

TD 2002/21 - Income tax: how do the transitional measures in the Corporations Act 2001 ('Corporations Act') impact upon the definition of a financial entity for the purposes of Division 820 of the Income Tax Assessment Act 1997 ('ITAA 1997')?

 This cover sheet is provided for information only. It does not form part of *TD 2002/21 - Income tax: how do the transitional measures in the Corporations Act 2001 ('Corporations Act') impact upon the definition of a financial entity for the purposes of Division 820 of the Income Tax Assessment Act 1997 ('ITAA 1997')*?

 This document has changed over time. This is a consolidated version of the ruling which was published on *4 September 2002*



Taxation Determination

Income tax: how do the transitional measures in the *Corporations Act 2001* ('Corporations Act') impact upon the definition of a financial entity for the purposes of Division 820 of the *Income Tax Assessment Act 1997* ('ITAA 1997')?

Preamble

*The number, subject heading, date of effect and paragraphs 1 and 2 of this Taxation Determination are a 'public ruling' for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner. The remainder of the Determination is administratively binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain how a Determination is legally or administratively binding.*

Date of effect

This Determination applies to the income years ending 30 June 2002, 30 June 2003 and 30 June 2004 only. However, this Determination 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).

1. Division 820 contains a number of provisions that apply to a financial entity, which is defined in section 995-1 of the ITAA 1997. One of the requirements under that definition is that an entity be a financial services licensee under the Corporations Act. However, paragraph 1431(1)(a) of the Corporations Act provides for a two year transition period, commencing on the 11 March 2002, during which time an entity that holds a dealers licence granted under Part 7.3 of the old Corporations Law does not need to hold a financial services licence under Part 7.6 of the Corporations Act.
2. It is implicit under the transitional provisions of the Corporations Act that the holder of a dealer's licence will be treated as a financial services licensee for the purposes of that Act. Therefore, during the transition period an entity that holds a dealers licence under Part 7.3 of the old Corporations Law will be treated as a financial entity for the purposes of Division 820 of the ITAA 1997.

Previous draft:

Not previously released in draft form

Related Rulings/Determinations:

TR 92/1; TR 92/20; TR97/16

Subject references:

- dealers licence
- financial entity
- financial services licensee
- thin capitalisation
- transitional measures
- transition period

Legislative references:

- ITAA 1997 Div820
- ITAA 1997 995-1
- Corporations Act 2001 Part 7.6
- Corporations Act 2001 1431(1)(a)
- Old Corporations Law Part 7.3

ATO References

NO: 2002/012076

ISSN: 1038-8982