TR 2004/15W - Income tax: residence of companies not incorporated in Australia - carrying on business in Australia and central management and control

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This document has changed over time. This is a consolidated version of the ruling which was published on *15 March 2017*

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Notice of Withdrawal

Taxation Ruling

Income tax: residence of companies not incorporated in Australia – carrying on business in Australia and central management and control

Taxation Ruling TR 2004/15 is withdrawn with effect from today.

1. TR 2004/15 set out the Commissioner's view on how to apply the central management and control test of company residency in paragraph (b) of the definition of *'resident' or 'resident of Australia'* in subsection 6(1) of the *Income Tax Assessment Act 1936*.

2. TR 2004/15 has been replaced by Taxation Ruling TR 2017/D2 *Income tax: Foreign Incorporated Companies: Central Management and Control test of residency* issued on 15 March 2017. The new draft ruling sets out the Commissioner's revised view on how to apply the central management and control test of company residency following the High Court decision in *Bywater Investments Limited & Ors v. Commissioner of Taxation; Hua Wang Bank Berhad v. Commissioner of Taxation* [2016] HCA 45; 2016 ATC 20-589. To the extent that the views contained in TR 2004/15 are still current, they have been incorporated into TR 2017/D2.

3. Taxation Ruling TR 2017/D2 will apply from 15 March 2017 to taxpayers to the extent that it does not conflict with the terms of any settlement or dispute agreed to before the issue of the Ruling.

Commissioner of Taxation
15 March 2017

ATO references
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