


***TD 2005/D9 - 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 multiple entry consolidated group?***

 This cover sheet is provided for information only. It does not form part of *TD 2005/D9 - 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 multiple entry consolidated group?*

This document has been finalised by TD 2005/41.



Draft 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 multiple entry consolidated group?

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 IVA of the **Taxation Administration Act 1953**. It is only final Taxation Determinations that represent authoritative statements by the Australian Taxation Office.*

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 multiple entry consolidated (MEC) 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. 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

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

TD 2005/D9

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Commissioner of Taxation

11 May 2005

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 92/20; TD 2005/D11

Subject references:

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

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

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

ATO references

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