



***TD 94/D25 (Withdrawn) - Income tax: foreign income: can a controlled foreign company (CFC) obtain the benefit of the trading stock exemption under section 521 of the Income Tax Assessment Act 1936 (the 'Act') ?***

 This cover sheet is provided for information only. It does not form part of *TD 94/D25 (Withdrawn) - Income tax: foreign income: can a controlled foreign company (CFC) obtain the benefit of the trading stock exemption under section 521 of the Income Tax Assessment Act 1936 (the 'Act') ?*

 This document has been Withdrawn.

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: foreign income: can a controlled foreign company (CFC) obtain the benefit of the trading stock exemption under section 521 of the *Income Tax Assessment Act 1936* (the 'Act') ?**

1. No. A CFC cannot obtain the benefit of this Foreign Investment Fund (FIF) exemption.
2. The FIF trading stock exemption under section 521 of the Act is available if a taxpayer elects, under subsection 31(5) of the Act, to account for all of its interests in FIFs that are trading stock at market value. However, this election is subject to the requirements of subsection 31(6) of the Act.
3. Subsection 31(6) provides that subsection 31(5) does not apply to the taxpayer unless the election is made before the taxpayer furnishes an income tax return to the Commissioner for the first income year in which any notional accounting period of a FIF in which the taxpayer has an interest ends.
4. Given that:
  - (a) subsection 31(6) only contemplates taxpayers who are required to furnish income tax returns to the Commissioner in respect of FIF income; and
  - (b) a CFC does not lodge income tax returns with the Commissioner in respect of FIF income of a FIF in which the CFC has an interest,

an election cannot be made by, or on behalf of, a CFC for the purposes subsection 31(5) of the Act.

**Commissioner of Taxation**  
10/3/94

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Foreign source income

Legislative Ref: ITAA 521, 31(5), 31(6)

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