TD 2004/D91 - Income tax: consolidation: is Australian currency, where it is taken to be foreign currency under section 960-80 of the Income Tax Assessment Act 1997 for the purposes of the functional currency provisions, treated as a retained cost base asset under the consolidation regime?

Draft Taxation Determination

Income tax: consolidation: is Australian currency, where it is taken to be foreign currency under section 960-80 of the *Income Tax Assessment Act 1997* for the purposes of the functional currency provisions, treated as a retained cost base asset under the consolidation regime?

Preamble

This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxpayers and practitioners as it is not a ruling for the purposes of Part IVAAA of the ***Taxation Administration Act 1953****. It is only final Taxation Determinations that represent authoritative statements by the Australian Taxation Office.*

1. Yes. Australian currency is treated as a retained cost base asset for consolidation purposes. Where a taxpayer has elected into the functional currency regime and subsequently becomes a subsidiary member of a consolidated group, section 960-80 of the *Income Tax Assessment Act 1997* (ITAA 1997) does not have the effect of overriding the definition of retained cost base asset in subsection 705-25(5) of the ITAA 1997.

Explanation

2. The functional currency rules in Subdivision 960-D of the ITAA 1997 allow the use of currencies other than the Australian dollar as the monetary unit of account to work out the taxable income or the tax loss of an entity that has made a choice to use functional currency.

3. The core functional currency rules are an exception to the core foreign currency (Australian currency) translation rules in Subdivision 960-C of the ITAA 1997. The core foreign currency translation rules require foreign currency amounts to be translated into Australian dollars and they also state when a translation is to take place for a given type of transaction.

4. For the purposes of applying the functional currency provisions, where an entity has made a choice to use a functional currency, section 960-80 provides that Australian currency and any other currency (except the applicable currency) are taken to be foreign currencies.

5. The rules for the consolidation regime are set out in Part 3-90 of the ITAA 1997. Subsection 705-25(5) defines what is a retained cost base asset. Insofar as is relevant, a retained cost base asset is Australian currency or a right to receive a specified amount of such currency (other than a marketable security). Accordingly, foreign currency is not a retained cost base asset for consolidation purposes. The functional currency provisions do not operate to change the ordinary meaning of Australian currency in subsection 705-25(5).

6. While Australian currency is taken to be foreign currency for the purposes of applying the functional currency provisions, that deeming effect does not extend beyond those purposes to affect the application of the consolidation provisions.

7. Australian currency is a retained cost base asset for consolidation purposes, including circumstances where it is taken to be a foreign currency for the purposes of applying the functional currency provisions.

8. Subsection 701-10(4) of the ITAA 1997 provides that each asset's tax cost is set at the time the entity becomes a subsidiary member of the group at the asset's tax cost setting amount. Section 705-25 states what the tax cost setting amount is for a retained cost base asset. For paragraphs (a) and (b) of subsection 705-25(5) which deal with Australian currency or a right to receive a specified amount of such currency (other than a marketable security), it provides that the tax cost setting amount is equal to the amount of the Australian currency concerned. Having arrived at a tax cost setting amount, section 701-55 sets out how the setting of a tax cost affects the application of the other provisions of the income tax legislation.

Date of effect

9. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Your comments

10. We invite you to comment on this draft Taxation Determination. Please forward your comments to the contact officer by the due date.

Due date:	**18 February 2005**
Contact officer:	**Mike Slattery**
E-mail address:	**Mike.Slattery@ato.gov.au**
Telephone:	**(02) 6216 1638**
Facsimile:	**(02) 6216 2738**
Address:	**PO Box 900**
	Civic Square ACT 2601

Commissioner of Taxation
22 December 2004

Previous draft:

Not previously issued in draft form

Related Rulings/Determinations:

TR 92/20

Subject references:

- australian currency
- consolidation
- functional currency
- retained cost base asset

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1997 Part 3-90
- ITAA 1997 701-10(4)
- ITAA 1997 701-55
- ITAA 1997 705-25
- ITAA 1997 705-25(5)
- ITAA 1997 705-25(5)(a)
- ITAA 1997 705-25 (5)(b)
- ITAA 1997 Subdiv 960-C
- ITAA 1997 Subdiv 960-D
- ITAA 1997 960-80

ATO references

NO: 2004/13398
ISSN: 1038-8982