


TD 1999/37A - Addendum - Income tax: does section 103-20 of the Income Tax Assessment Act 1997 apply in determining the capital gain or loss content of attributable income of a controlled foreign company?

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Addendum

Taxation Determination

Income tax: does section 103-20 of the *Income Tax Assessment Act 1997* apply in determining the capital gain or loss content of attributable income of a controlled foreign company?

This Addendum amends Taxation Determination TD 1999/37 to reflect the new translation rule in section 960-50 of the *Income Tax Assessment Act 1997* (ITAA 1997) made by the *New Business Tax System (Taxation of Financial Arrangements) Act (No. 1) 2003* (Act No. 133 of 2003).

Act No. 133 of 2003 repealed section 103-20 of the ITAA 1997 and replaced it with a similar translation rule in table item 5 of subsection 960-50(6) of the ITAA 1997. These changes do not affect the decision in this Determination.

The changes apply to transactions or events happening on or after 1 July 2003.

However, Act No. 133 of 2003 contains a transitional provision which provides that section 103-20 of the ITAA 1997 continues to apply despite its repeal in relation to a transaction, event or thing that involves an amount in a foreign currency to which section 960-50 of the ITAA 1997 does not apply.

TD 1999/37 is amended as follows:

1. Paragraph 2

After the paragraph insert:

Note 3: References to section 103-20 of the ITAA 1997 in this Determination need to be read against the background that the *New Business Tax System (Taxation of Financial Arrangements) Act (No. 1) 2003*, which replaced section 103-20 with a similar translation rule in table item 5 of subsection 960-50(6) of the ITAA 1997, provided that section 103-20 of the ITAA 1997 continues to apply despite its repeal in relation to a transaction, event or thing that involves an amount in a foreign currency to which section 960-50 of the ITAA 1997 does not apply.

TD 1999/37

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2. Legislative references

Omit the legislative references; substitute:

- ITAA 1936 Pt X
- ITAA 1936 Pt X Div 7 Subdiv C
- ITAA 1997 103-20
- ITAA 1997 Pt 3-1
- ITAA 1997 Pt 3-3
- ITAA 1997 960-50
- ITAA 1997 960-50(6)
- New Business Tax System (Taxation of Financial Arrangements) Act (No. 1) 2003

This Addendum applies on or after 1 July 2003.

Commissioner of Taxation

7 March 2007

ATO references

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ATOlaw topic: Income Tax ~~ Entity specific matters ~~ controlled foreign companies