



Guide to reportable tax positions 2017

Guide to the 2017 Reportable tax position schedule and early disclosure form.

Last updated 11 February 2019

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[What's new](#)

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The *Reportable tax position (RTP) schedule* is a schedule to the company income tax return. It requires large businesses to disclose their most contestable and material tax positions.

You are required to complete the RTP schedule if we have notified you in writing (including email) that you have to complete it.

We use schedule disclosures to:

- better understand tax risk for taxpayers, industries and the large market
- further refine our risk differentiation framework categories to enhance the risk-based choices we make to prioritise our work
- improve our dialogue with large businesses about their risk ratings and corporate governance
- help us focus our compliance activities
- gain justified trust on taxpayers' tax positions
- identify areas of uncertainty in the tax law that may need

- law clarification or legislative improvements
- further advice and guidance by us.

We review your disclosures and work with you to provide an indication of how we will respond to each disclosure.

RTP Category C is updated throughout the year. We recommend you use the electronic version of this document to ensure that you are reporting on the most up-to-date list of RTP Category C questions.

What's new

We have made substantial changes to RTP Category C this year. RTP [Category C](#) now covers a number of specific issues that are of a concern to us. You are required to answer the new Category C questions for your income years ending on or after 30 June 2017.

We have also made changes to the exemption from lodging the RTP schedule for taxpayers in an Annual Compliance Arrangement (ACA). Taxpayers with an ACA will need to agree to provide full and true disclosure and engage in ongoing dialogue of all material tax matters, including any positions that fall within any RTP category as part of their ACA for the exemption.

What's coming up

We are extending the obligation to lodge an RTP schedule to companies in economic groups with turnover greater than \$250 million. This change will apply for income years ending on or after 30 June 2018.

We will notify you in writing (including email) if you are required to complete the RTP schedule with your tax return due to this change.

Find out about:

- [Who should use this guide](#)
- [What is a reportable tax position](#)
- [Reportable tax position schedule instructions 2017](#)
- [Compliance – administrative and failure to lodge penalties](#)

- [Reportable tax position FAQs and examples](#)

Who should use this guide



What is a reportable tax position



**Reportable tax position schedule
instructions 2017**



**Compliance – administrative and failure
to lodge penalties**



**Reportable tax position FAQs and
examples**



Contact us



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Who should use this guide

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Early balancing taxpayers

Disclosing a reportable tax position (RTP)

You should use this guide if we have notified you in writing that you must lodge the [Reportable tax position schedule 2017 \(PDF 1.72MB, NAT 74066\)](#)  and you are either:

- a June or late balancing taxpayer completing your 2016–17 year income tax return
- an early balancing taxpayer completing your 2017–18 year income tax return.

You may also use this guide to complete the [Reportable tax position early disclosure form 2017 \(PDF 1.72MB, NAT 74067\)](#) .

We have contacted a small number of large market business taxpayers that we view as higher consequence to notify them that they must lodge the schedule for the 2016–17 income year.

Higher consequence taxpayers are those in our 'higher risk' or 'key taxpayer' categories. For more information about higher consequence taxpayers, refer to Risk differentiation framework.

For an explanation of terms used in this guide, see [definitions](#).

Early balancing taxpayers

If you are a lodging entity with a substituted accounting period balancing date before June 2017, you need to use Tax Time 2016 publications including:

- Guide to Reportable tax Positions 2016
- Reportable tax position schedule 2016 (NAT 74066)

Disclosing a reportable tax position (RTP)

All [RTPs](#) must be disclosed in the schedule.

You do not need to disclose an RTP in the schedule if:

- you have already applied to us for a private ruling that covers the RTP
- you have already disclosed the [position](#) to be taken in your *Company tax return 2017* on a *Reportable tax position early*

disclosure form 2017 (NAT 74067)

- the RTP is covered by an [advance pricing arrangement \(APA\)](#) or an application for an APA that has been accepted into our APA program.

Additionally, you do not have to disclose Category A and B RTPs that are not material.

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What is a reportable tax position

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Category A: Tax uncertainty in your income tax return

Category B: Tax uncertainty in financial statements

Category C: Reportable arrangements

A reportable tax position (RTP) is one or more of the following:

- [Category A](#): a position that is about as likely to be correct as incorrect, or less likely to be correct than incorrect
- [Category B](#): a position in respect of which uncertainty about taxes payable or recoverable is recognised and/or disclosed in the taxpayer's financial statements or a related party's financial statements
- [Category C](#): a reportable arrangement.

Category A: Tax uncertainty in your income tax return

A Category A RTP is a [position](#) where it would be concluded in the circumstances, having regard to relevant authorities, that what is

argued for is about as likely to be correct as incorrect, or is less likely to be correct than incorrect.

This does not include a position where you have exercised reasonable care and concluded in the circumstances, having regard to relevant authorities, that what is argued for is more likely to be correct than incorrect.

For the purposes of the schedule, the phrases 'about as likely to be correct as incorrect', 'more likely to be correct than incorrect', and 'relevant authorities' take their meaning from **MT2008/2 Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable**. A position that is about as likely to be correct as incorrect is a Category A RTP even though it is reasonably arguable.

You must have regard to all matters relevant to the position – this includes anti-avoidance rules, integrity provisions, transfer pricing and market valuations.

You must disclose a material position that does not have regard to relevant authorities, or if there are none, that is not based on a well-reasoned construction of the applicable statutory provision. You must disclose such a material position even if it is based on administrative or industry practice.

Category B: Tax uncertainty in financial statements

A Category B RTP is a [position](#) in respect of which uncertainty about taxes payable or recoverable is recognised and/or disclosed in the [your or a related party's financial statements](#).

Uncertainty about taxes payable or recoverable exists where there is a difference between your position and the measurement and/or recognition of the taxes payable or recoverable in respect of that position as adopted in your or a related party's financial statements. A Category B RTP is material if this difference is equal to or exceeds your [materiality amount](#). You only have to disclose a Category B RTP if it is material.

Taxes payable or recoverable exist where an income tax-related provision, current tax liability (asset) and/or contingent liability (asset) is recognised and/or disclosed in accordance with [accounting principles](#) in your or a related party's financial statements.

Where an income tax-related provision, current tax liability (asset) and/or contingent liability (asset) was recognised and/or disclosed in your or a related party's financial statements in a prior income year, taxes payable or recoverable will exist where the recognition or disclosure of that item has increased in your or a related party's financial statements in the 2016–17 income year.

The concepts of 'recognition', 'measurement' and 'disclosure' are to be given meanings in accordance with [accounting principles](#).

Category C: Reportable arrangements

You must disclose a Category C RTP if you answer **yes** to any of the questions covered by Category C. Note, there are no materiality thresholds for Category C RTPs.

Unless otherwise specified, the questions refer to the arrangements and/or transactions taking place in the income year covered by the tax return that your RTP schedule accompanies.

RTP Category C is updated throughout the year. We recommend you use the electronic version of this document to ensure that you are reporting on the most up to date list of RTP Category C questions.

The list of Category C questions can be found at [RTP Category C questions](#). You do not have a Category C RTP reporting obligation for income years that ended on or before 29 June 2017.

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Reportable tax position schedule instructions 2017



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What you must do

Section A: Details of the entity lodging the reportable tax position schedule or early disclosure form

These instructions help you complete the:

- [Reportable tax position schedule 2017 \(PDF 1.72MB, NAT 74066\)](#) 
- [Reportable tax position early disclosure form 2017 \(PDF 1.72MB, NAT 74067\)](#) 

The *Reportable tax position schedule 2017* and *Reportable tax position early disclosure form 2017* may be completed online if you enable JavaScript. Once you have enabled JavaScript, changes can be saved to your computer. When you have completed the schedule you must print it and send it to us. You cannot submit it online.

Do not use correction fluid or tape to make corrections on your completed schedule. If you make a mistake on the schedule, make your corrections electronically and print a new copy.

What you must do

If we have notified you in writing that you must lodge a reportable tax position schedule, you must:

- answer **Yes** at item **23** of the *Company tax return 2017* (NAT 0656)
- complete the *Reportable tax position schedule 2017* (NAT 74066) – the schedule.

You also have the option to complete the *Reportable tax position early disclosure form 2017* (NAT 74066) early disclosure form. Disclosing a position via this form allows you to disclose a position when information about this position is fresh in your mind.

Find out about:

- [Section A: Details of the entity lodging the reportable tax position schedule or early disclosure form](#)
- [Section B: Declaration and signature](#)
- [Section C: Category A and B reportable tax positions](#)
- [Section D: Category C reportable tax positions](#)
- [Other information](#)

- [Definitions](#)

Section A: Details of the entity lodging the reportable tax position schedule or early disclosure form

Type:

- the name of your entity
- your tax file number (TFN)
- your Australian business number (ABN), if any.

Section B: Declaration and signature



Section C: Category A and B reportable tax positions



Section D: Category C reportable tax positions



Other information



Definitions



Section B: Declaration and signature

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Total number of pages being lodged

Declaration

Signing this schedule

How to lodge the schedule or early disclosure form

Total number of pages being lodged

In **Total number of pages being lodged**, type the total number of pages you are lodging plus any attachments you may include with the schedule.

Declaration

Include in the declaration:

- the name, and daytime telephone number of the public officer
- the public officer's signature
- the date.

Select the date by using the drop-down box next to **Date**.

Signing this schedule

When the schedule is complete and printed, the public officer of the company must sign the schedule. Signing the schedule means that a declaration has been made that the information contained in the schedule and in any attached documents is true and correct.

Penalties may apply for false or misleading statements.

How to lodge the schedule or early disclosure form

To lodge the schedule or early disclosure form you can either:

- scan and email the completed schedule and any attachments to ReportableTaxPosition@ato.gov.au
- print and send your completed schedule and any attachments to

Australian Taxation Office
GPO Box 9845
[insert the name and postcode of your capital city]

For example;

Australian Taxation Office
GPO Box 9845
SYDNEY NSW 2001

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Section C: Category A and B reportable tax positions

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Did you have any Category A or B reportable tax positions (RTPs) for the 2016–17 income year?

How many Category A and B reportable tax positions (RTPs) are you reporting?

RTP number

Have you discussed this position with the ATO?

RTP category

Concise description

Basis for position

Did you have any Category A or B reportable tax positions (RTPs) for the 2016–17 income year?

If you do not have any Category A and B RTPs that you must disclose on the schedule (for example, you have used the early disclosure form), select **No** from the drop-down box.

If you have one or more RTPs that you are disclosing on the schedule, select **Yes** from the drop-down box and **How many reportable tax positions (RTPs) are you reporting?** will appear.

How many Category A and B reportable tax positions (RTPs) are you reporting?

Type the total number of RTPs you are reporting in **How many Category A and B reportable tax positions (RTPs) are you reporting?**

The correct number of RTPs will appear based on the number you type. You can input up to 100 RTPs in the schedule.

To make a complete disclosure, complete all of section C of the schedule for each RTP reported.

When completing the schedule, **Concise description** and **Basis for position** will expand when you click on or move onto another field. You will then be able to view all the text within a field

RTP number

Each Category A and B RTP reported must have a unique number so it can be easily referenced.

In **RTP number**, type the relevant income year for the RTP, followed by a dash and a number for the RTP with no spaces between the dash and numbers on either side.

A number for the RTP should be a sequential number that identifies your RTPs in the order you report them to us. For example, you number

the first RTP '2017-1', and each subsequent RTP should be numbered sequentially, for example '2017-2', '2017-3', and so on.

Have you discussed this position with the ATO?

If you have discussed the RTP with the ATO, select **Yes** from the drop-down box in **have you discussed this position with the ATO**.

If you had not, select **No** from the drop-down box.

RTP category

Provide the category of RTP you are reporting by selecting box **A** (for Category A) or **B** (for Category B) in **RTP category**. If the RTP you are reporting relates to more than one category, select box **A**.

Concise description

Type a concise description of each Category A or B RTP in **Concise description**. You must outline the relevant facts that explain the RTP, including the circumstances, arrangements or transactions relevant to the position. Your explanation must include sufficient detail so that a reasonable person can identify the facts that are important to the position.

This schedule will allow you to type up to 3,000 characters (approximately 500 words) in this field. You can attach additional information.

For examples of how to complete the concise description, see [examples](#).

Basis for position

Outline the position taken in your 2016-17 income tax return, including relevant authorities and any industry or administrative practices.

You do not need to disclose in the schedule:

- that you are in receipt of any advice or opinion about the material RTP

- the content of any advice or opinion.

This schedule will allow you to type up to 3,000 characters (approximately 500 words) in this field. You can attach additional information.

For examples of how to complete the basis for position, see [examples](#).

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Section D: Category C reportable tax positions

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Did you have any Category C reportable tax positions (RTPs) for the 2016–17 income year?

How many Category C reportable tax positions (RTPs) are you reporting?

RTP Category C questions

RTP Category C subcategory

Have you discussed this position with the ATO?

Optional comments

RTP Category C questions

This section provides an explanation of the fields in section D and must be read in conjunction with the [instructions](#) for answering individual [Category C questions](#).

Did you have any Category C reportable tax positions (RTPs) for the 2016–17 income year?

If you do not have any Category C RTPs that you must disclose on the schedule (for example, you have used the early disclosure form), select **No** from the drop-down box. You may then print and sign the schedule.

If you have one or more Category C RTPs that you are disclosing on the schedule, select **Yes** from the drop-down box and **How many reportable tax positions (RTPs) are you reporting?** will appear.

How many Category C reportable tax positions (RTPs) are you reporting?

Type the total number of Category C RTPs you are reporting in **How many Category C reportable tax positions (RTPs) are you reporting?**


The correct number of RTPs will appear based on the number you type. You can disclose up to 100 Category C RTPs in the schedule.

You will need to follow the instructions for answering individual [Category C questions](#) to ensure you make a complete disclosure.

RTP Category C is updated throughout the year. We recommend you use the electronic version of this document to ensure that you are reporting on the most up to date list of RTP Category C questions.

RTP Category C questions

Enter the number of Category C RTPs that you are disclosing in this field.

We consult on the wording of Category C questions two times per year. Feedback on the wording of the current Category C questions can be emailed to ReportableTaxPosition@ato.gov.au 

RTP Category C subcategory

Where a question requires you to enter a subcategory, enter the relevant subcategory in this field.

Have you discussed this position with the ATO?

If you have discussed the RTP with the ATO, select **Yes** from the drop-down box in **have you discussed this position with the ATO**.

If you had not, select **No** from the drop-down box.

Optional comments

You can disclose additional information relating to the individual Category C position in the **Optional comments** field. There is no requirement to complete this field.

This schedule will allow you to type up to 3,000 characters (approximately 500 words) in this field. You also can attach additional information.

RTP Category C questions

You need to consider each Category C question and disclose each Category C RTP in the way specified in this table.

You have to answer yes to an RTP Category C question if your arrangement is covered by the question, even if:

- you do not consider a tax benefit arose from the arrangement
- you do not consider that the arrangement is contrived or artificial
- there is an observable third party market or long standing practice for this arrangement
- your arrangement is different to the examples provided in the relevant taxpayer alert.

RTP category C questions and information

Category C RTP	Question on the RTP schedule	Do you have to answer this question?	How to disclose t RTP
1	Did you claim a deduction under section 25-90 of the <i>Income Tax Assessment Act 1997</i> (ITAA 1997)	You have to answer this question if your tax year ended on or after	Record 1 in RTP Category C question fi on section

	<p>that was incurred in earning income that is non-assessable and non-exempt under both section 23AH of the <i>Income Tax Assessment Act</i> (ITAA 1936) and section 768-5 of the ITAA 1997?</p> <p>Refer to Taxation Determination TD 2016/6 for further guidance.</p>	30 June 2017	<p>of the RTP form.</p> <p>Leave subcategory field blank.</p>
2	<p>Did you fund a special dividend or a share buy-back through an equity raising event at a similar time, where the arrangement is a type of arrangement or variation of an arrangement described in Taxpayer Alert TA 2015/2?</p>	You have to answer this question if your tax year ended on or after 30 June 2017	<p>Record 2 in RTP Category C question field on section of the RTP form.</p> <p>Leave subcategory field blank.</p>
3	<p>Have you entered into any arrangement(s) or variation of an arrangement described in Taxpayer Alert TA 2015/5 involving the use of offshore entities which source goods (procurement hubs)?</p>	You have to answer this question if your tax year ended on or after 30 June 2017	<p>Record 3 in RTP Category C question field on section of the RTP form.</p> <p>Leave subcategory field blank.</p>

4	<p>Did you recognise (in the current or last four years) any internally generated intangible assets or revalue an intangible asset(s) for the purposes of your thin capitalisation calculations using an arrangement or variation of an arrangement described in Taxpayer Alert TA 2016/1?</p>	<p>You have to answer this question if your tax year ended on or after 30 June 2017</p>	<p>Record 4 in RTP Category C question field on section of the RTP form.</p> <p>Leave subcategory field blank.</p>
5	<p>If you are a significant global entity as defined by section 960-555 of the ITAA 1997, have you entered into a restructure affecting any entities making supplies into Australia after 11 December 2015?</p> <p>Refer to Law Companion Guideline LCG 2015/2 for further guidance.</p>	<p>You have to answer this question if your tax year ended on or after 30 June 2017</p>	<p>Record 5 in RTP Category C question field on section of the RTP form.</p> <p>Leave subcategory field blank.</p>
6	<p>Have you entered into a transaction(s) involving related party foreign currency denominated finance with related party cross currency</p>	<p>You have to answer this question if your tax year ended on or after 30 June 2017</p>	<p>Record 6 in RTP Category C question field on section of the RTP form.</p> <p>Leave subcategory</p>

	interest rate swaps using an arrangement or variation of an arrangement described in Taxpayer Alert TA 2016/3?		field blank.
7	Have you entered into any arrangement(s) or variation of an arrangement described in Taxpayer Alert TA 2016/4 involving cross-border leasing of mobile assets where related legal entities are interposed between the foreign owner and Australian operator?	You have to answer this question if your tax year ended on or after 30 June 2017	Record 7 in RTP Category C question field on section of the RTP form. Leave subcategory field blank.
8	If you are an Australian income tax consolidated group, do you have an offshore permanent establishment which has allocated expenses associated with an intra-Australian group transaction where the circumstances of the arrangement are similar to the circumstances in Taxpayer Alert TA 2016/7?	You have to answer this question if your tax year ended on or after 30 June 2017	Record 8 in RTP Category C question field on section of the RTP form. Leave subcategory field blank.

<p>9</p>	<p>If you have related party dealings involving a marketing hub arrangement(s), disclose the outcome you have self-assessed in accordance with Practical Compliance Guidelines PCG 2017/1:</p> <ul style="list-style-type: none"> • Subcategory 1: white zone • Subcategory 2: green zone • Subcategory 3: blue zone • Subcategory 4: yellow zone • Subcategory 5: amber zone • Subcategory 6: red zone or have not applied PCG 2017/1 	<p>You have to answer this question if your tax year ended on or after 31 December 2017</p>	<p>Record 9 in RTP Category C question field on section of the RTP form.</p> <p>Record the subcategory number of your RTP in the subcategory box.</p> <p>You will need to repeat this process for each of your marketing hub arrangements. Each arrangement will require separate RTP Category C question 9 disclosure.</p>
<p>10</p>	<p>Have you excluded from your thin capitalisation calculations of debt capital (in the current or last four years) any value of a 'debt interest' that has been treated wholly or partly as equity under accounting</p>	<p>You have to answer this question if your tax year ended on or after 30 June 2017</p>	<p>Record 10 in RTP Category C question field on section of the RTP form.</p> <p>Leave subcategory field blank.</p>

	standards using an arrangement or variation of an arrangement described in Taxpayer Alert TA 2016/9?		
11	Are you currently involved in a cross-border round robin financing arrangement or variation of an arrangement described in Taxpayer Alert TA 2016/10?	You have to answer this question if your tax year ended on or after 30 June 2017	Record 11 in RTP Category C question field on section of the RTP form. Leave subcategory field blank.
12	Did you enter into or continue to participate in an arrangement involving a corporate tax entity and a flow-through trust with common (or substantially common) ultimate owners, where the corporate tax entity makes payment(s) to the flow-through trust entity where the arrangement is a type of arrangement or variation of an arrangement described in Taxpayer Alert TA 2017/1?	You have to answer this question if your tax year ended on or after 30 June 2017	Record 12 in RTP Category C question field on section of the RTP form. Leave subcategory field blank.
13	Have you entered into transactions	You have to answer this	Record 13 in RTP

	involving activities registered under the R&D tax incentive using an arrangement or variation of an arrangement described in Taxpayer Alert TA 2017/3?	question if your tax year ended on or after 30 June 2017	Category C question field on section of the RTP form. Leave subcategory field blank.
14	<p>If you have financial arrangement(s) involving cross border related party debt funding, disclose the outcome you have self-assessed in accordance with Schedule 1 of the Practical Compliance Guideline PCG 2017/D4.</p> <ul style="list-style-type: none"> • Subcategory 1: white zone • Subcategory 2: green zone • Subcategory 3: blue zone • Subcategory 4: yellow zone • Subcategory 5: amber zone • Subcategory 6: red zone or if you have not applied PCG 2017/D4 	You have to answer this question if your tax year ended on or after 1 July 2017	<p>Record 14 in RTP Category C question field on section of the RTP form.</p> <p>Record the subcategory number of your RTP in the subcategory box.</p>

15	<p>If you claimed deductions for exploration expenditure, disclose whether your governance and/or claims have been reviewed under one of the following subcategories:</p> <p>Subcategory 1: a registered company auditor, or the ATO has performed the agreed upon procedure within the past year, and there has been no material change to your policies and procedures, or application of these.</p> <p>Subcategory 2: the ATO has conducted a review of your exploration claims in the past year and provided a low risk rating, and there has been no material change to your policies and procedures, or application of these.</p> <p>Subcategory 3: None of the above apply.</p> <p>Refer to Agreed Upon Procedures: Applying the Practical</p>	<p>You have to answer this question if your tax year ended on or after 30 June 2017</p>	<p>Record 15 in RTP Category C question field on section of the RTP form.</p> <p>Record the subcategory number of your RTP in the subcategory box.</p> <p>Do not record subcategory until the Agreed Upon Procedures: Applying the Practical Compliance Guideline 2016/17 – exploration expenditure deductions published on our website</p>
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	Compliance Guideline PCG 2016/17 ATO <i>compliance approach – exploration expenditure deductions</i>		
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Other information

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Attaching additional information

Changing your form

Reasonable care

Company tax return



Attaching additional information

You can provide additional information by attaching it to this schedule. If you include additional information, you must:

- include identifying information on each attached page – your TFN
- write the number of attached pages at **Total number of pages** in the declaration statement in section B on the schedule.

Changing your form

If you want to change any of the information reported on the schedule or the early disclosure form after you have lodged it, you will need to lodge another:

- [Reportable tax position schedule 2017 \(PDF 1.72MB, NAT 74066\)](#) , and
- [Reportable tax position early disclosure form 2017 \(PDF 1.72MB, NAT 74067\)](#) .

If the change relates to a Category A or B RTP, you should provide the changes in section C of the early disclosure form. In Concise description, you should refer to the RTP number used on the earlier early disclosure form (for example, E2016-x number) and detail the changes.

Reasonable care

Take the time to complete the schedule correctly and with reasonable care. This means you must take the same care that would be expected of a reasonable person in your position.

Penalties may apply for false or misleading statements.

See also:

- MT 2008/1 Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard.

Company tax return

If we have notified you in writing that you must lodge a reportable tax position schedule, you must answer **Yes** at item **23** of the *Company tax return 2017* (NAT 0656).


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Definitions

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Accounting principles



Advance pricing arrangement (APA)

Materiality amount

Position

Potential adjustment

Related party

Reportable tax position or RTP categories

Substantially common ownership

Taxpayer's or a related party's financial statements

All legislative references are to the Income Tax Assessment Act 1997 (as amended) unless otherwise stated.

Accounting principles

Accounting principles has the meaning given by subsection 995-1(1).

Advance pricing arrangement (APA)

An APA is an arrangement that allows taxpayers the opportunity to reach agreement with us on the method of application of the arm's-length principle to their international related-party dealings on a prospective basis over a fixed period of time.

An RTP is covered by an APA or an application for an APA if the RTP is a transfer pricing matter arising from related party transactions specifically covered by the APA or formal APA application that has been accepted in the APA program.

For more information about an APA, or an application for an APA that has been accepted into the program, refer to 'How to apply for an APA' in PS LA 2015/4 ATO's advance pricing arrangement program.

Materiality amount

Your materiality amount is 5% of your Australian current tax expense, except where:

- 5% of your Australian current tax expense exceeds A\$30 million – the materiality amount is then A\$30 million

- 5% of your Australian current tax expense is less than A\$3 million – the materiality amount is then A\$3 million
- you have no Australian current tax expense – the materiality amount is then A\$3 million.

You must calculate your Australian current tax expense in accordance with [accounting principles](#).

If you do not calculate your Australian current tax expense, use A\$3 million as your materiality amount.

Where you prepare [financial statements](#) in respect of the 2016–17 income year, Australian current tax expense is current tax expense calculated in accordance with accounting principles. Where you are the head company of a tax consolidated or a multiple entry consolidated (MEC) group and prepare financial statements in respect of the 2016–17 income year, Australian current tax expense is the aggregate of the current tax expense of all members of the tax consolidated or MEC group calculated in accordance with accounting principles.

If the calculation of your Australian current tax expense requires significant additional effort or you consider that the materiality amount for RTP purposes is not appropriate to your circumstances, then you can substitute A\$3 million as your materiality amount.

Position

Position means your basis for lodgment in your 2016–17 income tax return in respect of particular circumstances, arrangements or transactions.

Your basis for lodgment of your income tax return is the effect for taxation purposes given to the particular circumstances, arrangements or transactions as reflected in the statements made in your income tax return.

This includes positions:

- due to interpretative matters (for example, legislative construction) and findings of fact (for example, market valuations)
- where the effect for tax purposes is an omission from your income tax return.

A single position exists when **all** of the following apply:

- the facts associated with a number of circumstances, arrangements or transactions are relatively the same or similar for the purposes of the position, or are related to each other in a way that makes it necessary to take them into account together to determine their treatment for tax purposes, and
- a common conclusion is reached on the tax treatment of those circumstances, arrangements or transactions (that is, there is a common basis for lodgment).

Potential adjustment

Potential adjustment means the **sum of the following amounts** in the 2016–17 income year, where these are applicable, should the RTP not be sustained:

- your tax rate multiplied by an amount or part of an amount that would be included in your assessable income
- your tax rate multiplied by a deduction or a part of a deduction that would not be allowable to you
- your tax rate multiplied by a capital loss or a part of that capital loss that would not be incurred by you
- a foreign income tax offset that would not be allowable to you
- a tax offset that would not be allowable to you.

Your tax rate is the applicable tax rate specified in *the Income Tax Rates Act 1986*.

Related party

Related party has the meaning given by section 228 of the *Corporations Act 2001*.

If you are a proprietary company, apply the meaning given by section 228 as if you were a public company.

Reportable tax position or RTP categories

A reportable tax position (RTP) is one or more of the following:

- [Category A](#): a position that is about as likely to be correct as incorrect, or less likely to be correct than incorrect
- [Category B](#): a position in respect of which uncertainty about taxes payable or recoverable is recognised and/or disclosed in the taxpayer's financial statements or a related party's financial statements
- [Category C](#): a reportable arrangement.

Substantially common ownership

The ownership of two or more entities is substantially common where at least 50% of the securities in each entity are held by the same ultimate owners.

Taxpayer's or a related party's financial statements

The taxpayer's financial statements are the documents that constitute the financial statements or consolidated financial statements prepared by the taxpayer in accordance with [accounting principles](#). They include the financial reports prepared by the taxpayer pursuant to Chapter 2M of the *Corporations Act 2001*.

Where there are multiple sets of financial statements that may be relevant for a taxpayer, the financial statements that apply are those that recognise or disclose the [uncertainty about taxes payable or recoverable](#) or the [reportable transactions or events](#) for the relevant entity to which the position relates.

Where the taxpayer is a foreign resident operating through a permanent establishment in Australia, financial statements are the statements (however described) that cover the activities of the Australian operations. Where the taxpayer is a foreign bank with an Australian permanent establishment, financial statements include the reports prepared for submission to the Australian Prudential Regulation Authority (APRA) that cover the activities of the Australian operations.

Where the taxpayer does not prepare financial statements, or where the uncertainty about taxes payable or recoverable or the reportable transactions or events in respect of a position is recognised and/or

disclosed in the financial statements of a related party (rather than the taxpayer), then the related party's financial statements must be used.

For the purposes of this definition, determine if an entity is related to another entity in accordance with [accounting principles](#).

QC 50949

Compliance – administrative and failure to lodge penalties

Last updated 11 February 2019

On this page

Administrative penalties – failure to lodge

Administrative penalties – false or misleading statements (including omissions)

The *Reportable Tax Position schedule* (RTP schedule) is part of the company tax return. As such it is required to be lodged by the due date for lodgment of your company tax return.

Administrative penalties will apply if either:

1. you make a statement that is false or misleading including omissions
2. you fail to lodge on time.

Entities that are significant global entities (SGE) will be subject to increased administrative and failure to lodge penalties from 1 July 2017.

Administrative penalties – failure to lodge

The community's expectation is for penalties to be administered fairly where those who have failed to lodge approved forms are penalised

and those who are trying to do the right thing are given reasonable opportunity to comply.

The RTP schedule is an approved form being part of the income tax return. Subsection 286-75(1) of the *Taxation Administration Act 1953* can be applied where an entity has failed to lodge.

The following table sets out failure to lodge penalties for large entities and SGE:

Days late	28 days or less	29 to 56 days	57 to 84 days	85 to 112 days
Large entity failure to lodge penalties	\$1,050	\$2,100	\$3,150	\$4,200
SGE failure to lodge penalties	\$105,000	\$210,000	\$315,000	\$420,000

You will be given a reminder about your late lodgment before penalties are imposed. Penalties will not be imposed unless you receive a reminder on a previous occasion.

If you are experiencing unexpected difficulties with lodgment you can:

1. Request an extension of time to lodge prior to the due date for the lodgment.
2. Make requests for the remission of the penalty.

See also:

- Refer to PS LA 2011/19 Administration of the penalty for failure to lodge for further information

Administrative penalties – false or misleading statements (including

omissions)

As statements in the RTP schedule do not give rise to a shortfall amount, penalties for a false and misleading statement is calculated under Items 3A, 3B or 3C of subsection 284-90(1) of the *Taxation Administration Act 1953*.

The following table sets out the penalty amounts for false or misleading statements including omissions:

Penalty units	Non – SGE	SGE
Intentional disregard	60 penalty units (\$10,800)	120 penalty units (\$25,200)
Recklessness	40 penalty units (\$7,200)	80 penalty units (\$16,800)
No reasonable care	20 penalty units (\$3,600)	40 penalty units (\$8,400)

Non disclosure of a RTP position is also taken into account in determining whether any shortfall penalty should be increased under paragraph 284-220(1)(a) of the *Taxation Administration Act 1953*, where a false or misleading statement has been made in respect to that position and shortfall penalties apply.

See also:

- Refer to PS LA 2012/4 Administration of penalties for making false or misleading statements that do not result in shortfall amounts for further information
- Refer to PS LA 2012/5 Administration of penalties for making false or misleading statements that result in shortfall amounts for further information

Reportable tax position FAQs and examples

Last updated 14 October 2024

On this page

Frequently asked questions – making RTP disclosures

Examples – disclosing RTPs on the schedule or early disclosure form

Frequently asked questions – making RTP disclosures

Follow the links below for common questions relating to:

- [Position](#)
- [Materiality](#)
- [Category A RTPs](#)
- [Reporting your RTPs and alternatives to the RTP schedule](#)
- [RTP penalty and remission](#)

If you require further clarification, contact us at ReportableTaxPosition@ato.gov.au

Position

How must I disclose an RTP?

When disclosing RTPs, you must outline the:

- relevant facts that explain the RTP, including all circumstances, arrangements and transactions relevant to the position – your explanation must include sufficient detail so that a reasonable person can identify the facts that are important to the position
- position taken on your company income tax return, including relevant authorities and any industry or administrative practices.

You do not need to disclose on the RTP schedule or early disclosure form that you are in receipt of any advice or opinion about the material RTP or the content of any advice or opinion.

The RTP schedule and early disclosure form will allow you to input up to 500 words in the relevant fields; you can attach additional information.

When are similar circumstances, arrangements or transactions treated as a single position?

Similar circumstances, arrangements or transactions are treated as a single position when **all** of the following apply:

- the facts associated with a number of circumstances, arrangements or transactions are the same or similar for the purposes of the position, or are related to each other in a way that makes it necessary to take them into account together to determine their treatment for tax purposes
- a common conclusion is reached on the tax treatment of those circumstances, arrangements or transactions – that is, there is a common basis for lodgment.

When similar circumstances, arrangements or transactions are treated as a single position, how do I disclose them on the RTP schedule or early disclosure form?

Where you have treated similar circumstances, arrangements or transactions as a single position, you will only need to disclose them on the RTP schedule or early disclosure form once, under a single RTP number.

You should state in the **Concise description** field that you have treated similar circumstances, arrangements, or transactions as a single position.

Is the research and development tax offset claim treated as a single position?

Broadly, a research and development (R&D) tax offset claim can be made up of a number of R&D projects and a number of positions on a range of aspects of the R&D incentive. These positions impact on the final amount included on the income tax return – for example, whether the:

- entity is an eligible R&D entity
- expenditure included in the claim was incurred
- expenditure was at risk for R&D purposes
- feedstock provisions have any application.

An R&D tax offset claim reflected on the tax return may not be a single position, instead there may be a number of positions taken within the R&D tax offset claim. Each of these positions must be considered separately to work out whether you have any material RTPs that you must disclose on the RTP schedule or early disclosure form.

However, even if you have a number of projects which make up your R&D tax offset claim, this does not necessarily mean that each project is treated as a separate position.

How are R&D feedstock provisions treated?

An R&D entity may decide not to apply the R&D feedstock provisions to certain expenditure incurred in an R&D project. If this decision on the application of the feedstock provisions was also adopted across a range of different R&D projects of the entity, then a single position will exist when **all** of the following apply:

- the facts associated with the projects – that is, the circumstances, arrangements or transactions – are the same or similar for the purposes of the position, or are related to each other in a way that it makes it necessary to take them into account together to determine their treatment for tax purposes
- a common conclusion is reached on the tax treatment of those projects – that is, there is a common basis for lodgment.

Where the above factors are not satisfied, then these circumstances, arrangements or transactions are not treated as a single position.

Are arrangements subject to transfer pricing rules treated as a single position?

Circumstances, arrangements or transactions that are subject to transfer pricing rules are treated as a single position when **all** of the following apply:

- the facts associated with the circumstances, arrangements or transactions are the same or similar for the purposes of the

position, or are related to each other in a way that it makes it necessary to take them into account together to determine their treatment for tax purposes

- a common conclusion is reached on the tax treatment of those circumstances, arrangements or transactions – that is, there is a common basis for lodgment.

You cannot use Division 13 of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936) or Division 815 of the *Income Tax Assessment Act 1997* (ITAA 1997) as the sole common basis for lodgment. You must outline each of your basis for lodgment, having regard to all relevant authorities.

Do I have to disclose positions in relation to tax losses?

Prior-year losses deducted or applied

A position includes statements made in your company income tax return that you have deducted prior-year tax losses or applied prior-year unapplied net capital losses to reduce the net capital gain included in your assessable income.

Only material positions must be disclosed. For example, a Category A RTP will be material where the potential adjustment, should the position not be sustained, is equal to or exceeds your materiality amount.

You must also consider whether you have a material Category B RTP that must be disclosed.

Prior-year losses carried forward

A statement made in your company income tax return that you have carried forward prior-year tax losses or prior-year net capital losses to later income years should not give rise to a potential adjustment – in this instance, the position is not material and is not required to be disclosed.

Current year loss position

Material positions can arise when you are in a loss year. You can have a potential adjustment but no change to your income tax liability for that income year.

You must consider whether you have material positions that must be disclosed when you are in a loss year.

Do I have to disclose positions the ATO knows about?

You are required to disclose all material RTPs, even if you think we already know about the position. The only exclusions are where:

- you have already applied to us for a private ruling that covers the RTP
- you have already disclosed the position on an early disclosure form in accordance with our guidelines
- the RTP is covered by an APA or an application for an APA that has been accepted into our APA program.

When completing the 'Basis for position' field, is it sufficient to refer to a division or subdivision of an Act?

You are required to provide an outline of the position taken on your income tax return, including relevant authorities such as relevant legislative provisions that apply to the position in the **Basis for position** field (either on the RTP schedule or the early disclosure form).

You should outline all relevant authorities you had regard to when concluding the likelihood of the position. Do not refer to a division or subdivision of an Act – you must outline the specific legislative references within that division or subdivision.

Materiality

Can amounts relating to prior years be excluded for the purposes of calculating my materiality amount?

You calculate your materiality amount in the manner set out in the Guide to reportable tax positions for the income year you are lodging your reportable tax position schedule.

You calculate your Australian current tax expense in accordance with accounting principles for the income year that you are lodging your reportable tax position schedule.

Does my materiality amount apply to Category C disclosures

No. You have to disclose your participation in arrangements covered by Category C even if the tax affected by those arrangements falls below your materiality amount.

Category A RTPs

Do I have to disclose a material position that is reasonably arguable?

A matter is reasonably arguable if it satisfies the requirements of section 284-15 of Schedule 1 to the *Taxation Administration Act 1953* (as amended) (TAA). This is different to the definition of a Category A RTP.

A position that is reasonably arguable may still need to be disclosed on the RTP schedule as a Category A position. This is because Category A covers positions where, having exercised reasonable care and concluded in the circumstances, having regard to relevant authorities, that:

- What is argued for is more likely to be incorrect than correct (these positions are not reasonably arguable).
- What is argued for is about as likely to be correct as incorrect (these positions are reasonably arguable, but must still be disclosed as Category A RTPs).

RTP Category A does not cover positions where, having exercised reasonable care and concluded in the circumstances, having regard to relevant authorities, that what is argued for is more likely to be correct than incorrect. This type of position is also reasonably arguable.

You must also disclose a material position that does not have regard to relevant authorities or, if there are none, that is not based on a well-reasoned construction of the applicable statutory provision. You must disclose such a material position, even if it is based on administrative or industry practice.

Do relevant authorities include anticipated legislation?

To work out whether a material position is a Category A RTP, you must have regard to relevant authorities. For the purposes of the RTP schedule and early disclosure form, the phrase 'relevant authorities' takes its meaning from *MT 2008/2 Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable*.

As outlined in *MT 2008/2*, the following are relevant authorities:

- a taxation law

- material for the purposes of subsection 15AB(1) of the *Acts Interpretation Act 1901*
- a decision of a court (whether or not an Australian court), the Administrative Review Tribunal or a Taxation Board of Review
- a public ruling (defined in section 358–5 of Schedule 1 to the TAA).

Relevant authorities do not include announced but un-enacted law changes.

If you do rely upon anticipated legislation, you must determine whether the position you have taken is a material RTP that must be disclosed on the RTP schedule or early disclosure form.

Do I have to disclose a position that is not in accordance with a public ruling?

The reasonably arguable standard is an objective standard. All authorities relevant to the tax treatment of circumstances, arrangements or transactions, including the authorities contrary to the treatment, must be taken into consideration.

You must disclose a material position that is not in accordance with a public ruling where it would be concluded in the circumstances, having regard to relevant authorities, that what is argued for is about as likely to be correct as incorrect, or is less likely to be correct than incorrect.

Refer to *MT 2008/2 Shortfall penalties: administrative penalty for taking a position that is not reasonably arguable* for the meaning of:

- 'about as likely to be correct as incorrect'
- 'more likely to be correct than incorrect'
- 'relevant authorities'.

You must take reasonable care in forming your view. In determining whether you have exercised reasonable care, refer to *MT 2008/1 Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard*.

Do I have to disclose positions in relation to the exercise of a Commissioner's discretion, such as the application of anti-avoidance rules?

In concluding whether a position involving an assumption about the way in which the Commissioner of Taxation will exercise a discretion,

including the application of integrity and anti-avoidance provisions, you should have regard to:

- PS LA 2005/24 *Application of General Anti-Avoidance Rules*
- subsection 284-15(2) of Schedule 1 to the TAA
- the Revised Explanatory Memorandum to *A New Tax System (Tax Administration) Bill (No 2) 2000* at paragraph 1.29.

Where an assumption about the exercise of the Commissioner's discretion forms part of a material Category A RTP, you must disclose the relevant legislative provision that relates to that discretion or anti avoidance provision in the 'Basis for position' field for that position.

What do I do if the law is clear but the facts are uncertain?

A position means your basis for lodgment in your company income tax return in respect of particular circumstances, arrangements or transactions.

Your basis for lodgment of your income tax return is the effect for taxation purposes given to particular circumstances, arrangements or transactions reflected on your income tax return. This includes positions involving findings of fact, such as market valuations.

Disclosure of a position is required where a material position involving findings of fact is about as likely to be correct as incorrect, or is less likely to be correct than incorrect.

In determining whether a material position involving market values is about as likely to be correct as incorrect, or is less likely to be correct than incorrect, consider **Market valuation for tax purposes**, which provides guidance in determining such things as the appropriate valuation methodology, documentation and allocations among assets.

Do I have to disclose positions taken that I consider comply with a general administrative practice?

You must have regard to relevant authorities in concluding what is argued for is about as likely to be correct as incorrect, or is less likely to be correct than incorrect.

For the purposes of the RTP schedule and early disclosure form, relevant authorities do not include our general administrative practices or industry practices.

Disclosure is required if a material position falls within any RTP category, even where you conclude that the position conforms to our general administrative practice.

You are required to include any industry or administrative practices that you have relied on in the **Basis for position** field.

Reporting your RTPs and alternatives to the RTP schedule

When do I have to lodge the RTP schedule?

The RTP schedule must be lodged by the due date for lodgment of your company tax return.

Can I lodge more than one reportable tax position early disclosure form in relation to an income year?

You can lodge as many reportable tax position early disclosure forms as you require for an income year, as long as the forms are received by us at least 28 days before the date that you must lodge your RTP schedule.

If I withdraw my private ruling application that covers an RTP, do I have to disclose it again?

Where you have withdrawn your application for a private ruling, the application for the ruling no longer exists. If the position is material and falls within any of the three categories of RTP, you must disclose it in the RTP schedule or the early disclosure form.

Do I amend my early disclosure form if new information becomes available after it is lodged?

If you want to make additional disclosures, you can lodge another early disclosure form as long as the form is received by us at least 28 days before you are required to lodge the RTP schedule.

If new information arises and relates to an RTP you have previously disclosed on an early disclosure form, you can lodge another early disclosure form detailing changes to that RTP as long as the form is received by us at least 28 days before you are required to lodge the RTP schedule. In the 'Concise description' field, refer to the RTP number used on the earlier form (for example, E2017-x number) and detail the changes.

Where you do not lodge another early disclosure form detailing the changes, you must disclose the RTP on the RTP schedule. In the 'Concise description' field, you should refer to the RTP number used on the early disclosure form – for example, E2017-x number – and detail the changes.

Are there alternatives?

Taxpayers under an Annual Compliance Arrangement

Where you have entered into an Annual Compliance Arrangement (ACA) with us for the relevant income year, and as part of the ACA you agreed to provide full and true disclosure and ongoing dialogue of all material tax matters including any positions that fall within any RTP category in accordance with this RTP guide, you are not required to lodge on your RTP schedule.

Taxpayers under an Advance Pricing Arrangement.

You are not required to disclose on the RTP schedule any RTP that is covered by an Advance Pricing Arrangement (APA) with us or an application for an APA that has been accepted into the APA program. All other RTPs must be disclosed on your RTP schedule.

RTP penalty and remission

Can disclosures in the RTP schedule constitute a voluntary disclosure?

A statement made in the RTP schedule is not a voluntary disclosure for the purposes of section 284-225 of Schedule 1 to the TAA.

The RTP schedule is part of the income tax return and must be lodged if you are required to do so. Completing and lodging the RTP schedule, as per the schedule instructions, does not satisfy the 'voluntarily tell' requirements.

To make a voluntary disclosure you must voluntarily tell the Commissioner about a shortfall amount, a scheme shortfall amount or the false or misleading nature of a statement. That is, the disclosure must be about a statement that has already been made.

See also:

- **Miscellaneous Taxation Ruling MT 2012/3 Administrative penalties: voluntary disclosures**

Can remission of penalties apply where disclosures were made in the RTP schedule?

Remission is not given for simply filling in the RTP schedule in accordance with the schedule instructions.

A remission of the shortfall penalty for not having a reasonably arguable position or for making a false or misleading statement may be given in certain circumstances where the Commissioner can identify and calculate the shortfall amount based on the information provided in the RTP schedule.

Examples – disclosing RTPs on the schedule or early disclosure form

The following examples will help you complete your RTP Schedule and RTP early disclosure form.

Example 1: Category A RTP

AusCo is an Australian investment company. For many years, it has invested in the share market with an average turnover of about 10% of the value of the total share portfolio, maintaining a consistent yield on its capital invested in shareholdings in Australian companies. AusCo had no particular exit strategy and treated any sales as the realisation of investments and on capital account.

During the 2016–17 income year, in order to refinance after having liquidity problems, AusCo sold 30% of its shares. AusCo considered these shares to be 'growth' shares as opposed to 'value shares'. These shares were sold on the market at a loss.

AusCo concludes that the facts associated with the disposal of the shares are relatively the same or similar for the purposes of the position and that a common conclusion is reached on the tax treatment of those transactions – that is, there is a common basis for lodgment. So, AusCo treats the disposals of the sale shares as a single position.

AusCo decides to treat the losses from the sale of the shares as arising from an isolated transaction and on revenue account. If

this treatment is not sustained, the potential adjustment would equal or exceed AusCo's materiality amount.

Exercising reasonable care, AusCo concludes that this treatment is about as likely to be correct as incorrect – so, AusCo must disclose the position as a Category A RTP.

The information on the RTP schedule or early disclosure form could be completed for this RTP as follows:

RTP number	2017–1	Have you discussed this position with the ATO?	No	RTP category	A

Concise description

AusCo is an Australian investment company. AusCo has continuously invested in the Australian share market since early 2000.

From 1 July 2009 to 30 June 2016, AusCo had a 10% average turnover of the value of its total portfolio of Australian shares. It maintained a consistent yield on its capital invested in shareholdings in Australian companies.

During the 2016–17 income year, AusCo experienced urgent liquidity problems because it was unable to re-finance a loan facility. As a direct result, AusCo had to urgently sell 30% of its shares.

While the shares had to be sold quickly, AusCo carefully considered which shares should be sold (the sale shares). In line with a strategic decision made by AusCo's board, the sale shares were those shares that AusCo considered to be 'growth' shares (as opposed to 'value' shares).

The disposal of the sale shares was effectively a forced sale – AusCo sold into a falling market, with the result that the sale shares were sold at a loss.

The sale shares comprised of shares in a number of different Australian listed companies actively traded on the Australian Stock Exchange. Each parcel of shares was sold at a loss.

The sales of the shares have been treated as a single position.

Basis for position

The position taken by AusCo on its 2016–17 income tax return is that the loss arising on the disposal of the sale shares is deductible under section 8–1 of the *Income Tax Assessment Act 1997*.

In adopting this treatment, regard was had to the following relevant authorities, industry and administrative practices:

- section 8–1 *Income Tax Assessment Act 1997*
- London Australia Investment Co Ltd v. FC of T (1977) 138 CLR 106; AGC (Investments) Limited v. FC of T 92 ATC 4239; Trent Investments Pty Ltd v. FC of T 76 ATC 4105
- TR 92/3 *Income tax: whether profits on isolated transactions are income*
- TR 2005/23 *Income tax: listed investment companies*
- TD 2011/21 *Income tax: does it follow merely from the fact that an investment has been made by a trustee that any gain or loss from the investment will be on capital account for tax purposes?*

Example 2: Category A RTP

B Co is an Australian company that is not a member of a tax consolidated group. During the 2016–17 income year, all of the shares in B Co were sold to unrelated parties, resulting in B Co failing the continuity of ownership test. The new shareholders also introduced changes in B Co's operations. B Co decides to write off a material long-term receivable as unrecoverable and 'bad'.

B Co concludes that it satisfies the same business test and is entitled to treat the bad debt write-off as deductible.

If this treatment is not sustained, the potential adjustment would equal or exceed B Co's materiality amount.

Exercising reasonable care, BCo concludes that this treatment is about as likely to be correct as incorrect – so, BCo must disclose the position as a Category A RTP.

The information on the RTP schedule or early disclosure form could be completed for this RTP as follows:

RTP number	2017–1	Have you discussed this position with the ATO?	No	RTP category	A
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Concise description

Since 2010, BCo Pty Limited (BCo) has continuously owned and operated the retail business known as 'B retail'. In August 2014, BCo provided services for an agreed fee to XYZ, an unrelated third party, through its 'B retail' business. In September 2016, XYZ started experiencing serious financial difficulties. XYZ did not pay for the services provided by BCo in line with the agreed terms.

In December 2016, XYZ advised BCo that it was not able to pay for the services provided. In March 2017, after undertaking appropriate investigations and enquiries, BCo determined that the long-term material receivable from XYZ was unrecoverable and 'bad'. BCo then took all necessary steps to write off the XYZ receivable as bad, including writing off the receivable from its accounts.

In November 2016, the legal and beneficial interests in all of the shares in BCo were sold to unrelated parties. The new shareholders of BCo have implemented changes to BCo's operations, focusing on improving the profitability of 'B retail'.

Basis for position

The position taken by BCo on its 2016–17 income tax return is that the full amount of the XYZ debt that BCo wrote off as bad in the 2016–17 income year is deductible under sections 25–35 and 165–120 of the *Income Tax Assessment Act 1997*.

In adopting this treatment, regard was had to the following relevant authorities, industry and administrative practices:

- sections 25–35, 165–120, 165–126, 165–129 and 165–210 of the *Income Tax Assessment Act 1997*
- TR 92/18 *Income tax: bad debts*
- TR 1999/2 *Income tax: deductibility of expenditure incurred on tailings dams or similar mining residue, waste storage or disposal facilities* (the operation of sections 165-13 and 165-210, paragraph 165-35(b), section 165-126 and section 165-132)
- *Dinshaw v. Bombay Commissioner of Taxes* (1934) 50 TLR 527
- *Avondale Motors (Parts) Pty. Ltd. v. Federal Commissioner of Taxation* (1971) 124 CLR 97.

Example 3: Category A and B RTPs – New legislation

On 1 June 2017, new income tax legislation took effect that allowed taxpayers to claim a deduction in certain circumstances. Due to uncertainty about the application of the new law, the ATO started consultation with taxpayers following the enactment of the new provisions. A number of issues were raised by taxpayers during this consultation, including issues surrounding the requirements for claiming the deduction; these were noted for consideration by the ATO.

FCo is the head company of a tax consolidated group. At the time of preparation and lodgment of its 2017 income tax return, issues surrounding the requirements for claiming the deduction remain unresolved and consultation with the ATO was still underway.

FCo prepares and lodges its 2017 income tax return on the basis that the deduction is available to the company in that year. FCo's audited consolidated financial statements for the period ended 30 June 2017 recognise (whether as a provision, contingent liability or otherwise) the additional amount of tax payable in the

event that FCo's deduction is subsequently disallowed by the ATO.

If this treatment is not sustained, the potential adjustment would equal or exceed FCo's materiality amount. Exercising reasonable care, FCo concludes that this treatment is about as likely to be correct as incorrect – so, FCo must disclose the position as a Category A RTP.

As the difference between the treatment of the position on FCo's income tax return and on FCo's financial statements is equal to or exceeds FCo's materiality amount, FCo must disclose the position as a Category B RTP. A position that is both a Category A and B RTP, is reported as Category A in the RTP schedule.

The information on the RTP schedule or early disclosure form could be completed for this RTP as follows:

RTP number	2017–1	Have you discussed this position with the ATO?	No	RTP category	A

Concise description

On 1 June 2017, [insert details of legislative change] took effect. The policy intent of this legislation as outlined in the [insert details] is to allow taxpayers such as FCo to claim a deduction in certain circumstances [insert details] under sections [insert details of relevant sections].

There is uncertainty regarding the interpretation of this provision and consultation is still ongoing with the ATO. At the time of lodgment of this schedule, the issue of how subsection [insert details] applies to [insert specific details] is unresolved and is the subject of ongoing consultation with the ATO through a NTLG working group.

FCo comes within the class of taxpayers entitled to claim a deduction under [insert details] because [insert details]. Accordingly, FCo claimed a deduction under [insert details] and is lodging this tax return on this basis.

FCo's audited consolidated financial statements for the period ended 30 June 2017 recognise a contingent liability representing the additional amount of tax payable in the event that the outcome of the current consultative process with the ATO is not favourable to FCo.

Basis for position

The position taken by FCo on its 2016–17 income tax return is that [insert details] is deductible under subsection [insert details] of the *Income Tax Assessment Act 1997*.

In adopting this treatment, regard was had to the following relevant authorities, industry and administrative practices:

- [Insert details of the amending legislation]
- [Insert details of the Explanatory Memorandum]
- [Insert details of the consultative process / ATO published guidance].

Example 4: Category C RTP

AusCo enters into an arrangement whereby capital is raised from shareholders in order to fund the payment of a special dividend to shareholders.

This arrangement is an RTP covered by Question 2 of Category C. The required information to be provided on the RTP schedule or early disclosure form for this RTP is as follows:

RTP Category C question	2	RTP Category C subcategory	•
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Optional comments

It is not compulsory to complete the optional comments section and AusCo chooses not to provide any optional comments.

Example 5: Category C RTP

An Australian mining company (AusCo) has a related party in Thailand (ForCo). ForCo sells minerals on behalf of other members in the Group (including AusCo) to third parties in Malaysia, for which it is remunerated on a commission basis by the members including AusCo.

In considering PCG 2017/1, AusCo identifies that it is involved in an offshore marketing hub arrangement and the arrangement falls in the blue zone.

Marketing hub arrangements are covered by Question 9 of Category C, with the blue zone covered by subcategory 3.

The required information to be provided on the RTP schedule or early disclosure form for this RTP is as follows:

RTP Category C question	9	RTP Category C subcategory	3
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Optional comments

Offshore marketing hub arrangement is in relation to export of zinc from Australia to Malaysia.

Note: it is not compulsory to complete the optional comments section.

QC 50949

Contact us

Last updated 11 February 2019

Find out more about the *Reportable tax position schedule 2017* and *Reportable tax position early disclosure form 2017* by emailing

QC 50949

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