD number provided on this form, or
- a copy of a certificate of incorporation (COI). Do not supply a copy of this unless the Australian Taxation Office asks you to do so.

If the information provided on this form does not contain the appropriate proof of identity, the Australian Taxation Office will contact the authorised person nominated on this form.

Make sure that you have completed the authorised contact details on this form.

9 What is the company's Australian company number, Australian registered body number or Australian registered scheme number? (where applicable)

Print the company's Australian company number (ACN), Australian registered body number (ARBN) or Australian registered scheme number (ARSN) if the company has one. This number is allocated by the Australian Securities and Investments Commission (ASIC) if the company is registered under the Australian Corporations Act 2001.

10* What is the postal address for service of notices and correspondence?

The address you provide here will be used by the Australian Taxation Office to contact the company by mail. This may include important legal notices.

Make sure that the address you nominate is the most appropriate address for receiving this type of mail. The country field is only required for non-Australian addresses.

11 What is the street address of the company?

Do not show post office box number.

This is the company's physical street address where the main activity takes place. It may be different from the postal address. This address cannot be a post office box number.

If there is no physical place of business, print the address of the place where business records are kept.

The country field is only required for non-Australian addresses.

12 Email address

Provide the company's email address if it has one. Use BLOCK LETTERS and include full stops when providing your email address.

13* Who is the authorised contact person for the company?

Provide the name and details of the person duly authorised by the company to deal with the Australian Taxation Office on matters that may arise from the Australian imputation system. This may be the applicant, a public officer or another person authorised to make

alterations or updates on behalf of the company. Under Australian income tax law, every company carrying on business in Australia, or deriving income from property in Australia, shall at all times be represented by a public officer duly appointed by the company or by its duly authorised agent or attorney.

Please show the family name, preferred name, position held, mobile, phone and fax numbers (including STD and ISD codes) and email address of the authorised person.

14	**If you have an Australian tax agent, please provide the tax agent number.**

If an Australian tax agent is a person that the company has duly authorised, provide the Australian tax agent number.

15*	**What is the company's main business activity?**

Print the main industry in which the company operates.

16*	**In which income year will the New Zealand company be entering the Australian imputation system?**

Important information:

- A New Zealand resident company choosing to enter the Australian imputation system has an income year from 1 July to 30 June, unless the Australian Commissioner of Taxation has approved some other substituted accounting period.
- Normally, the company's New Zealand franking choice is in force from the first day of the income year in which the election form is lodged. However, the company can nominate that their New Zealand franking choice comes into force in a later income year by providing that year as the answer to this question.

The income year is the Australian income year in which the election is lodged. For example, if the Australian income year is from 1 July 2011 to 30 June 2012, the income year is 2012. This is the year you would enter as your answer to this question.

Date from which the New Zealand franking choice commences

The company's New Zealand franking choice will be in force from the first date of the income year in which the election is lodged.

Date from which franking credits can be credited to the company's franking account

Franking credits can be credited to the company's franking account from the first date of the income year in which the election is lodged.

Distribution of credits

Franked distributions cannot be made until one month after the election form is lodged.

The following examples are provided.

Example: For companies with an Australian income year of 1 July to 30 June

If, for example, the election form is lodged on 5 April 2012, the company is entering the Australian imputation system in the 1 July 2011 to 30 June 2012 income year.

- You would enter 2012 as your answer to this question.
- The company's New Zealand franking choice would be in force from 1 July 2011.
- Franking credits could be claimed from 1 July 2011.
- Note: Franking distributions cannot be made until one month after the election form is lodged.

Example: For companies with an Australian substituted accounting period

If, for example, the company has an Australian income year of 1 April to 31 March, and the election form is lodged on 5 April 2012, the company is entering the Australian imputation system in the 1 April 2012 to 31 March 2013 income year.

- You would enter 2013 as your answer to this question.
- The company's New Zealand franking choice would be in force from 1 April 2012.
- Franking credits could be claimed from 1 April 2012.
- Note: Franking distributions cannot be made until one month after the election form is lodged.

If you have previously made a franking choice that has been cancelled by the Commissioner, any subsequent franking choice you make will not come into force unless the Commissioner gives you consent in writing. If the Commissioner gives that consent, he may specify when the choice is to come into force.

17* What is the date of the first day of the income year nominated in Q16 above?

Print the date of the first day of the income year for which the New Zealand company is making the New Zealand franking choice. For example, if the New Zealand company is making a franking choice in respect of the 2012 income year and the New Zealand company has an Australian income year of 1 July to 30 June, the first day of that income year is 1 July 2011. A New Zealand company can choose that the franking choice start from the beginning of a later income year if they wish.

18* Does the company have an existing obligation to lodge an Australian income tax return or an existing pay as you go (PAYG) withholding or instalment obligation?

Place an X at the Yes box if the company has an existing obligation to lodge an Australian income tax return or an existing PAYG withholding or instalment obligation.

Place an X at the No box if the company does not have any existing obligations to lodge an Australian income tax return or an existing PAYG withholding or instalment obligation.

Privacy statement

The ATO is authorised by the *Income Tax Assessment Act 1997* to ask for information on this form. We need this information to help us to administer laws relating to taxation.

We may give this information to other Australian government agencies authorised by law to receive it. Some information on this form may also be provided to other countries when exchange of information is authorised by law.

Print the name and designation/title of the authorised person who is completing this form. The law requires that an authorised person sign this form.

Where an agent lodges this form, the company must prepare and give to the agent, a signed declaration stating that:

- the company authorises the agent to give this form to the Australian Commissioner of Taxation
- the information provided to the agent for preparation of the form is true and correct.

The company must retain such a declaration or a copy of it for a period of five years after it is made.

QC 17645

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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