


# ***TD 96/39 - 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 96/39 - 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 This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

 This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

**0**This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a 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).

---

## Taxation Determination

---

### **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.
3. However, for the purposes of calculating the attributable income of a CFC, section 397 modifies the trading stock provisions of the Act so that the value of any article of trading stock to be taken into account is its cost price only.
4. Thus, an election cannot be made by, or on behalf of, a CFC under subsection 31(5) to value its trading stock at market value because of the requirement in section 397 that the CFC must value its trading stock at cost price.

**Commissioner of Taxation**

18 September 1996

---

FOI INDEX DETAIL: Reference No. I 1015739

Previously issued as Draft TD 94/D28

Related Determinations:

Related Rulings:

Subject Ref: foreign source income

Legislative Ref: ITAA 521; ITAA 31(5); ITAA 397

Case Ref:

ATO Ref: NAT 96/9066-2; 93/2948-0

---

ISSN 1038 - 8982