



Taxation Determination

Income tax: can an Australian resident company required to prepare financial reports under section 292 of the *Corporations Act 2001* make a choice to use the ‘applicable functional currency’ under section 960-60 of the *Income Tax Assessment Act 1997*, if it is the head company of a consolidated group?

📌 This Ruling provides you with the following level of protection:

This publication (excluding appendices) is a public ruling for the purposes of the *Taxation Administration Act 1953*. A public ruling is an expression of the Commissioner’s opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes. If you rely on this ruling, we must apply the law to you in the way set out in the ruling (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any under-paid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

Ruling

1. Yes. The head company can make the choice to use the ‘applicable functional currency’, as defined in section 960-70 of the *Income Tax Assessment Act 1997* (ITAA 1997), under item 1 of the table in subsection 960-60(1). The fact that it is the head company of a consolidated group does not affect its reporting obligations under the *Corporations Act 2001*.

Date of effect

2. 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).

Appendix 1 – Explanation

❶ *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

Explanation

3. Item 1 in the table in subsection 960-60(1) enables an 'Australian resident' (as defined in subsection 995-1(1) of the ITAA 1997), to choose to use the 'applicable functional currency' where it is required to prepare financial reports under section 292 of the *Corporations Act 2001*. This choice allows the resident to use the 'applicable functional currency' to calculate its taxable income or tax loss, and then translate that result into Australian currency (see subsection 960-80(1) of the ITAA 1997). The extent to which it can do so may be affected by other choices it may make under other items 2 to 5, in subsection 960-60(1).

4. Section 292 of the *Corporations Act 2001* requires the following entities to prepare a financial report and a directors' report:

- (a) all disclosing entities incorporated or formed in Australia;
- (b) all public companies;
- (c) all large proprietary companies; and
- (d) all registered schemes.

5. The single entity rule, by which subsidiary members of a consolidated group are deemed to be parts of the head company rather than separate entities while they are members of the group, operates only for the purposes of working out income tax liability and losses (per section 701-1 of the ITAA 1997).

6. The single entity rule does not affect the obligation to prepare reports under section 292 of the *Corporations Act 2001*. That obligation will apply to the head company where it is one of the entities covered by the section.¹

7. The choice² of a head company under item 1 in the table in subsection 960-60(1) to use a non Australian currency as the 'applicable functional currency', means that the head company will work out its taxable income or tax loss as allowed under section 960-80 of the ITAA 1997. Under Part 3-90 of the ITAA 1997, this calculation will be one that applies to the head company as head company of the consolidated group.

8. The views expressed in this Determination apply equally to a MEC (multiple entry consolidated) group where appropriate.

¹ In practice, wholly-owned subsidiaries which operate as part of a corporate group may be exempt from complying with the financial reporting requirements if they come within the conditions set out in Class Order CO 98/1418, issued by the Australian Securities and Investments Commission.

² Note that a choice to use the 'applicable functional currency' under item 1 of subsection 960-60(1) is eligible for resettable choices treatment (refer subsections 715-660(1) and 715-700(1) of the ITAA 1997).

References

Previous draft:

TD 2005/D35

Related Rulings/Determinations:

TR 92/20

Subject references:

- consolidation
- foreign currency transactions
- foreign currency translations

Legislative references:

- TAA 1953
- ITAA 1997 Pt 3-90
- ITAA 1997 701-1
- ITAA 1997 715-660(1)
- ITAA 1997 715-700(1)
- ITAA 1997 960-60
- ITAA 1997 960-60(1)
- ITAA 1997 960-70
- ITAA 1997 960-80
- ITAA 1997 960-80(1)
- ITAA 1997 995-1(1)
- Corporations Act 2001 292

ATO references

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