


***TD 93/D232 - Income tax: thin capitalisation by non-residents: is the retrospective creation, or amendment, of an asset revaluation reserve allowed for the purposes of Div 16F of the Income Tax Assessment Act 1936?***

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This document has been finalised by TD 94/36.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

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## Draft Taxation Determination

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### **Income tax: thin capitalisation by non-residents: is the retrospective creation, or amendment, of an asset revaluation reserve allowed for the purposes of Div 16F of the *Income Tax Assessment Act 1936*?**

1. No. In measuring foreign equity, section 159GZG requires an asset revaluation reserve to be in place in the company's accounting records at the beginning of the relevant financial year.
2. If a company holds information which supports a revaluation of any assets in its accounts, for the relevant financial year, but does not formalise the revaluation by placing an entry into an asset revaluation reserve, then the company is precluded from retrospectively creating or amending an asset revaluation reserve.

**Commissioner of Taxation**

16/9/93

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Thin Capitalisation; Asset Re-Valuation

Legislative Ref: ITAA 159GZG(1); ITAA 159GZG(2)

Case Ref:

ATO Ref: CASAUD 15

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