



Thin capitalisation test choices – approved form

Complete this form to make a choice to use the group ratio test or the third party debt test for your entity.

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What this form is for

Use this approved form when making a choice to apply the group ratio test or third party debt test pursuant to Division 820 of the *Income Tax Assessment Act 1997* (ITAA 1997) for an income year. We refer to this choice as a thin capitalisation test choice.

Only make a choice on this approved form. A thin capitalisation test choice will apply only in relation to the nominated income year.

Who can use this form

Use this form to make a **thin capitalisation** test choice if all of the following apply:

- You want to make a thin capitalisation test choice for an income year.
- You are a general class investor, outward investing financial entity (non-ADI) or inward investing financial entity (non-ADI) for the income year.
- You do not meet the requirements in section 820-37 of the ITAA 1997 (the 90% Australian asset threshold exemption) for the income year.

Outward investing financial entities (non-ADI) and inward investing financial entities (non-ADI) can only make a thin capitalisation test choice to apply the third party debt test.

Consequences of making a choice

Matters to consider when you make a thin capitalisation test choice:

Deemed choices

Choosing to apply the third party debt test for an income year may have consequences for other entities. For example, certain entities may be deemed to have made a choice to apply the third party debt test for that income year.

For more information, see [Deemed choice to use third party debt test](#).

Fixed ratio test disallowed amounts

If you are a general class investor and have carried forward fixed ratio test (FRT) disallowed amounts from applying the FRT in prior income years, a choice to apply the group ratio test or the third party debt test in a subsequent income year will reset those carried forward FRT disallowed amounts to zero. Consequently, you will not be able to claim a special deduction for such FRT disallowed amounts if you revert to using the FRT in a future income year.

Debt deduction creation rules

The debt deduction creation rules (DDCR) in Subdivision-EAA of the ITAA 1997 do not apply for an income year if you have made a choice

to use the third party debt test.

A choice to use the group ratio test has no effect on the operation of the DDCR.

Due date

A thin capitalisation test choice in relation to an income year must be made in the approved form by the following dates:

- on or before the earlier of the day your entity
 - lodges its tax return for the income year
 - is required to lodge its tax return for the income year
- a later day allowed by the Commissioner.

Making a choice for the 2024 income year

The due date for making a thin capitalisation test choice to use the third party debt test for the 2024 income year will commonly have occurred prior to finalisation of:

- Draft Taxation Ruling TR 2024/D3 Income tax: aspects of the third party debt test in Subdivision 820-EAB of the Income Tax Assessment Act 1997 (TR 2024/D3)
- Schedules 3 and 4 of Draft Practical Compliance Guideline PCG 2024/D3 Restructures and the thin capitalisation and debt deduction creation rules - ATO compliance approach (PCG 2024/D3).

Revocation requests for 2024 due to changes in finalised ATO views

You may wish to apply to revoke your choice due to changes in finalising draft TR 2024/D3 and Schedules 3 and 4 of draft PCG 2024/D3. It will generally be fair and reasonable for the Commissioner to grant a revocation request in the following circumstances:

- You rely on the preliminary views or guidance in draft TR 2024/D3 or draft PCG 2024/D3 in good faith when making a thin capitalisation test choice to use the third party debt test for the 2024 income year.

- Our view or guidance in the final public advice and guidance differs to our preliminary view.
- The changes from our preliminary to our final views or guidance produce an adverse outcome under the third party debt test for your 2024 income year. For example, you have made a choice to apply the third party debt test in accordance with the ATO view expressed in draft TR 2023/D3. However, following finalisation of this public advice and guidance, to remain in accordance with the ATO view you no longer wish to claim debt deductions (or reduced debt deductions) under the third party debt test.
- You submit the revocation request detailing the relevant change in preliminary to final view or guidance contained in the draft TR 2024/D3 and Schedules 3 and 4 of draft PCG 2024/D3 applicable to your circumstances. You do this within 6 months after the publication date of the final ruling.

Extension of time requests for 2024 due to changes in finalised ATO views

You may wish to apply for additional time to make a choice to use the third party debt test for the 2024 income year. It will generally be appropriate for the Commissioner to grant an extension in the following circumstances:

- You rely on the preliminary views or guidance in draft TR 2024/D3 and Schedules 3 and 4 of draft PCG 2024/D3 and decide not to make a thin capitalisation test choice to use the third party debt test based on that draft public advice.
- Our view or guidance in the final public advice and guidance differs to our preliminary view.
- The changes from our preliminary to our final view or guidance results in an increase in your third party earnings limit for your 2024 income year.
- You submit the request detailing the relevant change in preliminary to final view or guidance contained in the draft TR 2024/D3 and Schedules 3 and 4 of draft PCG 2024/D3 applicable to your circumstances. You do this within 6 months after the publication date of the final ruling.

We'll soon update our website to include:

- an approved form for revocations
- guidance on how to submit these requests.

Get this form

Download a copy of the [Thin capitalisation test choice form \(NAT 75623, PDF 233KB\)](#) [↗](#).

After you have completed this form

Print the completed form or keep an electronic copy for your records. You keep it as a record of having made a valid choice. Don't send the form to us unless we ask for it.

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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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