


***TD 93/D122 - Income tax: foreign income (foreign investment funds) - does the phrase 'assets for use in eligible activities' in section 500 of the Income Tax Assessment Act 1936 (ITAA) include assets held for use in eligible activities?***

 This cover sheet is provided for information only. It does not form part of *TD 93/D122 - Income tax: foreign income (foreign investment funds) - does the phrase 'assets for use in eligible activities' in section 500 of the Income Tax Assessment Act 1936 (ITAA) include assets held for use in eligible activities?*

This document has been finalised by TD 93/137.

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 (foreign investment funds) - does the phrase "assets for use in eligible activities" in section 500 of the *Income Tax Assessment Act 1936* (ITAA) include assets held for use in eligible activities?**

1. Yes. The phrase "assets for use in eligible activities" in section 500 of the ITAA includes assets held for use in eligible activities.
2. Accordingly, assets held for use in eligible activities will be taken into account for the purposes of the balance sheet method of determining whether a taxpayer's interest in a foreign company qualifies for the active business exemption under the foreign investment fund measures.
3. An example of an asset held for use in an eligible activity is newly installed plant ready for use in manufacturing.

**Commissioner of Taxation**  
20/5/93

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