



Reportable tax position schedule instructions 2023

Instructions for completing the 2023 Reportable tax position (RTP) schedule (NAT 74066).

Last updated 6 December 2022

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Introduction



How to complete the schedule



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Definitions



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Introduction

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How to use these instructions to complete the RTP schedule and find out what's new since last year.

Using these instructions

Follow these instructions to complete the **Reportable tax position (RTP) schedule** (NAT 74066). The schedule forms part of your entity's tax return.

When we say 'you', we mean you as the person responsible for completing the *Reportable tax position schedule 2023*.

These instructions aren't a guide to income tax law. You can ask for help from us or a recognised tax adviser if you feel these instructions don't fully cover your circumstances.

What's new?

The following Category C questions have changed:

- Question 7 – red zone has been added to subcategory 6.
- Question 14 – red zone has been added to subcategory 7 and 17. Additional information is requested in the comments.
- Question 23 – red zone has been added to subcategory 7.

- Question 24 – minor change to subcategory numbers.
- Question 34 – minor wording changes.
- Question 35 – subcategory 1, 2 and 3 added to the question.
- Question 37 – red zone has been added to subcategory 6, 16 and 26.
- Question 39 – subcategory 8 has been modified with red zone added and subcategory 9 removed.

The following Category C questions are new:

- Question 41 – Treaty shopping arrangements or to obtain reduced withholding tax rates (TA 2022/2).
- Question 42 – global intangible low-taxed income (TD 2022/9).

Who needs to complete the schedule?

You need to complete the schedule if your entity:

- is lodging a company tax return for the entire year (12 months or more)
- has total business income of either:
 - \$250 million or more in the current year
 - \$25 million or more in the current year and is part of an [economic group](#) with total business income of \$250 million or more in the current year.

If your entity meets the criteria, you need to lodge the schedule even if it has no disclosures. You may still need to lodge the schedule even if your entity doesn't meet the criteria. We will notify you if this is the case.

We have provided examples to help you:

- calculate your entity's [group income](#)
- work out who is in your entity's [economic group](#)
- assess if you need to lodge an RTP schedule if your entity is lodging a [stub return](#).

For large private companies see RTP schedule expansion to large private companies.

Exceptions to lodgment requirement

You are not required to lodge the schedule if your entity:

- is not required to lodge a company tax return for the income year (the RTP schedule is a schedule to the company tax return)
- has an income tax annual compliance arrangement (ACA) with us for the relevant income year and has agreed to provide
 - full and true disclosure
 - ongoing dialogue of all material tax matters, including positions that fall within any RTP category.

If you are uncertain if your entity is required to lodge the schedule you can email ReportableTaxPosition@ato.gov.au.

Positions you need to disclose

You only need to disclose Category A positions that exceed your entity's [materiality amount](#).

All Category C positions must be disclosed in the schedule.

If your entity is the head of a tax consolidated group, you need to disclose positions that meet the requirements to be an RTP under categories A, B and C taken by the head entity or any of its subsidiary group members.

Completing the schedule allows you to make informed decisions about positions your entity has taken or is considering taking.

What you must report on your entity's tax return

If you are required to lodge an RTP schedule, you must answer **Yes** to item **25** of the *Company tax return 2023*.

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How to complete the schedule

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Work out how to complete each section in the RTP schedule and how to lodge.

Section A: Taxpayer details

Name of entity

The name entered on the schedule must be the same as shown on the company's tax return.

Tax file number (TFN)

The TFN entered on the schedule must be the same as shown on the company's tax return.

Australian business number (ABN)

The company's ABN entered on the schedule must be the same as shown on the company's tax return.

Period this schedule covers

Enter the period this schedule covers using DD/MM/YYYY format. This period is your entity's income year.

Section B: Category A and B reportable tax position (RTPs)

You need to disclose Category A and B RTPs in section B.

You only need to disclose Category A positions that exceed your entity's [materiality amount](#).

You must confirm if your entity has any Category A or Category B disclosures.

Tax positions that are a Category C and Category A or B must be disclosed under section C. You must select **No** if your entity has an RTP that is both a Category C and Category A or B.

If you select **No**, go to **Section C: Category C reportable tax positions**.

If you select **Yes**, the next question will ask how many Category A or B RTPs you are reporting.

Category A: Tax uncertainty in your entity's company tax return

A Category A RTP is one where, given relevant authorities, you consider the position taken is either:

- about as likely to be correct as incorrect
- less likely to be correct than incorrect.

For more information refer to:

- [Category A: Tax uncertainty in your tax return](#)
- [Category A and B positions relating to losses](#)
- [When a transfer pricing position is an RTP](#)
- [Disclosing RTPs on the schedule](#)

Category B: Tax uncertainty in financial statements

You must disclose a position as a Category B RTP where your entity:

- prepares [financial statements](#) in accordance with the relevant accounting standards, including but not limited to applying [AASB Interpretation 23 \(PDF, 325KB\)](#)  (Uncertainty over income tax treatments) in recognising, measuring and disclosing uncertain tax positions
- has recognised an uncertain tax position and/or disclosed a contingent liability for a position (asset) in its financial statements for the corresponding income year.

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

How many Category A and B RTPs are you reporting?

Enter the total number of RTPs you are reporting at the **How many Category A and B reportable tax positions (RTPs) are you reporting?** field.

Using the PDF schedule

In the PDF version, once you enter the number of RTPs you are disclosing and move off that field, it will automatically display the required number of fields needed to make the disclosure(s).

You must complete all mandatory fields for each RTP you are reporting.

RTP number

You must complete the **RTP number** field using the format:

- YYYY for the relevant income year for the RTP – for example, 2023
- followed by a dash (-)
- followed by the number corresponding to the number in the box beside RTP at the top of the section for that disclosure, placing a zero (0) before numbers less than 10.

There should be no spaces in the RTP number. Numbers should be sequential in the order you report the positions.

For example, number the first RTP 2023–01, with each subsequent RTP numbered 2023–02, 2023–03, and so on.

Have you discussed this position with the ATO?

For each disclosure, you must confirm if you (or another representative of your entity) have previously discussed the disclosure with us. All fields must be completed for each disclosure, no matter what answer you provide.

RTP category

Enter the category of RTP you are reporting in the **RTP category**:

- **A** for Category A
- **B** for Category B
- **A & B** (for both categories).

Using the PDF schedule

In the PDF version, select the appropriate category from the drop-down menu.

Concise description

Type a brief description of each Category A or B RTP in the **Concise description** field. Briefly describe the arrangement(s) or transaction(s), including the facts and circumstances, relevant to the position you are disclosing.

Positions covered by a private ruling

Where a position is covered by a **private ruling**, you only need to provide us with the reference number for the ruling in the **Concise description** field. This is also referred to as the authorisation number.

You can find the relevant reference number in the top right corner of correspondence from us.

Positions covered by an advance pricing arrangement application

A position subject to an **advance pricing arrangement (APA)** application must be disclosed if it meets the criteria for a Category A or B RTP. These positions must be disclosed even if the application has been accepted into our APA program.

For positions covered by an APA application, you only need to provide us with the APA application reference number in the **Concise description** field.

You can find the relevant reference number in the top right corner of APA application correspondence from us.

For examples, see [Disclosing RTPs on the schedule](#).

Using the PDF schedule

Once information has been entered, the field will expand when you click another field. You will then be able to see all the information in the **Concise description** field.

Basis for position

Outline the position taken in your entity's tax return and the basis for that position, including:

- specific references in any legislation your entity relied on – don't just refer to a division or subdivision
- all relevant authorities you had regard to when concluding the likelihood of the position
- any industry or administrative practices.

If the position is covered by:

- a private ruling, type only **private ruling** in the **Basis for position** field, unless there are material differences in the implemented arrangement or transaction to what was described in the ruling – if material differences exist, you must state them in the **Basis for position** field
- a ruling application, which has been withdrawn, type only **private ruling application - withdrawn** in the **Basis for position** field
- an APA application, type only **APA application** in the **Basis for position** field.

For examples see [Disclosing RTPs on the schedule](#).

Using the PDF schedule

Once information has been entered, the field will expand when you click on another field. You will then be able to view all the text within the **Basis for position** field.

The field accepts 3,000 characters or approximately 500 words. You can attach additional information if required.

Section C: Category C RTPs

You need to disclose Category C RTPs in section C.

The questions will tell you if you need to consider **materiality**. When the question doesn't include any materiality criteria, you must disclose a Category C RTP if the arrangement, transaction or circumstances covered is relevant for your entity.

Unless otherwise specified, the questions refer to arrangements or transactions:

- in place at any time in the income year
- covered by the tax return the schedule accompanies.

You don't need to disclose an arrangement for a Category C question referencing a taxpayer alert if:

- we have already reviewed the arrangement and advised we won't be taking further action
- there has been no material change to the arrangement since our review.

Did you have any Category C RTPs for the 2022–23 income year?

You must confirm if your entity has any Category C disclosures.

If you select **No**, go to [Section D: Declaration and signature](#).

If you select **Yes**, the next question will ask how many Category C RTPs you are reporting.

How many Category C RTPs are you reporting?

Enter the total number of Category C RTPs you are reporting.

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

Using the PDF schedule

In the PDF version, once you enter the number of RTPs you are disclosing and move off the field, it will automatically display the required number of fields to make the disclosures.

You must complete all the mandatory fields for each RTP you are reporting.

Have you discussed this position with the ATO?

For each disclosure you make, you must confirm if you (or another representative of your entity) have previously discussed the disclosure with us. All fields must be completed for each disclosure, no matter what answer you provide.

RTP Category C question and subcategory

Enter the number of the Category C question you are disclosing under in the **RTP Category C question** field. If there are subcategories, enter the relevant subcategory in the **RTP Category C subcategory** field.

If your entity has multiple positions covered by a single question, the question will tell you how to disclose this. You may need to select the appropriate subcategory or make a disclosure for each position.

For all Category C questions, you must make a disclosure if your entity had an arrangement covered by a question at any time during the year. If the arrangement is no longer in place at the time of preparing your entity's tax return, note this in the **Comments** field.

Question 1

Question removed as the information is collected through other means.

Question 2

Did your entity fund a special dividend or a share buy-back through an equity raising event at a similar time, where the arrangement is a type, or variation, of an arrangement described in Taxpayer Alert TA 2015/2?

Question 3

Has your entity entered into an arrangement(s), or variation of an arrangement, described in Taxpayer Alert TA 2015/5 involving the use of offshore entities that source goods (procurement hubs)?

Question 4

Question removed due to impacts of legislative changes.

Question 5

Question removed as the information is collected through other means.

Question 6

Question removed as the arrangement falls within Schedule 2 of PCG 2017/4 and the risk rating under that schedule is required to be disclosed at question 23.

Question 7

If your entity entered into or varied any cross-border leasing arrangements involving the use, in Australian waters, of non-resident-owned mobile offshore drilling units (MODUs), disclose the outcome

you have self-assessed using Practical Compliance Guideline PCG 2020/1.

- Subcategory 1: white zone
- Subcategory 2: green zone
- Subcategory 3: amber zone
- Subcategory 4: red zone
- Subcategory 5: if your entity's related party arrangement didn't involve the use, in Australian waters, of MODUs
- Subcategory 6: red zone, if you have not applied PCG 2020/1.

PCG 2020/1 outlines that MODUs include:

- drill-ships
- drilling rigs (including but not limited to submersibles, semi-submersible and jack-up rigs)
- pipe-laying vessels
- heavy-lift vessels.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

Question 8

Question removed due to impacts of legislative changes.

Question 9

If your entity has related party dealings involving a centralised services hub arrangement(s), disclose the outcome you have self-assessed using the applicable schedule in Practical Compliance Guideline PCG 2017/1 for **each** hub arrangement your entity is involved in.

For offshore marketing hub arrangements:

- Subcategory 1: white zone
- Subcategory 2: green zone
- Subcategory 3: blue zone
- Subcategory 4: yellow zone
- Subcategory 5: amber zone

- Subcategory 6: red zone
- Subcategory 7: red zone, did not apply ATO risk methodology or calculate tax impact.

For offshore non-core procurement hub arrangements:

- Subcategory 11: white zone
- Subcategory 12: green zone
- Subcategory 13: blue zone
- Subcategory 14: yellow zone
- Subcategory 15: amber zone
- Subcategory 16: red zone
- Subcategory 17: red zone, did not apply ATO risk methodology or calculate tax impact.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

In the comments section, provide the goods or commodities sourced from Australia and sold through the marketing hub arrangement, for each disclosed arrangement.

If the arrangement has been subject to any review by us, provide the Siebel reference number in the **Comments** field. This can be found in the top right corner of correspondence from us related to the review. It may also be referred to as our reference.

If the arrangement has been discussed with us, outside of a formal review product, provide details of the discussion in the **Comments** field.

Question 10

Has your entity excluded from its thin capitalisation calculations of debt capital any value of a debt interest that has been treated wholly, or partly, as equity under accounting standards?

Refer to Taxpayer Alert TA 2016/9 and Taxation Determination TD 2020/2 for more guidance.

Question 11

Is your entity currently involved in a cross-border, round robin financing arrangement(s) using an arrangement, or variation of an arrangement, described in Taxpayer Alert TA 2016/10?

Question 12

Was your entity party to an arrangement separating an integrated trading business into parts that results in trading income being re-characterised into more favourably taxed passive income?

Refer to Taxpayer Alert TA 2017/1 for more guidance.

Question 13

Has your entity claimed the R&D tax incentive using an arrangement, or variation of an arrangement, described in the subcategories below?

- Subcategory 1: Taxpayer Alert TA 2017/2 (construction activities)
- Subcategory 2: Taxpayer Alert TA 2017/3 (any business activities)
- Subcategory 3: Taxpayer Alert TA 2017/4 (agricultural activities)
- Subcategory 4: Taxpayer Alert TA 2017/5 (software development activities)
- Subcategory 5: More than one of the above taxpayer alert subcategories applies.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

If more than one taxpayer alert subcategory applies, enter the relevant taxpayer alerts in the **Comments** field.

Question 14

If your entity has a cross-border related party finance arrangement(s), disclose the outcome you have self-assessed using PCG 2017/4, Schedule 1 and/or Schedule 3 for the 3 most material arrangements.

If your entity has a cross-border related party finance arrangement with a higher risk rating to the 3 already disclosed, you must also disclose this arrangement.

Each arrangement must be included as a separate disclosure on the RTP schedule.

Materiality is determined by the loan amount in Australian dollar equivalent. It should be determined using the instructions to question 11 of the *International dealings schedule*.

For related party debt funding arrangements under Schedule 1:

- Subcategory 1: white zone
- Subcategory 2: green zone
- Subcategory 3: blue zone
- Subcategory 4: yellow zone
- Subcategory 5: amber zone
- Subcategory 6: red zone
- Subcategory 7: red zone, if you have not applied Schedule 1.

For interest-free loans under Schedule 3:

- Subcategory 11: white zone
- Subcategory 12: green zone
- Subcategory 13: blue zone
- Subcategory 14: yellow zone
- Subcategory 15: amber zone
- Subcategory 16: red zone
- Subcategory 17: red zone, if you have not applied Schedule 3.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

For each of the arrangements disclosed, provide in the **Comment** field:

- the currency of the loan
- the rate of interest (if variable, the base rate and margin)
- the Australian dollar equivalent loan amount
- if the arrangement is an outbound or inbound loan.

Question 15

Question removed as the information is collected through other means.

Question 16

If your entity is an Australian income tax consolidated, or multiple entry consolidated (MEC) group, has it entered into any arrangement(s) where either of the following subcategories apply:

- Subcategory 1: the churning rule (in section 716-440 of the ITAA 1997) applies to deny certain cost setting rules
- Subcategory 2: the churning rule didn't apply because your entity didn't satisfy the test in paragraph 716-440(1)(f), as there is no change in the majority economic ownership of the joining entity within the 12-month period before the joining time.

Enter the relevant subcategory number in the **RTP Category C subcategory** field. Enter the number **1** if both subcategories apply where your entity has 2 separate positions.

If subcategory 2 applies to your entity's arrangement, in the **Comments** field provide details explaining how the arrangement didn't satisfy the test in paragraph 716-440(1) (f).

Question 17

At any stage during the income year, did your entity have a cross-border financing arrangement(s) with an [international related party](#) (including via back-to-back arrangements through third parties) where it claimed a tax deduction for interest, or an amount in the nature of interest, and interest withholding tax wasn't remitted because a withholding tax liability isn't expected to arise within the next 18 months.

Refer to Taxpayer Alert TA 2018/4 for more guidance.

Question 18

Question removed as the information is collected through other means.

Question 19

If your entity has reached a formal settlement agreement or future compliance arrangement with us that applies to the current income year, do either of the following subcategories apply:

- Subcategory 1 – your entity breached one or more of the terms of the settlement deed or future compliance arrangement

- Subcategory 2 – changes in the relevant and material facts, as disclosed in the deed or arrangement, have occurred.

Enter the relevant subcategory number in the **RTP Category C subcategory** field. Enter the number **1** if both subcategories apply where your entity has 2 separate positions.

In the **Comment** field, provide the Siebel reference number for the settlement agreement or forward compliance arrangement. This can be found in the top right corner of correspondence from us related to the settlement or agreement. It may also be referred to as our reference.

Question 20

Question removed as the information is collected through other means.

Question 21

Are you aware of any unamended mistakes or omissions in any single tax return lodged by your entity within 4 years of the lodgment date of this RTP schedule where, if all mistakes or omissions in that return are amended, it would result in either:

- more than \$1.5 million in tax being payable (or would have been payable had it not been offset, for example by losses from prior years)
- more than \$5 million in losses (including capital losses).

For the purposes of this calculation, only count mistakes and omissions your entity hasn't previously notified us of.

In the **Comments** field, provide details of the mistakes or omissions, the:

- tax returns the mistakes or omissions applies to
- nature of the mistakes or omissions
- amount of tax payable or losses the mistakes or omissions would result in.

Question 22

If your entity has restructured out of any arrangement(s) in the current year to which the hybrid mismatch rules applied, or would have applied

had the arrangement(s) remained in place, disclose the subcategory that describes your entity's current position:

- Subcategory 1 – all restructured arrangements qualify as low risk under Practical Compliance Guideline PCG 2018/7
- Subcategory 2 – one or more of the restructured arrangements don't qualify as low risk under Practical Compliance Guideline PCG 2018/7.

In considering whether the hybrid mismatch rules would apply you must disregard dual inclusion income.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

For arrangements that are not low risk, in the **Comment** field provide:

- details of the restructured arrangement
- basis on which the arrangement didn't qualify as low risk under PCG 2018/7.

Question 23

If your entity has a related party derivative arrangement(s), disclose the outcome you have self-assessed using PCG 2017/4, Schedule 2 for the 3 most material arrangement(s).

If your entity has a related party derivative arrangement with a higher risk rating than the 3 already disclosed, you must also disclose this arrangement.

Each arrangement must be included as a separate disclosure on the RTP schedule.

Materiality is determined by the hedged item amount in Australian dollar equivalent.

- Subcategory 1: white zone
- Subcategory 2: green zone
- Subcategory 3: blue zone
- Subcategory 4: yellow zone
- Subcategory 5: amber zone
- Subcategory 6: red zone

- Subcategory 7: red zone, if you have not applied Schedule 2.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

In the **Comment** field for each **red** and **amber** arrangement disclosed, provide the:

- underlying transaction hedged by the derivative, including the loan quantum in Australian dollar equivalent
- commercial and operational reasons for borrowing in a foreign currency
- name and location of the counterparty for the derivative and hedged item.

Question 24

If your entity has related party dealings involving an inbound distribution arrangement(s), in the **RTP Category C subcategory** field enter either:

- **9** where your entity hasn't self-assessed the risk zone of the arrangement(s) using **PCG 2019/1**
 - If your entity has adopted the distributor simplified transfer pricing record keeping option in **PCG 2017/2**, record **PCG 2017/2** applied in the **Comments** field.
 - If paragraph 49 of **PCG 2019/1** applies to your entity's arrangements, record in the **Comments** field which exclusion categories (from paragraph 49) apply.
- The appropriate number from the table below, where your entity has self-assessed the risk zone of the arrangement(s) using **PCG 2019/1**.

RTP Category C subcategory field – risk assessment ratings

Category	Low risk	Medium risk	High risk

General distributor – Schedule 1 (not in an industry sector specifically covered by a separate schedule)	11	12	13
Category 1 Life science industry – Schedule 2	21	22	23
Category 2 Life science industry – Schedule 2	31	32	33
Category 3 Life science industry – Schedule 2	41	42	43
Category 1 ICT industry – Schedule 3	51	52	53
Category 2 ICT industry – Schedule 3	61	62	63
Motor vehicles industry – Schedule 4	71	72	73

Select the industry sector you believe best describes your entity. If the schedule for this industry sector has different categories of activities that generate value, select the one you believe best reflects the inbound distribution arrangement.

Calculate your entity's 5-year weighted average **EBIT margin** based on financial information without making adjustments for comparability purposes. This reflects how the profit markers in **PCG 2019/1** have been constructed.

If your entity hasn't lodged tax returns for each of the 5 preceding income years, calculate the EBIT margin on a weighted average over the preceding years of consecutive lodgments.

If your entity has an inbound distribution arrangement but you can't determine an EBIT margin for the arrangement, answer with Subcategory 9 indicating you did not apply PCG 2019/1. Provide the reason you couldn't determine the EBIT margin in the **Comments** field.

Question 25

Has your entity claimed deductions for expenses incurred under an arrangement(s) with offshore **related or unrelated** parties and used

intangible assets held by an offshore party in connection with this arrangement(s), where the arrangement(s) doesn't appropriately recognise an amount as consideration for the use of the intangible assets.

Enter the number **1** in the **RTP Category C subcategory** field.

Has your entity claimed deductions for expenses incurred under an arrangement(s) with offshore **related** parties and used intangible assets held by an offshore **related** party in connection with this arrangement(s), where one of the following subcategories applies:

- Subcategory 2 – your entity hasn't applied the arm's length principle in determining the appropriate consideration for the use of the intangible assets.
- Subcategory 3 – your entity has considered the arm's length principle in determining the appropriate consideration for the use of the intangible assets, but the arrangement is not covered by section 284-255 (*Taxation Administration Act 1953*) compliant transfer pricing documentation.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

If multiple subcategories apply to a single arrangement, record the lowest subcategory. For example, if both subcategories 1 and 2 apply, record subcategory 1.

If your entity has more than one arrangement you will need to disclose each arrangement separately, unless the criteria for [treating similar arrangements or transactions as a single position](#) apply. In this case, record the number of arrangements in the **Comments** field.

Refer to Taxpayer Alert TA 2018/2 for more guidance.

Question 26

If your entity is a multiple entry consolidated (MEC) group, has it entered into an arrangement(s), or variation of an arrangement, described in Taxpayer Alert TA 2019/1, where a group CGT asset (with a large unrealised capital gain) is sold through an eligible tier 1 company (with significant intra-group debt), which is subsequently sold to a third party who undertakes to extinguish the intra-group debt?

Question 27

Has your entity made a payment under a structured arrangement covered by item 1 of the table in subsection 832-615(2) of the *Income Tax Assessment Act 1997*?

Refer to LCR 2019/3 and PCG 2019/6 for more guidance.

In the **Comments** field, provide a description of the arrangement including the:

- name and place of incorporation or formation of the offshore deducting entity
- type of offshore hybrid arrangement and details of tax treatment of the parties to the arrangement in the relevant jurisdictions – for example, in the case of a reverse hybrid, provide the tax treatment for the offshore deducting entity, the reverse hybrid and any investing taxpayers
- amount of the offshore hybrid mismatch and the amount of deductions disallowed under section 832-610 for the structured arrangement.

Question 28

If your entity is a private company that is the head entity of a consolidated group, did any of the consolidated group members (including the head entity) make a loan to the head entity's shareholders or their associates that are external to the consolidated group where all of the following apply:

- the loan is not compliant with the terms of 109N
- the loan was not repaid by the lodgment date
- no statement has been provided to the recipient advising of a deemed dividend.

Refer to Taxation Determinations TD 2004/68 and TD 2018/13 for more guidance.

Question 29

Has your entity been part of an arrangement described by either:

- Subcategory 1 – Your entity has subscribed for a controlling share of units in a unit trust (where they did not own a controlling share in the prior year), which had a debt to another party that was the

trust's associate before the subscription and where the proceeds of the subscription were used to repay the debt?

- Subcategory 2 – Your entity has or had an associate unit trust which, in the current or 4 previous income years, transferred assets into a second unit trust relying on CGT rollover relief under Subdivision 126-G of ITAA 1997, and where the unitholding(s) in the second trust has subsequently changed to the extent that it is no longer your associate?

Refer to Taxpayer Alert TA 2019/2 for more guidance.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

Enter the number **2** if both subcategories apply.

Question 30

If your entity is a private company and more than 10% of its issued shares are owned by a single shareholder acting as a trustee of a trust, do any of the subcategories below apply?

- Subcategory 1 – There was a change of trustee during the year that was not in connection with a trust split, or your entity does not know if there was a trust split.
- Subcategory 2 – There was a change of trustee during the year that was in connection with a trust split.

Refer to Taxation Determination TD 2019/14 for more guidance.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

Enter the number **2** if both subcategories apply.

Question 31

In the current, or 4 prior income years, has your entity, or an entity your entity controls, claimed a full credit or offset for foreign income tax paid where less than 100% of the related foreign income (including capital gains) is included in their Australian assessable income?

Refer to ATO Interpretative Decision ATO ID 2010/175 for more guidance.

Question 32

Has your entity entered into any arrangement(s), or variation of an arrangement, described in Taxpayer Alert TA 2020/1, involving non-recognition or mischaracterisation of Australian activities connected with the development, enhancement, maintenance, protection or exploitation (DEMPE) of intangible assets?

In the **Comments** field, provide a brief:

- description of the arrangements, outlining their legal form
- description of the intangible assets involved in any arrangements including the connected DEMPE activities
- explanation of the commercial and business rationale for entering into the arrangements.

Question 33

Has your entity entered into any arrangement(s) or scheme(s), or variation of an arrangement, described in Taxpayer Alert TA 2020/2, where the structure used by a foreign investor(s) to invest directly into an Australian business has been mischaracterised?

In the **Comments** field, provide:

- the foreign investor's identity
- a brief description of what features, if any, aren't consistent with vanilla debt or equity investments
- a brief explanation of how the investment provides the foreign investor with any direct exposure to the economic return from a particular business or assets exploited in the business.

Question 34

Has your entity entered into any arrangement(s), or variation of an arrangement with a non-resident related party, described in Taxpayer Alert TA 2020/3 and claimed a deduction for interest expenses under that arrangement ?

Question 35

Has your entity either:

- Subcategory 1: entered into an arrangement, or a variation of an arrangement, described in Taxpayer Alert TA 2020/4 involving the transfer of assets within a MEC group and an ET-1 company leaving

the MEC group or an ET-1 company anticipated to leave the MEC group in future?

- Subcategory 2: entered into an arrangement, or a variation of an arrangement, involving the transfer of assets within a MEC group and an ET-1 company leaving the MEC group or an ET-1 company anticipated to leave the MEC group in the future?
- Subcategory 3: entered into an arrangement where 1 or more companies became an ET-1 company and there was a transfer of assets to any of those ET-1 companies?

Question 36

Has your entity entered into any arrangement(s), or variation of an arrangement, described in Taxpayer Alert TA 2020/5 and obtained imputation benefits relating to a parcel of Australian shares it holds (either directly or indirectly) where it has offset its economic exposure to those shares, or an Australian equities index, through the use of a derivative instrument(s)?

Question 37

If your entity is a non-ADI and has relied on the arm's length debt test to determine its maximum allowable debt amount, disclose the outcome you have self-assessed using Practical Compliance Guideline PCG 2020/7.

Outward investing non-ADI:

- Subcategory 1: white zone
- Subcategory 2: low risk zone
- Subcategory 3: low to moderate risk zone
- Subcategory 4: medium risk zone
- Subcategory 5: high risk zone
- Subcategory 6: red zone, if you have not applied PCG 2020/7

Inward investing non-ADI:

- Subcategory 11: white zone
- Subcategory 12: low risk zone
- Subcategory 13: low to moderate risk zone

- Subcategory 14: medium risk zone
- Subcategory 15: high risk zone
- Subcategory 16: red zone, if you have not applied PCG 2020/7

Regulated utility, as defined in paragraphs 38 and 39 of PCG 2020/7:

- Subcategory 21: white zone
- Subcategory 22: low risk zone
- Subcategory 23: low to moderate risk zone
- Subcategory 24: medium risk zone
- Subcategory 25: high risk zone
- Subcategory 26: red zone, if you have not applied PCG 2020/7

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

Question 38

Question has been removed.

Question 39

Has your entity made a payment to an entity that is a member of your entity's Division 832 control group(s) and that payment would, prior to the application of Subdivision 832-H, result in an income tax deduction in the current income year?

Disclose the outcome you have self-assessed using Practical Compliance Guideline PCG 2021/5.

- Subcategory 1: white zone
- Subcategory 2: green zone
- Subcategory 3: blue zone
- Subcategory 4: yellow zone
- Subcategory 5: amber zone
- Subcategory 6: red zone 1
- Subcategory 7: red zone 2
- Subcategory 8: you red zone, if you have not applied PCG 2021/5.

Enter the relevant subcategory number in the **RTP Category C subcategory** field.

In the **Comments** field, provide:

- if the arrangement is rated **red** or **amber**, the reason the arrangement falls in that zone
- if subcategory 8 applies, the reason you didn't apply the PCG.

Question 40

Has your entity entered into any arrangement with a related overseas entity as described in Taxpayer Alert TA 2021/2 involving the inflow of funds to Australia as a gift or an advance of funds by way of a loan? If the advance of funds was by way of a loan, disclose the arrangement only where one or more of the following applies:

- there has been no repayment of the loan
- the repayments made were less than the interest incurred
- the loan has been refinanced to the same related overseas entity or an associate.

Question 41

During the year, did your entity:

- enter into an arrangement, or variation of an arrangement, as described in Taxpayer Alert TA 2022/2, and/or
- obtain a reduced withholding tax rate under one of Australia's double tax agreements in relation to royalty or unfranked dividend payments arising from an arrangement, or variation of an arrangement, described in TA 2022/2 entered into on or after 1 July 2021.

Question 42

Has your entity treated global intangible low-taxed income (GILTI) as 'subject to foreign income tax' in the United States under section 832-130 of the Income Tax Assessment Act 1997?

Refer to Taxation Determination TD 2022/9, for more guidance.

In the comments field please provide the:

- amount of GILTI your entity has used to reduce the amount of its deduction/non-inclusion mismatches
- amount of GILTI your entity has treated as dual inclusion income, and
- subsection of section 832-130 your entity treated GILTI as 'subject to foreign income tax' in the United States, subsection 832-130(5), subsection 832-130(1) or both.

Comments

Some questions specify the information you must provide in this field.

If a question doesn't require information in the **Comments** field, we encourage you to briefly explain your entity's arrangements. Doing so may mean we:

- don't need to contact you for more information
- can ask more targeted questions if we do require more information.

Using the PDF schedule

The field accepts 3,000 characters or approximately 500 words. You can attach additional information if required.

Once information has been entered, the field will expand when you click on another field. You will then be able to see all the text in the **Comments** field.

Section D: Declaration and signature

Total number of pages being lodged

Type the total number of pages you are lodging including any attachments in **Total number of pages being lodged**.

Declaration

When the schedule is complete, the public officer must make a declaration that the information in the schedule and any attachments is true and correct.

To make the declaration:

- check the **I declare that the information on this schedule is true and correct** box.

In the declaration, include the:

- public officer's name and daytime phone number
- public officer's written or digital signature
- declaration date – on the PDF version, select the date in the drop-down box next to **Date**.

Signing the declaration

If you are lodging by mail the public officer must sign the printed schedule.

If you are lodging through **Online services for business** or **Online services for agents**, the public officer must check the **I declare that the information on this schedule is true and correct** box. They are not required to sign a printed copy and should lodge the electronic form (rather than a scanned version) via our online services.

How to lodge the schedule

You may be able to lodge the schedule as part of the tax return using the same SBR-enabled software you use to complete and lodge your entity's tax return.

Alternatively, if your software doesn't provide the schedule for electronic lodgment you can lodge through:

- **Online services for business**
- **Online services for agents**
- mail.

Online services

The best way to lodge is online as a mail message using Online services for business or Online services for agents:

- under **Communication**, select **Secure Mail**, select **New**
- Topic: **Income tax**
- Subject: **RTP schedule lodgment**

- write **20YY-YY** RTP schedule in the message details (with the relevant financial year) to confirm the year the schedule relates to
- attach the schedule (maximum size is 6MB) and any attachments (maximum 6 files)
- check your message before sending to ensure the schedule and any attachments are attached
- **send** your mail message.

You will receive a confirmation and receipt number from us. Note the receipt number in case there are any issues. The message should remain in your sent items folder.

Mail your documents

Alternatively, you can print and post your completed schedule with any attachments to:

Australian Taxation Office
PO Box 9845
LOCALITY STATE POSTCODE

Don't use correction fluid or tape to make corrections to your completed schedule. If you make a mistake, make corrections electronically and print a new copy.

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Other information

Last updated 6 December 2022

How to attach additional information and make changes to your RTP schedule.

Attaching additional information

You can provide additional information when you lodge the schedule through:

- Online services for business

- Online services for agents
- mail
- SBR-enabled software as part of your tax return.

You must include your entity's ABN on each attached page.

If you use Online services for business or Online services for agents to provide additional information, use the [instructions for lodging the schedule online](#). **Write 20YY-YY RTP schedule attachments** in the message details. Attachments are limited to 6 per message, with a maximum file size of 6MB.

Acceptable file types are:

- .doc, .docx, .dotx, .rtf
- .pdf
- .xls, .xlsx, .xltx
- .tif, .jpg, .bmp, .png, .gif
- .zip
- .mpp
- .ppt, .pptx, .potx, .ppsx.

Any files that are too large or in unacceptable formats will be rejected.

Changing your entity's schedule

If you want to change any of the information reported on the schedule after you have lodged it, you will need to lodge another *Reportable tax position schedule 2023*.

Changes to a Category A or B RTP must be provided in section C of the new schedule you lodge. In the **Concise description field**, enter the RTP number used on the earlier schedule (for example, 2023-× number) and detail the changes.

Reasonable care

You must complete the schedule correctly and with reasonable care. This means taking the same care that could be expected of a

reasonable person in your position.

Penalties may apply for false or misleading statements. For more information see *MT 2008/1 Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard*.

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Guide to reportable tax positions

Last updated 14 October 2024

Read our guides on RTP-related issues.

Category A: Tax uncertainty in your tax return

A Category A RTP is one where, given relevant authorities, you consider the material [position](#) taken is either:

- about as likely to be correct as incorrect, even if it is reasonably arguable
- is less likely to be correct than incorrect.

You must disclose a material position, even if it is based on administrative or industry practice, that:

- doesn't have regard to relevant authorities, or there are none
- is not based on a well-reasoned construction of the applicable statutory provision.

You must have regard to all matters relevant to the position including:

- anti-avoidance rules
- integrity provisions
- transfer pricing
- market valuations.

A position will be material where the potential adjustment, should the position not be sustained, is equal to or exceeds your entity's

materiality amount.

Find out about:

- *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’, and ‘relevant authorities’
- [Disclosing RTPs on the schedule](#) – examples 1 and 2
- [When a transfer pricing position is an RTP](#)

Relevant authorities

The relevant authorities are:

- 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, as defined in section 358–5 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

Relevant authorities do not include:

- announced but unenacted law changes
- our general administrative practices
- industry practices.

Positions based on anticipated legislation

If you rely on announced but unenacted legislation, you must determine whether the position your entity has taken is a material RTP that must be disclosed.

Positions contrary to a public ruling

You must disclose a material position contrary to a public ruling where it meets the [criteria](#) for a Category A RTP.

Positions relating to the exercise of a Commissioner’s discretion

In determining if a position involving an assumption about the way the Commissioner of Taxation will exercise a discretion is a Category A RTP, you should consider:

- PS LA 2005/24 *Application of General Anti-Avoidance Rules*
- subsection 284-15(2) of Schedule 1 to the *Taxation Administration Act 1953*
- 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 the discretion in the **Basis for position** field on the schedule.

Positions covered by a general administrative practice

You are required to include any industry or administrative practices your entity relied on to reach its position in the **Basis for position** field on the schedule.

Positions where the law is clear but the facts are uncertain (relating to valuation issues)

In determining whether a material position involving market values is a Category A RTP, you should consider the guidance provided in **Market valuation for tax purposes**. This includes guidance in determining such things as the appropriate valuation methodology, documentation and allocations among assets.

Treating similar arrangements or transactions as a single position

Similar arrangements or transactions are treated as a single position when both:

- the facts used to determine their treatment for tax purposes are the same or similar, or are related to each other in a way that makes it necessary to take them into account together
- a common conclusion is reached on their tax treatment, that is, there is a common basis for lodgment.

These arrangements or transactions only need to be disclosed on the schedule once under a single RTP number. You must state in the **Concise description** field that the position relates to more than one similar arrangement or transaction.

Research and development (R&D) tax offset claims

An R&D tax offset claim reflected on the tax return may not be a single Category A or B RTP. Instead there may be several positions taken within the R&D tax offset claim, for example, whether the:

- entity is an eligible R&D entity
- expenditure included in the claim was incurred
- expenditure was incurred on eligible R&D activities
- expenditure was at risk for R&D purposes
- feedstock provisions are applicable.

Each of these positions must be considered separately to work out whether your entity has any material RTPs you must disclose on the schedule.

If your entity has several projects that make up its R&D tax offset claim, this doesn't mean each project is treated as a separate Category A or B RTP. If the criteria for treating similar arrangements or transactions as a single position are met, you only need to report the projects under a single disclosure.

Related party international dealings

Where your entity has multiple related party international dealings, if the criteria for treating similar arrangements or transactions as a single position are met, you only need to report the dealings under a single RTP disclosure.

You can also combine all related party revenue dealings, or related party expenditure dealings, as a single Category A RTP disclosure.

Category A and B positions relating to losses

Prior year losses deducted or applied

You may have to disclose a Category A RTP if, in its tax return, your entity has either or both:

- deducted prior year tax losses
- applied prior year unapplied net capital losses to reduce the net capital gain included in its assessable income.

Only material positions must be disclosed.

Prior year losses carried forward

In your entity's tax return, you don't need to disclose any prior-year:

- tax losses
- net capital losses carried forward to later income years.

Current year loss position

Your entity may still have an RTP that must be disclosed even if it reports a loss and potential adjustment that doesn't change its income tax liability for that income year. You must consider if your entity has any material positions and disclose them, even in a loss year.

Compliance – administrative and failure to lodge penalties

The schedule is part of the company tax return and must be lodged by your entity's tax return due date.

Administrative penalties will apply if you:

- make a false or misleading statement, including omissions
- fail to lodge on time.

See more about:

- Failure to lodge on time penalty
- PS LA 2011/19 *Administration of the penalty for failure to lodge*
- Significant global entities – penalties
- Statements and positions that are not reasonably arguable
- Items 3A, 3B or 3C of subsection 284-90(1) of the Taxation Administration Act 1953

- PS LA 2012/4 *Administration of the false or misleading statements penalty – where there is no shortfall amount*
- PS LA 2012/5 *Administration of the false or misleading statement penalty – where there is a shortfall amount*

Interaction with voluntary disclosure provisions

A statement made in the schedule isn't a voluntary disclosure for the purposes of section 284-225 of Schedule 1 of the *Taxation Administration Act 1953*. Completing and lodging the schedule, as per the schedule instructions, doesn't satisfy the voluntarily tell requirements.

If the information provided in the schedule allows the Commissioner to identify and calculate the shortfall amount, this may lead to a remission of the shortfall penalty for:

- not having a reasonably arguable position
- making a false or misleading statement.

For more information see *Miscellaneous Taxation Ruling MT 2012/3 Administrative penalties: voluntary disclosures*.

When a transfer pricing position is an RTP

You must report a transfer pricing position not covered by section 284-255 (*Taxation Administration Act 1953*) compliant transfer pricing documentation in Category A on the schedule. The lack of compliant documentation means there's insufficient information to determine if it's more likely to be correct than incorrect.

If your dealings are covered by compliant documentation, your position is a Category A or B RTP if it falls within the high-risk zone of published ATO guidance and isn't a Category C position.

Where a transfer pricing position is a Category C RTP you must disclose this position in section C not in section B as a Category A or B RTP.

You need to separately report revenue and expenditure-based transfer pricing positions. However, you can combine and report all related party revenue, or related party expenditure, as a single Category A RTP.

Exemption for foreign banks or other qualifying financial entities

If your entity is a foreign bank or other qualifying financial entity to which Part IIIB of the ITAA 1936 applies and hasn't elected out of Part IIIB, you don't need to disclose a transfer pricing position for a notional borrowing it holds where the:

- notional borrowing is in a currency(ies) quoted in the London Interbank Offered Rate (LIBOR) or an agreed proxy and in a comparable tenor
- deductions associated with the notional borrowing have been capped at the appropriate LIBOR rate.

This exemption applies even if your entity's notional borrowing isn't covered by section 284-255 compliant documentation.

This exemption does not apply if your entity has a notional borrowing that is not:

- denominated in a currency(ies) quoted in LIBOR
- covered by section 284-255 compliant documentation.

In this case, you must disclose the transfer pricing position associated with the notional borrowing as a Category A RTP.

See also:

- *Taxation Ruling TR 2014/8 Income tax: transfer pricing documentation and Subdivision 284-E*
- [Treating similar arrangements or transactions as a single position](#)

Calculating materiality for transfer pricing positions

You only have to disclose Category A RTPs where the tax (or notional tax) affected by the position exceeds your entity's materiality amount. You can base the materiality calculation on either:

- applying the relevant accounting standards to quantify the uncertainty
- arm's length calculations.

Applying accounting standards to quantify the uncertainty

AASB 112 *Income Taxes* specifies requirements for current and deferred tax assets and liabilities. An entity applies the requirements in AASB 112 based on applicable tax laws. AASB Interpretation 23 *Uncertainty over Income Tax Treatments* explains how to apply the recognition and measurement requirements in AASB 112 when there is uncertainty over income tax treatments.

Where you have used the recognition and measurement methods specified in AASB Interpretation 23 to calculate the value of tax uncertainty for a tax position, your entity's position is material where that value exceeds its materiality threshold.

For more information see [Guidance on AASB Interpretation 23 \(PDF, 325KB\)](#) [↓](#) [↓](#)

Arm's length calculations

If your entity has conducted a comparability study that has established an arm's length range, its materiality calculation is based on the difference in the tax it paid, and what it would have paid, if the transfer price was based on the median of that arm's length range.

If your entity hasn't conducted a transfer pricing comparability study, you can base its materiality calculation on either:

- the benchmarks listed in Practical Compliance Guide **PCG 2017/2** *Simplified transfer pricing record keeping options* if your entity meets the relevant qualifying requirements in PCG 2017/2 for the benchmark you are applying
- a conservative approach, where a transaction type isn't covered by PCG 2017/2 or your entity doesn't meet the conditions in PCG 2017/2.

If using a benchmark in PCG 2017/2, the materiality calculation is the difference between the tax your entity paid and what it would have paid had its transfer price been based on the benchmark from PCG 2017/2.

The materiality calculation, under the conservative approach, is:

- outbound transactions – the cost of the outbound supplies your entity is making multiplied by the tax rate

- inbound transactions – your entity's total deduction for inbound supplies multiplied by the tax rate.

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Definitions

Last updated 6 December 2022

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

Accounting principles

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

Economic group

An economic group includes all entities (companies, trusts and partnerships, etc) that lodge an Australian tax return under a direct or indirect Australian or foreign ultimate holding company or other majority controlling interest.

This includes all entities under a single ultimate holding company or under the ownership of a single individual, trust or partnership.

For more information see [examples – economic group](#).

Financial statements

Financial statements are the documents that represent the financial position and financial performance of an entity, prepared in accordance with [accounting principles](#). They include:

- financial reports prepared pursuant to **Chapter 2M** of the *Corporations Act 2001*
- statements (however described) that cover the activities of the Australian operations, where the taxpayer is a foreign resident operating through a permanent establishment in Australia

- reports prepared for submission to the Australian Prudential Regulation Authority (APRA) that cover the activities of the Australian operations, where the taxpayer is a foreign bank with an Australian permanent establishment.

If there are one or more sets of financial statements relevant for an entity, the financial statements that apply are those that recognise or disclose the uncertainty about taxes payable or recoverable to which the position relates.

For guidance on what is considered a financial statement see [how to prepare a GPFS](#).

Hybrid mismatch rules

Hybrid mismatch rules collectively refer to **Division 832** and amendments to:

- Subdivision 768-A
- Section 23AH of the *Income Tax Assessment Act 1936* (ITAA 1936)
- Part IIIB of the ITAA 1936.

Loan amount

For loans or borrowings, trade financing and other types of debt interests under Division 974 of the ITAA 1997, the average balance of the loan, borrowing or other debt interest during the income year is calculated the same way as quarterly balances of borrowings and loans shown at Item 11a of the **International dealings schedule**.

Majority controlling interest

An entity holds a majority controlling interest in another entity where it holds more than 50% of the voting power at a general meeting of that entity.

Materiality amount

An entity's materiality amount is 5% of its Australian current tax expense, except where:

- 5% of its Australian current tax expense exceeds A\$30 million – the materiality amount is then A\$30 million
- 5% of its Australian current tax expense is less than A\$3 million – the materiality amount is then A\$3 million
- it has no Australian current tax expense – the materiality amount is then A\$3 million.

You must calculate your entity's Australian current tax expense in accordance with [accounting principles](#). If your entity is the head company of a MEC group, Australian current tax expense is the aggregate of the current tax expense of all members of the MEC group.

Use A\$3 million as the materiality amount if:

- your entity doesn't calculate its Australian current tax expense and doing so requires significant additional effort
- you consider the materiality amount for RTP purposes isn't appropriate to your entity's circumstances.

International related parties

International related parties are persons:

- not dealing wholly independently with one another in their commercial or financial relations and
- whose dealings or relations can be subject to **Subdivision 815-B** of the ITAA 1997 or the associated enterprises article of a relevant double tax agreement (DTA).

The term includes any overseas entity:

- or person who participates directly or indirectly in your entity's management, control or capital
- your entity participates directly or indirectly in the management, control or capital of
- who has the same entity or person participating directly or indirectly in its management, control or capital as your entity.

Position

A position is the effect, for taxation purposes, given to particular arrangements or transactions, as reflected in the statements made in your entity's 2022–23 company tax return.

This includes positions:

- due to interpretative matters – for example, legislative construction
- due to findings of fact – for example, market valuations
- where the effect for tax purposes is an omission from your entity's tax return.

Potential adjustment

Potential adjustment means the **sum of the following amounts** in the 2022–23 income year should the RTP not be sustained:

- your entity's tax rate multiplied by an amount, or part of an amount, that would be included in its assessable income
- your entity's tax rate multiplied by a deduction, or a part of a deduction, that wouldn't be allowable to your entity
- your entity's tax rate multiplied by a capital loss, or a part of that capital loss, that wouldn't be incurred by your entity
- a foreign income tax offset that wouldn't be allowable to your entity
- a tax offset that wouldn't be allowable to your entity.

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

Total business income

Total business income is the amount reported in the total income label of the company tax return. For 2023, total income is reported at label 6S.

Total business income of an economic group is the sum of all income labels in the Australian tax returns of every group member, including trusts and partnerships. There is no total income label on trust and partnership tax returns. This needs to be added up manually for all income labels.

All Australian income of group members is included in the calculation. Foreign income of group members is only included where the entity generating that income is an Australian resident entity.

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Examples

Last updated 6 December 2022

Use our examples to help you self-assess, determine group income and economic group and work out what RTPs to disclose.

Self-assessment

The following examples will help you self-assess your entity's requirement to lodge an reportable tax position (RTP) schedule.

Example: self-assessment

Economic Group A is a public group with an aggregated total income of \$270 million and comprises companies B, C, D, Trust E and Partnership F. The total income in the tax returns of group members is:

- Company B – \$100 million
- Company C – \$70 million
- Company D – \$20 million
- Trust E – \$60 million
- Partnership F – \$20 million.

Companies B and C are required to lodge an RTP schedule as their total business income exceeds \$25 million and the group's total income exceeds \$250 million.

Company D isn't required to lodge an RTP schedule because its total income is less than \$25 million.

Trust E and Partnership F aren't required to lodge an RTP schedule as they are not companies and do not need to lodge a company tax return.

Example: stub period

Company H is the head entity of Consolidated Group A. Company H is required to lodge an RTP schedule for financial year end 2023 on behalf of Consolidated Group A.

Company B was part of Consolidated Group A but left the consolidated group before the 2023 year end. Company B lodged a stub return for the part of the 2023 income year it wasn't part of the group.

Company B is not required to lodge an RTP schedule with its stub return.

In Consolidated Group A's 2023 RTP schedule, company H is required to disclose any of Company B's relevant arrangements for the period it was part of the group.

Group income

The following examples will help you determine your entity's group income.

Example: Australian group income

Economic Group A is a public group and comprises companies B and C:

- Company B is a foreign resident with \$200 million turnover – it doesn't lodge an Australian tax return
- Company C is an Australian subsidiary with \$170 million disclosed in the total business income label of the company tax return.

Only income reported in Australian tax returns is included in the group income calculation. As income in the Australian tax returns of all group members is below \$250 million, none of the group members are required to lodge the RTP schedule.

Example: Australian company tax return lodgment and group income

Economic Group A is a public group with an aggregated turnover of \$600 million and comprises companies B and C:

- Company B is a foreign subsidiary with \$300 million turnover and \$50 million in profit, which it pays to its parent as a dividend – it doesn't lodge an Australian tax return
- Company C is the Australian parent company whose income comprises \$300 million from its Australian operations and \$50 million in NANE dividends from Company B. Company C records \$350 million in its total business income label on its Australian company tax return.

Company B is not required to lodge an RTP schedule as it doesn't lodge an Australian company tax return. Company C is required to lodge an RTP schedule as its total business income exceeds \$250 million.

Economic group

The following example will help you determine your entity's economic group.

Example: economic group

Company A has:

- 60% interest in Company B
- 30% interest in Company C

- 30% interest in Company D.

Company B owns 30% in its sister Company C.

The group is headed by Company A as it is the ultimate holding company.

The Australian resident economic group consists of:

- Company A as the ultimate holding company
- Company B as Company A's controlling interest exceeds 50%
- Company C as both companies A and B are group members and together own a controlling interest in excess of 50% (Company A owns 30% and Company B owns 30%).

Company D is not included in the group as it is only 30% owned by members of this group and, as such, is not controlled by group members.

Disclosing RTPs on the schedule

The following examples will help you understand what positions you need to disclose.

Example 1: Category A RTP

AusCo is an Australian investment company. For many years, it has invested in the share market in Australian companies.

On average, it turns over about 10% of the value of its total share portfolio and maintains a consistent yield on its capital invested. AusCo had no particular exit strategy and treated any sales as the realisation of investments and on capital account.

During the income year, 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 treats the losses from the sale of the shares as arising from an isolated transaction and on revenue account. It does so

for all share sales and, therefore, treats the disposals of the sale shares as a single position.

If the chosen treatment isn't sustained, the potential adjustment would exceed AusCo's materiality amount.

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

Information provided on AusCo's RTP schedule:

- RTP number – 2023–01
- Have you discussed this position with the ATO? – No
- RTP category – A.

Concise description

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

From 1 July 2009 to 30 June 2023, AusCo had a 10% average turnover of the value of its total portfolio of Australian shares and maintained a consistent yield on its capital invested.

During the income year, AusCo experienced liquidity problems, as it couldn't refinance a loan facility. As a direct result, AusCo had to urgently sell 30% of its shares. The disposal of the sale shares was effectively a forced sale.

In line with a strategic decision made by AusCo's board, the sale shares were those shares AusCo considered to be growth shares, as opposed to value shares.

The sale shares comprised shares in several different Australian companies whose shares are actively traded on the ASX. Each parcel of shares was sold at a loss, as AusCo sold into a falling market.

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

Basis for position

The position taken by AusCo, in its company 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, the following relevant authorities were considered:

- 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

BCo is an Australian company that isn't a member of a tax consolidated group.

During the income year, all shares in BCo were sold to unrelated parties, resulting in BCo failing the continuity of ownership test. The new shareholders also introduced changes in BCo's operations.

BCo decides to write off a material long-term receivable as unrecoverable and bad.

BCo concludes 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 exceed BCo's materiality amount.

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

Information provided on BCo's RTP schedule:

- RTP number – 2023–10

- Have you discussed this position with the ATO? – No
- RTP category – A.

Concise description

Since 2010, BCo Pty Ltd (BCo) has continuously owned and operated the retail business known as B Retail. In July 2021, BCo provided services, for an agreed fee, to XYZ Pty Ltd, an unrelated third party, through its B Retail business. In September 2021, XYZ started experiencing serious financial difficulties. XYZ didn't pay for the services provided by BCo in line with the agreed terms.

In November 2022, XYZ advised BCo it couldn't pay for the services provided. In December 2022, after undertaking appropriate investigations and enquiries, BCo determined 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 2022, the legal and beneficial interests in all 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 company tax return, is the full amount of the XYZ debt written off as bad in the income year is deductible under sections 25-35 and 165-120 of the *Income Tax Assessment Act 1997*.

In adopting this treatment, the following relevant authorities were considered:

- 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 C RTP

AusCo enters into an arrangement where 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.

Information provided on AusCo's RTP schedule:

- RTP Category C – question 2
- RTP Category C subcategory – leave field blank as not applicable.

Comments

AusCo has chosen not to provide any optional comments.

Example 4: 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.

Applying PCG 2017/1, AusCo identifies 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.

Information provided on AusCo's RTP schedule:

- RTP Category C – question 9
- RTP Category C – subcategory 3.

Comments

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

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