



Taxation Determination

Income tax: consolidation: cost setting: do the assets of a transitional foreign-held subsidiary retain their existing tax values on formation of a consolidated or a MEC group?

Preamble

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

1. Yes. The assets of a transitional foreign-held subsidiary (TFHS) (as defined in section 701C-20 of the *Income Tax (Transitional Provisions) Act 1997* (IT(TP)A 1997)) retain their existing tax values on formation of a consolidated or MEC (multiple entry consolidated) group.
2. When a consolidated or MEC group is formed, TFHSs are treated for the purposes of the tax cost setting provisions in section 701-10, and Subdivisions 705-A and 705-B, of the *Income Tax Assessment Act 1997* (ITAA 1997) as part of the head company of the group rather than as separate entities (section 701C-30 of the IT(TP)A 1997).
3. The tax costs of a head company's assets are not set on formation of a consolidated or MEC group (subsection 701-10(4) of the ITAA 1997). The assets of a TFHS therefore retain their existing tax values.

Date of effect

4. 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).

Commissioner of Taxation

19 October 2005

TD 2005/41

Previous draft:

TD 2005/D9

- subsidiary member of a MEC group
- transitional foreign-held subsidiaries

Related Rulings/Determinations:

TR 92/20

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1997 701-10
- ITAA 1997 701-10(4)
- ITAA 1997 Subdiv 705-A
- ITAA 1997 Subdiv 705-B
- IT(TP)A 1997 701C-20
- IT(TP)A 1997 701C-30

Subject references:

- consolidated group tax cost setting rules
 - consolidation
 - cost setting rules
 - MEC group
 - subsidiary member of a consolidated group
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ATO references

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