



Taxation Determination

Income tax: consolidation: are intra-group money lending transactions or dealings taken into account in determining if the head company of a consolidated group is carrying on business as a money lender?

Preamble

*The number, subject heading, date of effect and paragraphs 1 to paragraphs 5 of this document are a 'public ruling' for the purposes of Part IVA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner.*

1. No. Intra-group money lending transactions or dealings are not taken into account in determining whether the head company of a consolidated group is carrying on business as a money lender for income tax purposes.
2. Intra-group money lending transactions or dealings are money lending transactions or dealings between members of the same consolidated group.
3. Outside consolidation, the nature of the business of an entity that is a member of a group, may be determined having regard to (amongst other things) transactions and dealings it has with other group members and may be based on recognising the rights and obligations that exist between individual group members.
4. During consolidation the single entity rule in section 701-1 of the *Income Tax Assessment Act 1997* treats subsidiary members of a consolidated group as parts of the head company rather than as separate entities for income tax purposes. This means that during consolidation, intra-group money lending transactions or dealings are arrangements between parts of the same entity (the head company) and are not recognised for income tax purposes. Accordingly, they are not taken into account in determining the nature of the business being conducted by the head company.
5. In determining whether the head company of a consolidated group is carrying on business as a money lender, only those money lending transactions or dealings that are with non-group entities are taken into account.

Date of Effect

6. This Determination applies to years commencing both before and after its date of issue. However, it does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

TD 2004/37

Commissioner of Taxation

September 2004

Previous draft:

TD 2004/D41

Related Rulings/Determinations:

TR 92/20; TR 2004/11

Legislative references:

- TAA 1953 Pt IVAAA
 - ITAA 1997 701-1
-

ATO references

NO: 2004/9959

ISSN: 1038-8982