Instructions for **large business operators**

International dealings schedule – financial services instructions 2011

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Australian Government
Australian Taxation Office

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We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it but we will not charge you a penalty. Also, if you acted reasonably and in good faith we will not charge you interest.

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If you feel that this publication does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for more recent information on our website at **www.ato.gov.au** or contact us.

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CONTENTS

ABOUT THESE INSTRUCTIONS

Use these instructions to help you complete the *International dealings schedule – financial services 2011* (NAT 73345).

This publication is **not** a guide to income tax law. The examples presented in the instructions only illustrate how the schedule should be completed and should not be relied upon for technical guidance. If you feel that this publication does not fully cover your circumstances, you should get help from us or a recognised tax adviser.

If you want, you can also provide feedback on any difficulty or otherwise in completing questions within the schedule. This will feed into future versions of the schedule. Provide this feedback by either:

- including a covering letter with your schedule
- emailing the IDS-FS project team at **IDS-FSproject@ato.gov.au**

PUBLICATIONS AND SERVICES

To obtain a copy of one of our publications referred to in these instructions or for more information about our other services, see 'More information' on the inside back cover.

We issue public rulings setting out our policies on the taxation aspects of international related party dealings. It is recommended that if you had any international related party dealings you should be familiar with these rulings.

There are also a number of publications about international transfer pricing. For more information:

- visit our website at **www.ato.gov.au/internationalbusiness**
- refer to *Organisation for Economic Co-operation and Development (OECD) Transfer pricing guidelines for multinational enterprises and tax administrations – 2009*.

INTRODUCTION

You should complete the *International dealings schedule – financial services* if you are an entity who meets one of the following criteria:

- foreign bank
- foreign bank branch
- general or life insurance entity
- financial services provider with total income of $250 million or more on their current year's income tax return.

They must also satisfy at least one of the trigger points as set out below.

In the case of a consolidated group for the purposes of Part 3-90 of the *Income Tax Assessment Act 1997* (ITAA 1997), the head company is the relevant entity that is to complete the schedule for the consolidated group.

Entities with industry codes as listed in appendix 1 will fall within the financial services industry and will meet our definition of a financial services provider. A financial services provider includes all entities within the financial services industry except for super funds.

When we refer to 'you', 'your business' or 'taxpayer' in these instructions, we are referring either to you as a business entity – for example, a company, trust or partnership – that conducts a financial service business, or to you as the tax agent or public officer responsible for completing the schedule.

This schedule forms part of your entity's the tax return.

PERMANENT ESTABLISHMENTS

Permanent establishment is defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936). It includes:

- business operations carried on by an Australian resident entity at or through a fixed place of business in another country
- business operations carried on by a foreign resident entity at or through a fixed place of business in Australia.

> For more information, refer to *Taxation Ruling TR 2002/5 Income tax: Permanent establishment – What is 'a place at or through which [a] person carries on any business' in the definition of permanent establishment in subsection 6(1) of the Income Tax Assessment Act 1936?*

Although branch operations are not an 'entity' or 'party' separate from the taxpayer who undertakes those operations, working out the taxable profits of branch operations involves attributing income and expenditure of the taxpayer on a separate entity basis.

For income and expenditure of the taxpayer that is not wholly or directly earned from, or incurred in, its branch operations, income or expenses may be attributed to branch operations on the basis of internally recorded 'dealings' on the proviso that those records:

- reflect the functions and assets of the business operations carried on at or through the permanent establishment, and
- represent the best estimate of branch profits that can be made in the circumstances.

> For more information, refer to:
> - *Taxation Ruling TR 2001/11 Income tax: international transfer pricing- operation of Australia's permanent establishment attribution rules*
> - *Taxation Ruling TR 2005/11 Income tax: branch funding for multinational banks.*

The information collected at some questions in this schedule includes what you have internally recorded as dealings between you and your branch operations, and income/gains you have returned or the expenses/losses you have claimed in respect of those internally recorded dealings.

TRIGGER POINTS THAT WILL REQUIRE COMPLETION OF THIS SCHEDULE

If you are a relevant financial service provider, you are required to complete an *International dealings schedule – financial services* if you have entered an amount or 'Y' (for yes) at certain labels in the relevant tax return listed below.

Company tax return 2011

Question 7 Reconciliation to taxable income or loss
Label P: Offshore banking unit adjustment.

Question 23 International related party dealings/transfer pricing
Label Y: Was the aggregate amount of the transactions or dealings with international related parties (including the value of property transferred or the balance outstanding on any loans) greater than $1 million?

Question 24 Overseas interests
Label Z: Did you have overseas branch operations or a direct or indirect interest in a foreign trust, foreign company, controlled foreign entity or transferor trust?

Question 25 Thin Capitalisation
Label O: Did the thin capitalisation provisions apply as outlined in the instructions and the guide thin capitalisation?

Partnership tax return 2011

Question 22 Attributed foreign income
Label S: Did you have either a direct or indirect interest in a foreign trust, controlled foreign company or transferor trust?

Question 29 Overseas transactions
Label W: Was the aggregate amount of your transactions or dealings with international related parties (including the value of any property/service transferred or the balance of any loans) greater than $1 million?

Trust tax return 2011

Question 22 Attributed foreign income
Label S: Did you have either a direct or indirect interest in a foreign trust, controlled foreign company or transferor trust?

Question 29 Overseas transactions
Label W: Was the aggregate amount of your transactions or dealings with international related parties (including the value of any property/service transferred or the balance of any loans) greater than $1 million?

HOW DO YOU COMPLETE THE SCHEDULE

We strongly recommend that you read these instructions when completing the *International dealings schedule – financial services*.

If the information requested is not relevant to your circumstances, leave the fields blank.

All amounts within the schedule are in Australian dollars.

For the definitions of terms used in this schedule, see ‘Definitions’ on page 72.

QUESTION 1

Provide your entity’s:
- name
- tax file number (TFN)
- Australian business number (ABN).

These details should be exactly the same as those given on your entity’s tax return.

SECTION A: FOREIGN-SOURCED INCOME

QUESTION 2

Complete by placing an 'X' in the applicable box.

If you answer 'yes', you need to provide the total amount of **gross** assessable foreign income. This amount should not be reduced by any foreign tax paid on this income. You should include at this question any assessable foreign source capital gains.

You should not include any of the following:

- foreign sourced income that is exempt income
- non-assessable non-exempt income
- attributable income included in assessable income under Part X of the ITAA 1936.

The dollar amount is based on your tax records.

This information will help us to quantify the significance of Australian taxpayers' international dealings.

Foreign income is income derived from sources in a foreign country. The concept of assessable foreign income is very broad and includes both of the following:

- income according to ordinary concepts
- income included under statutory provisions.

A receipt sourced from a foreign country is foreign income only if it is income according to Australian income tax law. Its characterisation under the tax law of the foreign country is irrelevant.

SECTION B: DEALINGS WITH SPECIFIED COUNTRIES

QUESTION 3

Complete by placing an 'X' in the applicable box. If you answer 'yes', you need to provide information for three specified countries with the highest dollar value of dealings.

To complete this question, you need to:

- identify all your dealings with other parties (related and non-related) located in specified countries during the income year
- group these dealings according to the specified country where the other party was located
- total the dollar value of your dealings (expenses/losses plus revenue/gains, excluding principal and principal repayment amounts) for each specified country
- work out the three specified countries where you had the highest dollar value of dealings.

In the first column at **C**, **G** and **K**, list the codes of the three specified countries with the highest dollar value of dealings between you and other parties located in specified countries.

List the codes in descending order of total dollar value.

For the list of specified countries, see 'Appendix 2' on page 62.

In the second column at **D**, **H** and **L**, provide the total amount of expenditure/losses incurred (excluding principal and principal repayment amounts) in respect of your dealings with other parties located in each of the specified countries listed in the first column.

In the third column at **E**, **I** and **M**, provide the total amount of revenue/gains earned (excluding principal and principal repayment amounts) in respect of your dealings with other parties located in each of the specified countries listed in the first column.

In the fourth column at **F**, **J** and **N**, specify the codes that describe the nature of the principal activities undertaken with other parties in each of the specified countries listed in the first column. The principal activity for each country is that with the highest dollar value of dealings (expenses/losses plus revenue/gains) with other parties located in that country.

For the list of codes for activity types, see 'Appendix 5' on page 67.

If your dealings with other parties were confined to one or two of the specified countries, only list those countries.

We consider there is a higher tax compliance risk associated with international dealings by Australian taxpayers with particular tax jurisdictions. To assist us in developing our compliance strategies in relation to these risks we are seeking to identify the principal specified countries where the taxpayers' activities are undertaken and the level of taxpayer's activities in those countries.

Only dealings conducted on the taxpayer's own behalf need to be taken into account. That is, dealings by a financial services entity on behalf of its clients are not to be included. For example, the following dealings would not be included in the answer to this question:

- A dealing where you serve as the contracting party when completing the purchase of a currency swap on behalf of your customer.
- Interest paid on demand deposits to customers/account holders located in specified countries.
- Expenses billed to customers located in specified countries in respect of cash management services provided to those customers.
- You have provided a customer located in a specified country with a loan to purchase a capital asset.

The term dealings should be read widely to mean any type of interaction between **you** and any parties located in specified countries.

For the purpose of this question parties includes (but not limited to):

- individuals
- companies
- trusts
- super funds
- partnerships.

This question also collects information about your internally recorded 'dealings' with your branch operations that records your attribution of your income and expenditure to the branch operations carried on in specified countries.

For more information, see 'Permanent establishments' on page 4.

Also treat the reference to a 'party' as though it extended to:

- offshore branch operations carried on by an Australian resident – treat such operations as though they were instead a separate 'party' located in the branch country
- Australian branch operations carried on by a non-resident – treat such operations as though they were instead a separate 'party' located in Australia.

Except for branch operations (refer above) or partnerships, treat the location of another party as the same as the tax jurisdiction in which the party is a resident. Treat the location of a partnership as the place where the partners are located or the partnership business is carried on.

If, for unrelated parties, the taxing jurisdiction is not known, it is sufficient to determine the location based on the address supplied by the counterparty to the dealing.

If you had dealings with another party (including a related party) in specified countries during the income year, answer yes to this question and complete the required fields.

The dollar amounts or values asked for are all based on your accounting records.

The amounts reported at this question may be reported in the financial statements as revenue/gains or expenses/losses, depending on the accounting treatment of the relevant item (for example, for dealings in derivatives, you may report revenue from net cash flows or you may report a gain in fair value). Therefore, for the purposes of this question, the terms: 'expenditure and losses' and 'revenue and gains' are interchangeable.

The amounts reported at this question should include:

- net capital gains (that is net of costs and net of losses) arising from portfolio investment activities (interests of less than 10% in companies and trusts) with entities located in specified countries
- capital proceeds/revenue and capital cost/expenditure for your dealings with parties located in specified countries (for example, the sale or purchase of a non-current asset).

Completion of question 3 for your 2011 income year

We understand that for some taxpayers there may not have been enough time to change your accounting systems to allow you to collect all of the information required to complete this question for this first year. If this is the case for you we ask that you complete as much of question 3 as possible using your current systems and make a best effort to estimate figures where actual data is not possible. Include a covering letter with your International dealings schedule – financial services 2011 that indicates where you needed to estimate, and let us know what data you used to make this estimate. Any feedback you can provide to us on the difficulty or otherwise in completing this question would be appreciated and will be considered for future versions of the schedule.

EXAMPLE

An Australian taxpayer engaged in the following dealings with entities during the income year.

Country	Country code	Activity description	Activity code	Amount	Expenditure or revenue
Belize	BLZ	Derivatives	6	1,200,000	Revenue
		Treasury activities	14	40,000	Expenditure
		Cash & trade services	4	300,000	Revenue
		Advisory services	2	70,000	Expenditure
		Administrative services	1	25,000	Expenditure
		Other	99	60,000	Expenditure
British Virgin Islands	VGB	Derivatives	6	3,000,000	Revenue
Cayman Islands	CYM	Derivatives	6	1,100,000	Expenditure
		Advisory services	2	1,250,000	Expenditure
		Other	99	90,000	Expenditure
Gibraltar	GIB	Cash & trade services	4	450,000	Expenditure
		Cash & trade services	4	120,000	Revenue
		Administrative services	1	600,000	Expenditure
San Marino	SMR	Treasury activities	14	800,000	Expenditure
		Guarantees	8	1,600,000	Expenditure
		Cash & trade services	4	280,000	Revenue
		Other	99	1,500,000	Expenditure
		Other	99	200,000	Revenue
Turkey	TUR	Advisory services	2	50,000	Revenue
Vanuatu	VUT	Treasury activities	14	200,000	Expenditure
		Guarantees	8	970,000	Revenue
		Cash & trade services	4	390,000	Expenditure
		Cash & trade services	4	680,000	Revenue
		Administrative services	1	300,000	Expenditure

The Australian taxpayer extracts the relevant data from the information above.

Specified country	Total expenditure amounts	Total revenue amounts	Total dollar value	Dominant activity	Activity code
Belize	195,000	1,500,000	1,695,000	Derivatives	6
British Virgin Islands		3,000,000	3,000,000	Derivatives	6
Cayman Island	2,440,000		2,440,000	Advisory services	2
Gibraltar	1,050,000	120,000	1,170,000	Administrative services	1
San Marino	3,900,000	480,000	4,380,000	Other	99
Vanuatu	890,000	1,650,000	2,540,000	Cash & trade services	4

Note: The Australian taxpayer disregards the dealings for the entity located in Turkey, as Turkey is not a specified country.

The three specified countries with the highest dollar value of dealings between the Australian taxpayer and entities located in these countries are San Marino, British Virgin Islands and Vanuatu.

With this information the Australian taxpayer completes question 3 as follows.

Specified country	Expenditure	Revenue	Activity code
C SMR	D $ 3,900,000 .XX	E $ 480,000 .XX	F 99
G VGB	H $ .XX	I $ 3,000,000 .XX	J 6
K VUT	L $ 890,000 .XX	M $ 1,650,000 .XX	N 4

QUESTION 4

Complete by placing an 'X' in the applicable box. If you answer 'yes', you need to provide the following information:

- financing activities
- insurance and reinsurance.

We are seeking information to examine compliance risks in respect of Australian taxpayers' cross border financing and insurance and reinsurance activities undertaken with related parties located in specified countries. To help us in developing our compliance strategies for these activities, we seek to identify the principal countries where these dealings are undertaken and quantify the extent of these dealings.

Only dealings conducted on the taxpayer's own behalf need to be taken into account in the answer to this question. That is, dealings by a financial services entity on behalf of its clients are not to be included. For example, a dealing where you serve as the contracting party when completing the purchase of a currency swap on behalf of your customer would not be included in the answer to this question but the purchase of a currency swap in your own right to hedge you own financial position would be included.

If you had related party dealings with entities located in any of the specified countries during the income year, in relation to financing activities, insurance or reinsurance, answer 'yes' and complete the required fields.

The dollar amounts or values asked for in this question are all based on your accounting records.

! That where you have undertaken financing and/or insurance and reinsurance activities with related parties located in specified countries, you should provide all relevant details regardless of the amounts reported at other questions.

Financing activities

This part of question 4 asks you to provide details of your expenses/losses incurred and revenue/gains earned in relation to your financing activities with related parties located in any of the specified countries during the income year.

This question also collects information about expenses/losses claimed and income/gains returned for your internally recorded 'dealings' with your branch operations that record your attribution of your income and expenditure for your financing activities to the branch operations carried on in specified countries.

Financing activities refers to dealings in financial instruments that would qualify as financial assets or financial liabilities under relevant Australian accounting standards or comparable foreign accounting standards but excludes financial instruments that would meet the definition of a derivative. At the time of this publication, the two key Australian accounting standards relevant to this question include AASB 132 Financial Instruments: Presentation and AASB 139 Financial Instruments: Recognition and Measurement. You do not need to consider the debt/equity provisions of the tax legislation.

We expect interest to be the principal expense incurred and revenue earned in respect of your financing activities. However, any other expenses/losses and revenue/gains associated with these activities should also be included in the response to this question, such as borrowing costs or foreign exchange gains/losses.

Do not show at this question:

- principal and principal repayment amounts
- the amount of your funds used in your offshore branch operations that you have internally recorded as a 'loan' or other financing arrangement with your branch operations – you must instead show those amounts at question 14.

The amounts reported at this question may be reported in the financial statements as revenue/gains or expenses/losses, depending on the accounting treatment of your relevant financial assets and financial liabilities. This includes amounts relating to hedging items that are classified in the financial statements as financial assets or financial liabilities. Therefore for the purposes of this question, the terms: 'expenditure and losses'; and 'revenue and gains'; are interchangeable.

To complete this question, you need to:

- identify all your financing activities with related parties located in specified countries during the income year
- group these dealings according to the specified country where the related party to the activity was located
- total the dollar value of the expenses/losses plus revenue/gains (excluding principal and principal repayment amounts) for your financing activities for each specified country
- work out the three specified countries where you had the highest dollar value of expenditure/losses plus revenue/gains in respect of your financing activities.

In the first column at **C**, **F** and **I**, list the codes of the three specified countries with the highest dollar values of 'expenditure/losses plus revenue/gains' in respect of your financing activities with related parties located in these countries.

List the codes in a descending order of total dollar value.

For the list of codes for the specified countries, see 'Appendix 2' on page 62.

In the second column at **D**, **G** and **J**, provide the total amount of expenditure/losses incurred (excluding principal and principal repayment amounts) in respect of your financing activities with related parties located in each of the specified countries listed in the first column.

In the third column at **E**, **H** and **K**, provide the total amount of revenue/gains earned (excluding principal and principal repayment amounts) in respect of your financing activities with related parties located in each of the specified countries listed in the first column.

If your financing activities with related parties were confined to one or two of the specified countries, only list those countries.

EXAMPLE

During the income year the following events occurred in relation to an Australian bank:

- the bank's borrowed funds were used in its branch operations carried on in the US, the UK and Jersey which it internally recorded as a loan to those branch operations
- provided short term loans to entities located in UK, Monaco and Jersey
- issued bonds to entities located in US, Monaco and Jersey to finance its business restructure.

The Australian taxpayer recorded the expenditure incurred and the revenue earned in respect of these financing activities.

Entity	Relation to taxpayer	Country entity located	Expenditure	Revenue
US branch	Branch	US		5,095,000
UK branch	Branch	UK		7,080,000
Jersey branch	Branch	Jersey		6,695,000
UK Co	100% subsidiary	UK		15,230,000
Monaco Co	100% subsidiary	Monaco		13,010,000
Jersey Co	na	Jersey		9,850,000
Coin Co	100% subsidiary	US	20,450,000	
Finance Co	na	Monaco	14,890,000	
Money Co	100% subsidiary	Jersey	16,900,000	

From the information in the table above the Australian taxpayer will disregard:

- the income/revenue returned by the bank for its internally recorded loans in respect of the borrowed funds used by its US and UK branch operations, as the branch operations are not carried on in specified countries
- the revenue earned in respect of the short term loans to UK Co and Jersey Co, as the first entity is not located in a specified country and the other is not related to the taxpayer
- the expenditure incurred in respect of the bonds issued to Coin Co and Finance Co, as the first entity is not located in a specified country and the other is not related to the taxpayer.

The Australian taxpayer extracts the relevant data from the information above.

Country entity located	Entity	Expenditure	Revenue	Total dollar value
Jersey	Jersey branch		6,695,000	23,595,000
Jersey	Money Co	16,900,000		
Monaco	Monaco Co		13,010,000	13,010,000

As the Australian taxpayer only undertook financing activities with related parties located in two specified countries, Jersey and Monaco, these countries must have the highest dollar value of 'expenditure/losses plus revenue/gains' in respect of their financing activities undertaken with related parties.

With this information the Australian taxpayer completes question 4 as follows.

		Specified country		Expenditure		Revenue
Financing activities	C	J E Y	D $	16,900,000	E $	6,695,000
	F	M C O	G $		H $	13,010,000
	I		J $		K $	

Note: The fields in the third row are left blank as the Australian taxpayer's financing activities were undertaken with related parties located in two specified countries.

Insurance and reinsurance

This part of question 4 asks you to provide details of your expenses incurred and revenue earned in relation to your insurance and reinsurance contracts with related parties located in any of the specified countries during the income year.

Insurance is a means by which an entity can protect itself with an insurance company against the risk of loss. Commonly insurance is categorised into general insurance, life insurance and health insurance.

Reinsurance is a means by which an insurance company can protect itself with other insurance companies against the risk of losses. Therefore, the question relating to reinsurance is applicable only to insurance companies.

The amounts reported for this question should include the expenditure and revenue that would qualify as expenditure/revenue in relation to insurance/reinsurance contracts under relevant Australian accounting standards or comparable foreign accounting standards (eg premium revenue, claim recoveries, commissions received from reinsurers, etc). At the time of this publication, the three key Australian accounting standards relevant to the recognition of expenditure and revenue in relation to insurance/reinsurance include AASB 4 Insurance Contracts, AASB 1023 General Insurance Contracts and AASB 1038 Life Insurance Contracts. As the dollar amounts in this question are based on your accounting records, you should include all of your reinsurance expenditure and revenue regardless of any election made under Division 15 of Part III of the ITAA 1936.

If you engaged an intermediary (eg broker) in arranging your insurance or reinsurance contracts, even though an independent agent, the intermediary is considered to be acting on your behalf. Therefore, the transactions undertaken by the intermediary on your behalf should be included in the answer to this question where appropriate.

To complete this question, you need to:

- identify all your insurance and reinsurance contracts with related parties located in specified countries during the income year
- group these contracts according to the specified country where the related party to the contract was located
- total the dollar value of your insurance and reinsurance contracts (expenses plus revenue) for each specified country
- then determine the three specified countries where you had the highest dollar value of insurance and reinsurance activities.

In the first column at **L**, **O** and **R**, list the codes of the three specified countries with the highest dollar values of your insurance and reinsurance contracts with related parties located in these specified countries.

List these codes in descending order of total dollar value.

For the list of codes for specified countries, see ‘Appendix 2’ on page 62.

In the second column at **M**, **P** and **S**, provide the total amount of expenditure incurred in respect of your insurance and reinsurance contracts with related parties located in each of the specified countries listed in the first column.

In the third column at **N**, **Q** and **T**, provide the total amount of revenue earned in respect of your insurance and reinsurance contracts with related parties located in each of the specified countries listed in the first column.

If your insurance and reinsurance contracts with entities were confined to one or two of the specified countries, only list those countries.

EXAMPLE: Insurance business only

As part of its risk management strategy, an Australian taxpayer insured its business against loss of:

- key personnel
- business assets
- fleet of motor vehicles
- legal claims against the business.

When insuring the assets of the business, the taxpayer dealt directly with the insurance companies and entered into:

- a property insurance contract in respect of its business assets (apart from motor vehicles) with insurance company, Asset Co
- a motor vehicle insurance contract in respect of loss or damage to its fleet of vehicles with insurance company, Motor Co.

In relation to insurance to cover key personnel and legal claims against the business, the taxpayer engaged a broker to assist in determining the best insurance. The broker on behalf of the taxpayer entered into:

- life insurance contracts in relation to its key personnel of its business with two insurance companies, Life Co and Growth Co
- liability insurance contracts in respect of any legal claims against the business with insurance companies, Legal Co and Writ Co.

The Australian taxpayer extracts the relevant data from the information above.

Entity	Relation to taxpayer	Country entity located	Expenditure amounts	Revenue amounts	Total dollar value
Asset Co	100% subsidiary	Australia	6,000,000	1,500,000	7,500,000
Motor Co	100% subsidiary	Monaco	1,500,000	50,000	1,550,000
Life Co	100% subsidiary	Bahamas	7,900,000	2,650,000	10,550,000
Growth Co	100% subsidiary	Bermuda	5,600,000	1,300,000	6,900,000
Legal Co	100% subsidiary	Cayman Islands	5,500,000	1,800,000	7,300,000
Writ Co	na	Cayman Islands	4,900,000	1,950,000	6,850,000

The three specified countries with the highest dollar value of dealings between the Australian taxpayer and related parties located in specified countries are Bahamas, Cayman Islands and Bermuda.

With this information the Australian taxpayer completes question 4 as follows.

		Specified country		Expenditure		Revenue
Insurance and reinsurance	L	BHS	M $	7,900,000	N $	2,650,000
	O	CYM	P $	5,500,000	Q $	1,800,000
	R	BMU	S $	5,600,000	T $	1,300,000

Note: In completing the International dealings schedule – financial services, the Australian taxpayer disregards the dealings, in relation to:

- Asset Co because this insurance company was not located in a specified country
- Writ Co because this insurance company was not related to the taxpayer.

EXAMPLE: Reinsurance business only

As part of its risk management strategy, an Australian taxpayer conducting a business of insurance entered into certain reinsurance arrangements.

The taxpayer engaged a reinsurance broker to arrange reinsurance on the following classes of its insurance business:
- fire and industrial special risks
- public liability
- employers' liability.

The taxpayer directly arranged reinsurance cover in respect of the following classes of its insurance business:
- compulsory third party
- house owners/householders
- domestic motor vehicle.

The taxpayer reinsured these classes of business with the following companies:
- fire and industrial special risks reinsured with Cayman Co
- public liability reinsured with Jersey Co
- employers liability reinsured with Aus Co
- compulsory third party reinsured with Cay Co
- house owners/householders reinsured with Vanuatu Co
- domestic motor vehicle reinsured with Belize Co.

The Australian taxpayer extracts the relevant data from the information above.

<table>
<tr><th>Entity</th><th>Relation to taxpayer</th><th>Country entity located</th><th>Expenditure amounts</th><th>Revenue amounts</th><th>Total dollar value</th></tr>
<tr><td>Cayman Co</td><td>100% subsidiary</td><td>Cayman Islands</td><td>3,650,000</td><td>5,950,000</td><td rowspan="2">17,950,000</td></tr>
<tr><td>Cay Co</td><td>100% subsidiary</td><td>Cayman Islands</td><td>4,550,000</td><td>3,800,000</td></tr>
<tr><td>Jersey Co</td><td>100% subsidiary</td><td>Jersey</td><td>7,650,000</td><td>9,150,000</td><td>16,800,000</td></tr>
<tr><td>Aus Co</td><td>100% subsidiary</td><td>Australia</td><td>7,500,000</td><td>2,500,000</td><td>10,000,000</td></tr>
<tr><td>Vanuatu Co</td><td>na</td><td>Vanuatu</td><td>2,350,000</td><td>1,950,000</td><td>4,300,000</td></tr>
<tr><td>Belize Co</td><td>100% subsidiary</td><td>Belize</td><td>1,800,000</td><td>1,500,000</td><td>3,300,000</td></tr>
</table>

The three specified countries with the highest dollar value of dealings between the Australian taxpayer and entities located in specified countries are Cayman Islands, Jersey and Belize.

With this information the Australian taxpayer completes question 4 as follows.

	Specified country	Expenditure	Revenue
Insurance and reinsurance	L CYM	M $ 8,200,000 .~~00~~	N $ 9,750,000 .~~00~~
	O JEY	P $ 7,650,000 .~~00~~	Q $ 9,150,000 .~~00~~
	R BLZ	S $ 1,800,000 .~~00~~	T $ 1,500,000 .~~00~~

Note: In completing the International dealings schedule – financial services, the Australian taxpayer disregards the dealings, in relation to:
- Aus Co because this reinsurance company was not located in a specified country
- Vanuatu Co because this insurance company was not related to the taxpayer.

EXAMPLE: Insurance and reinsurance businesses

In this scenario the Australian taxpayer conducts a business of insurance and undertook all the transactions as described in the above insurance business and reinsurance business examples.

The Australian taxpayer extracts the relevant data from the information above.

Country entity located	Expenditure amounts	Revenue amounts	Total dollar amounts
Bahamas	7,900,000	2,650,000	10,550,000
Belize	1,800,000	1,500,000	3,300,000
Bermuda	5,600,000	1,300,000	6,900,000
Cayman Islands	13,700,000	11,550,000	25,250,000
Jersey	7,650,000	9,150,000	16,800,000
Monaco	1,500,000	50,000	1,550,000

The three specified countries with the highest dollar value of dealings between the Australian taxpayer and entities located in specified countries are Cayman Islands, Jersey and Bahamas.

With this information the Australian taxpayer completes question 4 as follows.

	Specified country	Expenditure	Revenue
Insurance and reinsurance	L CYM	M $ 13,700,000 .~~00~~	N $ 11,550,000 .~~00~~
	O JEY	P $ 7,650,000 .~~00~~	Q $ 9,150,000 .~~00~~
	R BHS	S $ 7,900,000 .~~00~~	T $ 2,650,000 .~~00~~

In completing question 4, the Australian taxpayer disregards the same dealings as detailed in the previous examples.

QUESTION 5

In order to evaluate any potential compliance risks in respect of Australian taxpayers' dealings undertaken with related parties in specified countries, we need to understand the nature of these dealings. Therefore, we seek to identify the principal activities undertaken by Australian taxpayers and related parties in specified countries, where these activities are mainly undertaken and the extent/significance of these activities. This question seeks information on activities other than those dealt with in question 4.

This question also collects information about use of your property, services or any other benefit in your offshore branch operations where your attribution of your income or expenses in relation to the property, services or other benefit is internally recorded as a 'dealing' with your branch operations: refer to the Introduction of these instructions for more information.

Accordingly, also treat the reference in this question to a 'party' as though it extended to:

- offshore branch operations carried on by an Australian resident – treat such operations as though they were instead a separate 'party' located in the branch country
- Australian branch operations carried on by a non-resident – treat such operations as though they were instead a separate 'party' located in Australia.

If you had related party dealings with entities in any of the specified countries during the income year, other than the dealings listed in question 4, answer yes to this question and complete the required fields.

Only dealings conducted on the taxpayer's own behalf need to be taken into account in the answer to this question. That is, dealings by a financial services entity on behalf of its clients are not to be included. For example, transactions with a related party in specified countries in respect of cash management services on behalf of your customers would not be a dealing included in the answer to this question.

The dollar amounts or values asked for this question are all based on your accounting records.

The amounts reported at this question may be reported in the financial statements as revenue/gains or expenses/losses, depending on the accounting treatment of the relevant item (for example, for dealings in derivatives, you may report revenue from net cash flows or you may report a gain in fair value). Therefore for the purposes of this question, the terms: 'expenditure and losses' and 'revenue and gains' are interchangeable.

To complete this question, you need to:

- identify all your dealings with related parties located in specified countries during the income year
- disregard all your related party dealings that were covered by question 4
- group your remaining dealings according to activity type
- determine the total dollar value of each activity type (expenses/losses plus revenue/gains, excluding principal and principal repayment amounts)
- determine the three activity types with the highest dollar value of dealings
- determine for each activity type identified in the first column the specified country where this activity type was principally undertaken
- work out the expenditure/losses incurred and the revenue/gains earned (excluding principal and principal repayment amounts) in respect of the specified country identified in the second column in relation to the activity type identified in the first column.

In the first column at **C**, **G** and **K**, list the codes of the three activity types with the highest dollar values in respect of your dealings with related parties located in specified countries (excluding activities listed in question 4).

List these codes in descending order of total dollar value.

For the list of activity types and codes, see 'Appendix 5' on page 67.

In the second column at **D**, **H** and **L**, provide the codes of the specified countries in respect of each of your activities identified in the first column that has the highest dollar value of those activities.

For the list of specified country codes, see 'Appendix 2' on page 62.

In the third column at **E**, **I** and **M**, provide the total amount of expenditure/losses incurred (excluding principal and principal repayment amounts) in respect of each of your activity types identified in the first column in relation to the relevant specified country identified in the second column.

In the fourth column, at **F**, **J** and **N**, provide the total amount of revenue/gains earned (excluding principal and principal repayment amounts) in respect of each of your activity types identified in the first column in relation to the relevant specified country identified in the second column.

EXAMPLE

During the income year an Australian taxpayer undertook the following dealings with entities located in specified countries.

Activity	Relation to taxpayer	Country entity located	Expenditure amounts	Revenue amounts	Total dollar values
Underwriting	Branch of subsidiary	Andorra	1,500,000	600,000	2,100,000
Derivatives	100% subsidiary	Andorra	3,190,000	4,220,000	7,410,000
Leasing	Branch of subsidiary	Andorra	4,280,000	1,770,000	6,050,000
Derivatives	na	Andorra	1,300,000	490,000	1,790,000
Underwriting	Branch of subsidiary	Belize	2,450,000	400,000	2,850,000
Derivatives	100% subsidiary	Belize	2,145,000	3,760,000	5,905,000
Leasing	Branch	Belize	3,000,000	1,600,000	4,600,000
Derivatives	100% subsidiary	Niue	600,000	500,000	1,100,000
Securitisation	100% subsidiary	Niue	6,000,000	8,500,000	14,500,000
Securitisation	100% subsidiary	Panama	900,000	450,000	1,350,000

Note: The expenditure incurred and revenue earned by the Australian taxpayer undertaking derivative transactions with unrelated parties in Andorra is disregarded in determining the total value of derivative transactions.

The Australian taxpayer extracts the relevant data from the information above.

Activity	Activity code	Total expenditure amount	Total revenue amount	Total dollar value
Derivatives	6	5,935,000	8,480,000	14,415,000
Leasing	10	7,280,000	3,370,000	10,650,000
Securitisation	12	6,900,000	8,950,000	15,850,000
Underwriting	15	3,950,000	1,000,000	4,950,000

The three main activity types undertaken by the Australian taxpayer and related parties located in specified countries are securitisation, derivatives and leasing.

With this information the Australian taxpayer completes question 5 as follows.

Activity code	Specified country	Expenditure	Revenue
C 12	D NIU	E $ 6,000,000 .~~00~~	F $ 8,500,000 .~~00~~
G 6	H AND	I $ 3,190,000 .~~00~~	J $ 4,220,000 .~~00~~
K 10	L BLZ	M $ 4,280,000 .~~00~~	N $ 1,770,000 .~~00~~

SECTION C: INTERNATIONAL RELATED PARTY DEALINGS

QUESTION 6

To evaluate and monitor the compliance risks in respect of Australian taxpayers' international related party dealings apart from those in specified countries we need to identify the principal countries where those dealings are undertaken and identify the nature and significance of the activities undertaken in those countries.

If you had international related party dealings during the income year, disregarding your dealings with parties located in any of the specified countries, answer yes to this question and complete the required fields.

This question also collects information about use of your property, services or any other benefit in your offshore branch operations not carried on in the specified countries where your attribution of your income or expenses in relation to the property, services or other benefit is internally recorded as a 'dealing' with your branch operations: refer to the Introduction of these instructions for more information. Accordingly, also treat the reference in this question to a 'party' as though it extended to:

- offshore branch operations carried on by an Australian resident – treat such operations as though they were instead a separate 'party' located in the branch country
- Australian branch operations carried on by a non-resident – treat such operations as though they were instead a separate 'party' located in Australia.

Only dealings conducted on the taxpayer's own behalf need to be taken into account in the answer to this question. That is, dealings by a financial services entity on behalf of its clients are not to be included. For example, where you arranged for the purchase of a currency swap on behalf of your customer such that a related foreign subsidiary served as the contracting party this would not be included in the answer to this question. However any service fee you received from this related foreign subsidiary for arranging the transaction would be an international related party dealing that would be included in the answer to this question.

The dollar amounts or values asked for in this question are all based on your accounting records.

The amounts reported at this question may be reported in the financial statements as revenue/gains or expenses/losses, depending on the accounting treatment of the relevant item (for example, for dealings in derivatives, you may report revenue from net cash flows or you may report a gain in fair value). Therefore for the purposes of this question, the terms: 'expenditure and losses' and 'revenue and gains' are interchangeable.

To complete this question, you need to:

- identify all your international related party dealings
- disregard all your dealings with related parties located in specified countries
- group your remaining dealings according to the country where the related party is located
- total the dollar value of your dealings (expenses/losses plus revenue/gains, excluding principal and principal repayment amounts) for each country
- determine the three countries that have the highest dollar value of related party dealings
- then, in respect of the three countries with the highest dollar value of related party dealings, group the dealings in each of the countries according to activity type
- total the dollar value of your dealings (expenses/gains plus revenue/losses, excluding principal and principal repayment amounts) for each activity type
- work out the three activity types with the highest dollar value for each of the three countries.

In the first column at **C**, **M** and **W**, list the codes of the three countries with the highest dollar value of international related party dealings.

List these codes in descending order of total dollar value.

For the list of country codes, see 'Appendix 3' on page 63.

In the second column labelled **Activity code**, list the codes of the three activity types with the highest dollar value of international related party dealings in relation to each of the countries identified in the first column.

List these codes in descending order of total dollar value.

For the list of activity type codes, see 'Appendix 5' on page 67.

In the third column labelled **Expenditure**, provide the total amount of expenditure/losses incurred (excluding principal and principal repayment amounts) in respect of each activity type identified in the second column in relation to the relevant country identified in the first column.

In the fourth column labelled **Revenue**, provide the total amount of revenue/gains earned (excluding principal and principal repayment amounts) in respect of each activity type identified in the second column in relation to the relevant country identified in the first column.

EXAMPLE

During the income year an Australian taxpayer undertook the following international dealings.

Country entity located	Relation to taxpayer	Activity	Activity code	Expenditure	Revenue	Total dollar value
Brazil	Branch of subsidiary	Derivatives	6	6,650,000	6,890,000	13,540,000
Canada	Branch	Loan	7		300,000	300,000
Canada	100% subsidiary	Derivatives	6	1,360,000	4,000,000	5,360,000
Canada	100% subsidiary	Guarantees	8		870,000	2,070,000
Canada	Branch	Other	99	2,470,000	790,000	3,260,000
Egypt	100% subsidiary	Advisory services	2		400,000	400,000
Egypt	100% subsidiary	Loan	7	3,666,000	4,330,000	7,996,000
Egypt	95% subsidiary	Leasing	10	280,000	300,000	580,000
France	100% subsidiary	Advisory services	2		500,000	500,000
France	Branch	Loan	7	6,560,000	5,680,000	12,240,000
France	na	Derivatives	6	4,580,000	4,450,000	9,030,000
Japan	100% subsidiary	Loan	7	6,320,000	4,100,000	10,420,000
Japan	Branch	Treasury services	14		200,000	200,000
Vietnam	100% subsidiary	Derivatives	6	3,850,000	3,600,000	7,450,000
Vietnam	100% subsidiary	Other	99	2,450,000	450,000	2,900,000

The Australian taxpayer extracts the relevant data from the information above.

Country entity located	Total expenditure amounts	Total revenue amounts	Total dollar value amounts
Brazil	6,650,000	6,890,000	13,540,000
Canada	5,030,000	5,960,000	10,990,000
Egypt	3,946,000	5,030,000	8,976,000
France	6,560,000	6,180,000	12,740,000
Japan	6,320,000	4,300,000	10,620,000
Vietnam	6,300,000	4,050,000	10,350,000

Note: The expenditure incurred and the revenue earned in relation to derivatives transactions in France were disregarded in calculating the total value of transactions in this country because they were undertaken with unrelated parties.

With this information the Australian taxpayer completes question 6 as follows.

Foreign country	Activity code	Expenditure	Revenue
C BRA	D 6	E $ 6,650,000 .00	F $ 6,890,000 .00
	G	H $ .00	I $ .00
	J	K $ .00	L $ .00

Foreign country	Activity code	Expenditure	Revenue
M FRA	N 7	O $ 6,560,000 .00	P $ 5,680,000 .00
	Q 2	R $ .00	S $ 500,000 .00
	T	U $ .00	V $ .00

Foreign country	Activity code	Expenditure	Revenue
W CAN	X 6	Y $ 1,360,000 .00	Z $ 4,000,000 .00
	AA 99	AB $ 2,470,000 .00	AC $ 790,000 .00
	AD 8	AE $ 0 .00	AF $ 870,000 .00

Note: The Australian taxpayer recorded:

- the highest value of related party dealings in Brazil, even though these dealings related to one activity type, derivatives
- the Australian taxpayer will complete the first row for the first country recording the relevant information in respect of the taxpayer's derivatives dealings
- the remaining fields relating to the first country will be left blank, indicating the Australian taxpayer did not have any other related party dealings in Brazil
- its second highest value of related party dealings in France
- the Australian taxpayer will complete the first two rows for the second country recording the relevant information in respect of the taxpayer's related party dealings – financing activities and advisory services
- the remaining fields relating to the second country will be left blank, indicating the Australian taxpayer did not have any other related party dealings in France
- its third highest value of related party dealings in Canada
- the Australian taxpayer undertook four types of activities in Canada, only the three activities with the highest values are entered into the relevant fields of this question. That is, the details of the Australian taxpayer's internally recorded loan for its Canadian branch operations is not shown at this question in this schedule.

QUESTION 7

This question provides us with a reassurance that you are aware of your documentation requirements relating to determining the arm's length outcome for your international related party dealings (if applicable).

For information about the documentation and other practical issues relevant in setting and reviewing transfer pricing in international dealings, refer to *Taxation Ruling TR 98/11 Income tax: documentation and practical issues associated with setting and reviewing transfer pricing in international dealings.*

You should have written documentation to support the following for your international related party dealings:

- the characterisation of the international dealings in the context of your business, as described in step 1 of Taxation Ruling TR 98/11
- the selection of the most appropriate arm's length pricing methods for those dealings, as described in step 2 of Taxation Ruling TR 98/11
- the application of the most appropriate arm's length pricing methods to those dealings, as described in step 3 of Taxation Ruling TR 98/11.

> For information about 'the most appropriate method', refer to paragraphs 3.5 to 3.9 in *Taxation Ruling TR 97/20 Income tax: arm's length transfer pricing methodologies for international dealings*.

If you do not have contemporaneous documentation sufficient to make a reasonable assessment of whether your international related party dealings complied with the arm's length principle, answer no and print X at **A**.

If you have contemporaneous documentation sufficient to make a reasonable assessment of whether your international related party dealings undertaken during the income year complied with the arm's length principle, answer yes and print X at **B**.

If you have not undertaken any international related party dealings during the income year, answer not applicable and print X at **C**.

Contemporaneous documentation

Documentation is contemporaneous if the following applies:

- it is existing or brought into existence either
  - at the time you are developing or implementing any arrangement that might raise transfer pricing issues
  - when you are reviewing these arrangements prior to or at the time of the preparation of tax returns
- the documentation records information relevant to transfer pricing decisions.

The documentation may be in the form of books, records, studies, budgets, plans and projections, analyses, conclusions and other material that record the information. It may be in electronic or written form.

The initial analysis of your international dealings against the arm's length principle will have been carried out and documented at the time of engaging in the dealings. To review those international dealings before you prepare your tax returns is prudent business practice.

Where you have not used arm's length consideration in the ordinary course of your international related party dealings, you should review prices before preparing the tax return, and make any adjustments for taxation purposes. Keep all your documentation in relation to this.

Adequacy of documentation

We do not expect taxpayers to prepare or obtain documents beyond the minimum needed to make a reasonable assessment of whether they have complied with the arm's length principle.

However, the documentation that is created in the ordinary course of the taxpayer's business and used by it to establish the prices for its international related party dealings – for example, invoices and orders – will not generally be regarded as contemporaneous documentation in relation to the arm's length nature of the dealings. This is because the documents do not produce any evidence or provide any basis for comparison for determining whether prices are established at arm's length.

It is not possible to provide a general checklist of documentation that would be adequate or desirable. We realise that it is necessary to strike an acceptable balance between:

- the need to keep compliance costs to a minimum
- our legitimate concern in ensuring the proper amount of Australian tax is paid.

The amount and type of documentation that should be created or obtained over and above that created in the ordinary course of business will depend on the facts and circumstances of each case.

The issue is a practical one having regard to what a prudent business person would do in the same circumstances, and taxpayers need to exercise commercial judgment in assessing their own compliance with the arm's length principle.

Arm's length pricing methods

The arm's length principle is the statutory test for pricing international related party dealings. The principle is incorporated into the associated enterprise articles in each of Australia's double tax agreements.

No particular method to establish the arm's length pricing, or order in which methods should be applied, is prescribed in the double tax agreements or related legislation, and taxpayers have the greatest scope to use methods appropriate to their circumstances.

Taxation Ruling TR 97/20 sets out:

- the methods we accept
- when these methods are considered acceptable
- our views on the concepts involved, and the issues that arise, in applying the methods.

We strongly recommend that all taxpayers with international related party dealings read this ruling.

For more information refer to:
- paragraphs 86 and 343 in *Taxation Ruling TR 94/14 Income tax: application of Division 13 of Part III (international profit shifting) – some basic concepts underlying the operation of Division 13 and some circumstances in which section 136AD will be applied*
- *OECD Transfer pricing guidelines for multinational enterprises and tax administrations – 2009*.

A list of the pricing methods is contained in appendix 6 on page 70. However, for detailed information about the different methods, refer to the references above and *Taxation Ruling TR 1999/1 Income tax: international transfer pricing for intra-group services*.

Permanent establishments
For more information, see Permanent establishments on page 4.

Capital dealings
Where the dealings between related parties are capital in nature, the most appropriate choice of method must be based on the facts and circumstances of each case. No specific methods are recommended.

For more information about valuing capital dealings, refer to *Market valuation for tax purposes* available on our website at **www.ato.gov.au**

Choice of method to determine arm's length pricing
Establishing arm's length transfer prices between associated enterprises involves a four step process. These four steps, briefly, are:
- understanding the cross-border dealings in the context of the taxpayer's business – that is, characterisation of the dealings
- selecting the most appropriate method or methods
- applying that method
- establishing review and adjustment processes.

The first two steps may be complex processes and you may need to refer to specific details provided in Taxation Ruling TR 98/11.

We consider that the prudent taxpayer will document the following:
- the processes of characterisation and selection
- the reasons for the final choice of method
- the reasons why other methods were considered and rejected.

As mentioned earlier, we strongly recommend you should keep adequate documentation. However, the complexity of the dealings will indicate the extent to which analysis and supporting documentation is required.

Application of pricing methods
The application of the chosen method will usually require two separate processes:
- an assessment of comparability
- the collection of supplementary data.

The first process may include:
- searching for comparable transactions or enterprises
- identifying sources of information used in the search
- adopting transactions or enterprises as being comparable
- rejecting other transactions or enterprises as not being comparable
- providing reasons and amounts where an independent transaction has been adjusted to make it comparable with the dealings under examination
- applying the pricing method, and any checking method – such as sampling – to ensure the validity of the chosen method and resultant arm's length price.

The second process may include the following:
- collecting data on profit projections
- creating or acquiring records to supplement the analysis of comparability and function
- collecting data to calculate financial performance ratios, as part of applying the chosen pricing methods.

You should prepare and retain relevant documentation about these processes.

QUESTION 8
This question seeks information in order to assess transfer pricing risks arising from royalty arrangements between Australian taxpayers and international related parties. We seek to determine the level of these transactions between Australian taxpayers and their international related parties and identify the pricing methodology used in relation to these arrangements.

The definition of royalty and royalties in subsection 6(1) of the ITAA 1936 and the various double tax agreements in the Schedules to *the Income Tax (International Agreements) Act 1953* (Agreements Act) should be used to determine what a royalty is for the purpose of this question.

The definitions in the ITAA 1936 and the double tax agreements vary. Where there is a conflict between the definition of royalties for Australia's domestic tax law and that in a particular double tax agreement, the definition in the relevant double tax agreement will override subsection 6(1) of the ITAA 1936 (subsection 4(2) of the Agreements Act).

The dollar amounts or values asked for in this question are all based on your income tax records.

If you had international related party dealings involving royalties during the income year, answer yes to this question and complete the required fields.

In the first column, at **C** provide the total amount of royalties you paid to international related parties claimed as deductions for the income year.

In the second column, at **D** provide the total amount of royalties received from international related parties included in your assessable income for the income year.

In the third column, at **E** specify the principal arm's length pricing method used to set or review consideration in respect of the royalties paid and received by you.

For the list of price methodology codes, see 'Appendix 6' on page 70.

QUESTION 9

This question seeks information in order to assess the specific transfer pricing risk of Australian taxpayers receiving incorrect or no recharge amounts for providing employee share-based remuneration to employees of non-residents subsidiaries. We wish to ascertain the level of recharge amounts being received by Australian taxpayers and the pricing methodology used in respect of these amounts.

Under employee shared-based remuneration plans, an Australian entity within a multinational group may remunerate employees of non-resident subsidiaries by providing phantom shares in the listed parent company of the group, shares, share options or share rights.

The recharge amount refers to the compensation you received in return for providing the employees of your non-resident subsidiary with share-based remuneration. The recharge amount does not include any compensation received in relation to the costs of administering an employee share-based plan, rather this would be of the nature of a service arrangement that would be reported at question 13.

This question only seeks information about the plans provided by Australian taxpayers to employees of non-resident subsidiaries, and not visa versa.

The term 'employees' refers to individuals who provide personal services/labour to an entity and would be regarded as employees of that entity for legal or tax purposes. For example, employees would include the directors of a non-resident subsidiary.

Where an employee holds a position of employment in both an Australian taxpayer and a non-resident subsidiary of the taxpayer, consideration should be given to what 'capacity' the share-based remuneration is received. For example, where an individual is an employee of the Australian taxpayer and a director of a non-resident subsidiary, any share-based remuneration paid by the Australian taxpayer to the individual in their capacity as a director of the non-resident subsidiary would come within this question. This accords with the approach taken in Article 16 of the OCED Model Tax Convention regarding the allocation of taxing rights (where a resident of a Contracting State receives payments in their capacity as a director of a company resident in the other Contracting State, the payments may be taxed in that other State).

For more information about share-based remuneration plans for employees of non-resident subsidiaries, including application of the arm's length principle to arrive at an appropriate recharge amount, refer to *OECD Tax Policy Studies No. 11 (2005) – The Taxation of Employee Stock Options (particularly Chapter 4 – Impact on Transfer Pricing)*.

The dollar amounts or values asked for in this question are all based on your income tax records.

If you did provide share-based remuneration to any employees of your non-resident subsidiaries during the income year, answer yes to this question and complete the required fields.

To complete this question you need to:
- identify the share-based remuneration provided to employees of your non-resident subsidiaries
- determine if the relevant non-resident subsidiary paid a recharge amount to you in relation to the share-based remuneration provided to their employee
- then total the recharge amounts paid to you during the income year
- work out the principal arm's length pricing method used to set or review consideration in respect of these recharge amounts.

In the first column, at **C** provide the total recharge amounts included in your assessable income.

In the second column, at **D** specify the principal arm's length pricing method used to set or review consideration in respect of these recharge amounts.

For the list of pricing methodology codes, see 'Appendix 6' on page 70.

QUESTION 10

This question examines the transfer pricing risks associated with Australian taxpayers' derivative transactions with international related parties. We seek the total amount of these transactions and an indication of the principal derivative transaction types undertaken.

The term derivative takes on its ordinary meaning within the context of commercial and accounting practices.

Broadly, a derivative instrument is a contractual right that derives its value from the value of something else, such as a debt security, equity, commodity or specific index. The most common derivative instruments are forwards, options, swaps and credit derivatives. Unlike traditional debt and equity securities, these instruments generally do not involve a return on an initial investment.

The disposal and the acquisition of a derivative would constitute a 'derivative transaction'.

All your derivative transactions with international related parties should be recorded under this question including transactions for trading, hedging, speculation and arbitrage. International related parties are defined in appendix 2, and include permanent establishments.

You should not include exchange traded options and futures in this question. However, where exchange traded options are not separated from other options in your records they may be included.

The dollar amounts or values asked for this question are all based on your accounting records.

The amounts reported at this question may be reported in the financial statements as revenue/gains or expenses/losses, depending on the accounting treatment of your derivatives (and this includes amounts relating to derivatives that are part of a hedging relationship). Therefore for the purposes of this question, the terms: 'expenditure and losses' and 'revenue and gains' are interchangeable.

For many derivative instruments such as notional principal contracts (for example, interest rate swaps), the parties to the contract will often only exchange net cash flows at certain specified times during the term of the contract. In completing this question in respect of such derivative instruments only net cash flows should be recorded. Do not record any gross cash flows or any notional principal amounts associated with such transactions (that is exclude principal and principal repayment amounts).

In some cases, only one party to the derivative instrument transaction may make a payment (for example, settlement amounts in respect of forward rate agreements, or option premiums). In such cases, the gross amount of the derivative instrument transaction should be recorded.

Mark-to-market/fair value accounting may be used for recording amounts in respect of derivative instruments where this is used by a taxpayer for financial accounting purposes.

If you had derivative transactions with international related parties during the income year, answer yes to this question and complete the required fields.

To complete this question, you need to:

- identify the derivative transactions undertaken with international related parties
- total the expenditure incurred and the revenue earned in respect of these derivative transactions with international related parties
- determine the principal arm's length pricing method used to set or review consideration in respect of these derivative transactions
- work out the three types of derivative transactions entered into by you with international related parties with the highest dollar value of dealings (expenditure plus revenue).

In the first column at **C**, provide the total amount of expenditure incurred in respect of your derivative transactions with international related parties.

In the second column at **D**, provide the total amount of revenue earned in respect of your derivative transactions with international related parties.

In the third column at **E**, specify the principal arm's length pricing method used to set or review consideration in respect of your derivative transactions with international related parties.

For the list of pricing methodologies codes, see 'Appendix 6' on page 70.

At **F**, **G** and **H**, specify the three types of derivative transactions entered into by you and international related parties with the highest dollar value of dealings.

For the list of type of derivative transactions and codes, see 'Appendix 7' on page 70.

EXAMPLE

During the income year an Australian taxpayer undertook the following derivative transactions.

Derivative transaction type	Related to taxpayer	Dominant pricing methodology	Expenditure	Revenue
Interest rate swaps	Yes	CUP*	5,395,000	5,465,000
Cross currency interest rate swaps	Yes	CUP	7,320,000	7,150,000
Currency swaps	Yes	CUP	6,453,000	6,780,000
Options	Yes	CUP	2,750,000	3,100,000
Swaps – other	No	CUP	3,850,000	3,200,000
Other	No	CUP	1,345,000	1,800,000
Other	Yes	CUP	3,660,000	4,250,000

* Comparable uncontrolled price method.

Note: The Australian taxpayer disregarded the derivative transactions with unrelated parties.

The Australian taxpayer extracts the relevant data from the information above.

Derivative transaction type	Related to taxpayer	Expenditure	Revenue	Total
Interest rate swaps	Yes	5,395,000	5,465,000	10,860,000
Currency swaps	Yes	13,773,000	13,930,000	27,703,000
Options	Yes	2,750,000	3,100,000	5,850,000
Other	Yes	3,660,000	4,250,000	7,910,000
Total		**25,578,000**	**26,745,000**	**52,323,000**

Note: The Australian taxpayer records the cross currency interest rate swap as a currency swap in accordance with the derivative codes contained in appendix 7 on page 70.

With this information the Australian taxpayer completes question 10 as follows.

	Expenditure	Revenue	Pricing methodology
Derivatives	C $ 25,578,000 .00	D $ 26,745,000 .00	E 1
	Derivative code	Derivative code	Derivative code
Principal derivative types	F 2	G 3	H 8

QUESTION 11

To evaluate the information provided in question **10** we need to know whether the Australian taxpayer is conducting derivative trading globally through a trading structure such that profits from the activities are shared with related parties in other jurisdictions.

Where this is the case there is a transfer pricing risk due to the need to determine the appropriate allocation of profits between the relevant parties.

Global trading of financial instruments including derivatives is defined by reference to the fact that some part of the business is conducted in more than one tax jurisdiction. This concept of trading derivatives globally is based on the OECD's definition of global trading of financial instruments. For a discussion of what might constitute global trading, refer to paragraphs 9 to 11 of the Introduction of OECD Document – The Taxation of Global Trading of Financial Instruments (1998).

Answer yes or no to this question depending on whether you engaged in the trading of derivatives globally through a trading structure such that you share global profits from these activities with related parties in other countries.

QUESTION 12

Debt factoring and securitisation are finance arrangements entered into by an entity to obtain immediate funds in exchange for disposing of certain assets. There is a transfer pricing risk in respect of these arrangements in how the value of the assets being transferred between related parties is determined. We are seeking to clarify the extent of these finance arrangements between Australian taxpayers and international related parties and the principal arm's length pricing method used to set or review consideration in respect of these arrangements.

Both finance transactions take on their ordinary meanings within the context of commercial practices.

Broadly, debt factoring is a finance arrangement whereby a business sells its accounts receivable to a third party (factor) at a discount to obtain working capital. The factor then collects the receivables from the businesses' customers. Debt factoring agreements can either be recourse or non-recourse arrangements. With recourse debt factoring, the factor does not assume the risk of bad debts and may seek recourse from the business for any uncollectible debts. With non-recourse debt factoring, the sale of the receivables essentially transfers ownership of the receivables to the factor, such that the factor obtains all of the rights and risks associated with the receivables.

Securitisation is a structured finance arrangement where an entity (the originator) sells a portfolio of assets to a special purpose vehicle. To acquire the assets from the originator, the special purpose vehicle issues tradable securities to fund the purchase. Investors purchase the securities, either through a private offering (targeting institutional investors) or on the open market. The originator will retain a beneficial interest in the performance of the securities and may also receive a service fee.

If you enter into any debt factoring or securitisation arrangements with international related parties during the income year, answer yes to this question and complete the relevant fields.

The dollar amounts or values asked for in this question are all based on your accounting records.

For the list of pricing methodology codes, see 'Appendix 6' on page 70.

To complete this question, you need to:

- identify all your debt factoring arrangements and securitisation arrangements you entered into during the income year with international related parties
- in respect of any debt factoring arrangements
  - determine the book value of the assets sold to the factor for each of these arrangements
  - calculate the total book value of the assets for all these transactions
  - ascertain the amount of consideration received from the factor for the sale of receivables, in respect of each debt factoring arrangement
  - calculate the total amount of consideration received in respect of all these transactions
  - specify the principal arm's length pricing method used to set or review consideration in respect of these arrangements.
- in respect of any securitisation arrangements
  - determine the book value of the assets transferred for each of these arrangements
  - calculate the total book value of the assets for all these transactions
  - ascertain the amount received from service fees and distributions from the special purpose vehicle arising from the transfer of assets in respect of each securitisation arrangement
  - calculate the total amount of service fees and distributions from the special purpose vehicles arising from all these transactions
  - specify the principal arm's length pricing method used to set or review the income derived from these arrangements.

EXAMPLE

During the income year an Australian taxpayer provided and received the following services.

Country	Related party	Arrangement type	Book value of assets	Consideration received	Pricing methodology code
Australia	Yes	Securitisation	100,000,000	3,100,000	1
Cayman Islands	Yes	Debt factoring	9,000,000	8,460,000	12
Jersey	No	Securitisation	200,000,000	6,250,000	na
Singapore	Yes	Securitisation	100,000,000	2,800,000	1
Spain	Yes	Debt factoring	17,000,000	16,065,000	1
United Kingdom	No	Securitisation	150,000,000	4,500,000	na
United States	No	Debt factoring	15,000,000	14,100,000	na
United States	Yes	Securitisation	150,000,000	4,600,000	1

The Australian taxpayer extracts the relevant data from the information above.

Arrangement type	Book value of assets	Consideration received	Pricing methodology code
Debt factoring	26,000,000	24,525,000	1
Securitisation	250,000,000	7,400,000	1

Note: In completing this question the Australian taxpayer will disregard:

- the securitisation arrangement undertaken with a related Australian based entity, as the arrangement is not a cross border transaction
- the securitisation arrangements undertaken with entities located in Jersey and the United Kingdom, as the entities are not related to the taxpayer, and
- the debt factoring arrangement undertaken with the entity located in the United States, as the entity is not related to the taxpayer.

With this information the Australian taxpayer completes question 12 as follows.

		Book value		Consideration		Pricing methodology
Debt factoring	C $	26,000,000 .00	D $	24,525,000 .00	E	1
Securitisation	F $	250,000,000 .00	G $	7,400,000 .00	H	1

QUESTION 13

Transfer pricing risks arise in respect of service arrangements between Australian taxpayers and international related parties. To quantify these risks we need to identify the nature and significance of these service arrangements.

A service arrangement is generally a negotiated agreement between parties where one party is a customer and the other is a provider. The arrangement may be formal or informal. You may be the customer or the provider.

These services are divided into the following categories:

Guarantees

Service activities associated with contracts under which a party agrees to perform an obligation or discharge a liability of another entity should that entity fail to do so.

Treasury related services

Activities involved in the managing of the taxpayer's financial operations, including:

- the generation of internal and external funding
- risk management systems development and review
- the management of currencies and cash flows
- complex strategies, policies and procedures relating to the taxpayer finance.

Management services

Activities involved in the control, facilitation, and monitoring of the taxpayer's human resources (staffing) and financial resources (assets).

Insurance

Activities associated with insurance contracts (predominantly undertaken through intermediaries). Effectively, the expenditure and revenue will represent intermediaries' commissions.

Reinsurance

Activities associated with reinsurance contracts (predominantly undertaken through intermediaries). Effectively, the expenditure and revenue will represent intermediaries' commissions.

Marketing

Activities that involve acquiring new customers or business and maintaining a relationship with them, including:

- advertising
- brand promotion
- sales strategies.

Software and information technology services

Activities involved in the support and maintenance of software and technology used by the taxpayer. Activities relating to the ownership of the software and technology are excluded, such as leasing and rental fees.

Administrative services

Activities that relate to the operation of the taxpayer, including:

- back office services
- administrative services associated with employee share-based plans/recharge amounts
- accounting services.

Excludes activities relating to financing, marketing or production.

Other financial services

All other services not covered by the above categories.

In completing this question exclude the following amounts, returned:

- at question 8, relating to royalties
- at question 10 relating to derivative transactions
- at question 14, relating to any borrowing/lending transactions.

The dollar amounts or values asked for in this question are all to be based on your accounting records.

If you had international related party dealings regarding service arrangements during the income year, answer yes to this question and complete the required fields.

To complete this question, you need to:

- identify all service arrangements between you and international related parties
- group the service arrangements into one of the nine service categories (including the service arrangement category referred to as 'Other')
- calculate the total amount of expenditure incurred and the revenue earned in respect of each service category
- identify the principal arm's length pricing method used to set or review consideration in respect of each service arrangement undertaken with international related parties
- identify the principal service arrangements with international related parties recorded under the label 'Other financial services' (if applicable).

In the first column, labelled **Expenditure**, provide the total amount of expenditure incurred in respect of each service category.

In the second column, labelled **Revenue**, provide the total amount of revenue earned in respect of each service category.

In the third column, labelled **Pricing methodology** specify the principal arm's length pricing method used to set or review consideration in respect of each service category.

For the list of pricing methodology codes, see 'Appendix 6' on page 70.

In the last row at **AD**, if you reported expenditure or revenue under 'Other financial services', provide a description of the principal service arrangement undertaken in this service category (limit your description to 200 characters).

EXAMPLE

During the income year an Australian taxpayer provided and received the following services.

Country	Related party	Description of service arrangement	Expenditure	Revenue	Pricing methodology code
Andorra	Yes	Providing guarantees		140,000	1
Australia	Yes	Payroll	160,000		3
Belize	Yes	Admin services – recharge amounts	150,000		10
Bermuda	Yes	Providing guarantees		200,000	12
India	Yes	Hardware maintenance	200,000		12
India	Yes	Foreign exchange advice		210,000	1
Indonesia	Yes	Risk management		190,000	1
New Zealand	Yes	Risk management		170,000	1
Singapore	Yes	Accounting	120,000		10
Singapore	No	Marketing	320,000		na
Singapore	Yes	Management	290,000		1
United Kingdom	Yes	Provide training	100,000		1
United States	Yes	Providing guarantees	340,000		1
United States	Yes	Software support		350,000	3
United States	Yes	Back office		430,000	3

The Australian taxpayer extracts the relevant data from the information above.

Service arrangement type	Country	Expenditure	Revenue	Pricing methodology code
Guarantees				
	Andorra		140,000	1
	Bermuda		200,000	12
	United States	340,000		1
Total		**340,000**	**340,000**	**1**
Treasury related services				
	India		210,000	1
	Indonesia		190,000	1
	New Zealand		170,000	1
Total			**570,000**	**1**
Management services				
	Singapore	290,000		1
Total		**290,000**		**1**
Software & information technology				
	India	200,000		12
	United States		350,000	3
Total		**200,000**	**350,000**	**3**
Administrative services				
	Belize	150,000		10
	Singapore	120,000		10
	United States		430,000	3
Total		**270,000**	**430,000**	**3**
Other financial services				
Vocational training	United Kingdom	100,000		1
Total		**100,000**		**1**

In completing this question the Australian taxpayer will disregard:

- the expenses incurred in respect of the marketing services provided by the entity located in Singapore, as the entity is not related to the taxpayer
- the payroll service undertaken with the related Australian based entity, as the arrangement is not a cross border transaction.

With this information the Australian taxpayer completes question 13 as follows.

		Expenditure		Revenue		Pricing methodology
Guarantees	C $	340,000	D $	340,000	E	1
Treasury related services	F $		G $	570,000	H	1
Management services	I $	290,000	J $		K	1
Insurance	L $		M $		N	
Reinsurance	O $		P $		Q	
Marketing	R $		S $		T	
Software and information technology services	U $	200,000	V $	350,000	W	3
Administrative services	X $	270,000	Y $	430,000	Z	3
Other financial services (specify in label AD below)	AA $	100,000	AB $		AC	1
Description (principle service)	AD	PROVISION OF VOCATIONAL TRAINING TO STAFF				

QUESTION 14

This question collects information about your loan arrangements with international related parties.

The question also collects information about how you have attributed your income and expenses to your branch operations as follows:

If you are an authorised deposit-taking institution (ADI) within the meaning of section 995-1 of the ITAA 1997 and are covered by TR 2005/11, include at this question any funds used in your Australian or offshore branch operations you have internally recorded as a 'loan' with the branch operations that records your attribution of your income and expenditure to the branch operations.

For more information, refer to:
- *Taxation Ruling TR 92/11 Income tax: application of the Division 13 transfer pricing provisions to loan arrangements and credit balances*
- *Taxation Ruling TR 2005/11 Income tax: branch funding for multinational banks.*

If you are not an ADI covered by TR 2005/11, include amounts that you have internally recorded as loans with your Australian or offshore branch operations for the purposes of attributing your interest expense on borrowings from third parties to the branch.

For more information, refer to *Taxation Ruling TR 2001/11 Income tax: international transfer pricing – operation of Australia's permanent establishment attribution rules.*

Note: Taxation Ruling TR 2005/11 does not apply to Australian branch operations carried on by a foreign bank (or other qualifying financial entity) to which Part IIIB of the ITAA 1936 applies. The foreign bank (or qualifying financial entity) should instead complete question 21 of this schedule (unless it has elected under section 160ZZVB of the ITAA 1936 that Part IIIB not apply).

A loan arrangement should be given its ordinary meaning within the context of commercial and accounting practices. In general terms, a loan arrangement is defined as a contract whereby the lender pays a sum of money in consideration of a promise by the borrower to repay the money at some time in the future (and this promise may/may not include the promise to repay interest on the money borrowed).

Those financing arrangements that are economically in substance a loan arrangement would be regarded as a loan for the purposes of this question. For example securities loan arrangements where the collateral is cash, sale and buyback arrangements to be settled in cash or repurchase agreements (repos) to be settled in cash.

Whether a financing arrangement economically constitutes a loan arrangement is a matter to be decided based on the facts and circumstances of each case/arrangement, for example, whether the arrangement involves revenue assets and/or constitutes an ordinary business activity undertaken by the taxpayer.

For more information about the concept of what constitutes a loan, refer to:
- *Taxation Ruling TR 92/11 Income tax: application of the Division 13 transfer pricing provisions to loan arrangements and credit balances*
- *Taxation Ruling TR 2002/16 Income tax: the taxation consequences for taxpayers issuing certain stapled securities.*

We recommend that you source appropriate guidance in light of the particular facts and circumstances of your case.

For the purposes of this question, for arrangements that are economically in substance loans:
- the cash collateral or cash settlement amount would be considered the loan amount
- any fees paid/received in respect of those arrangements would be considered interest.

If you borrowed or loaned any amounts from or to international related parties during the income year, answer yes to this question and complete the required fields.

The dollar amounts or values asked for in this question are all based on your accounting records.

To complete each part of this question you need to:
- identify all loan arrangements
- divide the loan arrangement into
  - interest bearing loans
  - interest free loans
- calculate the average balance of the loans, by
  - adding up the loan balance amount at the start of the year and the loan balance amounts at the end of each quarter
  - dividing the result by five
- in respect of interest bearing loans, determine the amount of interest expenditure or interest revenue in respect of these loans.

Internally recorded loans with your branch operations

In column **1**:
- at **C**, provide the average balance of any internally recorded loans from your branch operations
- at **F**, provide the average balance of any internally recorded loans to your branch operations (excluding amounts to which question 21 of this schedule applies).

In column **2**:
- at **D**, provide the total interest calculated for the internally recorded loans from your branch operations shown at **C** of this question
- at **G**, provide the total interest calculated for the internally recorded loans to your branch operations shown at **F** of this question.

In column **3**:
- at **E**, provide the average balance of internally recorded interest free loans from your branch operations for the purpose of TR 2005/11
- at **H**, provide the average balance of internally recorded interest free loans to your branch operations for the purpose of TR 2005/11.

Loans between you and related entities

In column **1**:
- at **I**, provide the average balance of interest bearing loans in relation to amounts borrowed from related entities
- at **L**, provide the average balance of interest bearing loans in relation to amounts loaned to related entities.

In column **2**:
- at **J**, provide the total interest expenditure in respect of the interest bearing loans borrowed from related entities
- at **M**, provide the total interest revenue in respect of the interest bearing loans to related entities.

In column **3**:
- at **K**, provide the average balance of interest free loans in relation to amounts borrowed from related entities
- at **N**, provide the average balance of interest free loans in relation to amounts loaned to related entities.

If part of this question does not apply to your related party loan amounts, leave blank.

EXAMPLE

During the income year the Australian taxpayer (a 30 June balancer) borrowed and loaned the following amounts with international related parties.

Country	Related entity or branch	Loan Type	Balance date	Interest bearing loans		Interest free loans
				Loan balance	Interest	Loan balance
Belize	Branch	Borrowed	01/07	1,700,000	12,750	
United States	Branch	Loaned	01/07			1,700,000
United States	Entity	Borrowed	01/07	4,200,000	31,500	
Singapore	Entity	Loaned	01/07			1,800,000
Belize	Branch	Borrowed	30/09	1,500,000	11,250	
Singapore	Entity	Loaned	30/09	2,200,000	16,500	1,800,000
United Kingdom	Head office	Borrowed	30/09			5,400,000
United States	Branch	Loaned	30/09			1,700,000
United States	Entity	Borrowed	30/09	3,200,000	24,000	4,000,000
Belize	Branch	Borrowed	31/12	1,200,000	9,000	4,300,000
Japan	Entity	Loaned	31/12			2,900,000
United Kingdom	Head office	Borrowed	31/12			4,900,000
United States	Branch	Loaned	31/12	3,700,000	27,750	2,800,000
Belize	Branch	Borrowed	31/03	1,600,000	12,000	2,900,000
Hong Kong	Entity	Borrowed	31/03	3,300,000	24,750	
Singapore	Branch	Loaned	31/03	2,300,000	17,250	
United Kingdom	Head office	Borrowed	31/03			3,600,000
United States	Entity	Borrowed	31/03	2,800,000	21,000	3,500,000
Vietnam	Entity	Loaned	31/03	1,650,000	12,375	
Belize	Branch	Borrowed	30/06	1,100,000	8,250	900,000
Hong Kong	Entity	Borrowed	30/06	2,800,000	21,000	
India	Branch	Loaned	30/06			350,000
Singapore	Branch	Loaned	30/06	1,300,000	9,750	
Singapore	Entity	Borrowed	30/06			1,900,000
United Kingdom	Head office	Borrowed	30/06			2,500,000
United States	Entity	Borrowed	30/06	2,800,000	21,000	

The Australian taxpayer extracts the relevant data from the information above.

Related entity or branch	Loan Type	Balance date	Interest bearing loans		Interest free loans
			Total loan balances	Total interest	Total loan balances
Branch	Borrowed	01/07	1,700,000	12,750	
Branch	Borrowed	30/09	1,500,000	11,250	5,400,000
Branch	Borrowed	31/12	1,200,000	9,000	9,200,000
Branch	Borrowed	31/03	1,600,000	12,000	6,500,000
Branch	Borrowed	30/06	1,100,000	8,250	3,400,000
Total			**7,100,000**	**53,250**	**24,500,000**
Average balances			**1,420,000**		**4,900,000**
Branch	Loaned	01/07			1,700,000
Branch	Loaned	30/09			1,700,000
Branch	Loaned	31/12	3,700,000	27,750	2,800,000
Branch	Loaned	31/03	2,300,000	17,250	
Branch	Loaned	30/06	1,300,000	9,750	350,000
Total			**7,300,000**	**54,750**	**6,550,000**
Average balances			**1,460,000**		**1,310,000**
Entity	Borrowed	01/07	4,200,000	31,500	
Entity	Borrowed	30/09	3,200,000	24,000	4,000,000
Entity	Borrowed	31/03	6,100,000	45,750	3,500,000
Entity	Borrowed	30/06	5,600,000	42,000	1,900,000
Total			**19,100,000**	**143,250**	**9,400,000**
Average balances			**3,820,000**		**1,880,000**
Entity	Loaned	01/07			1,800,000
Entity	Loaned	30/09	2,200,000	16,500	1,800,000
Entity	Loaned	31/12			2,900,000
Entity	Loaned	31/03	1,650,000	12,375	
Total			**3,850,000**	**28,875**	**6,500,000**
Average balances			**770,000**		**1,300,000**

With this information the Australian taxpayer completes question 14 as follows.

Your transactions with branches

	Interest bearing loans		Interest free loans for TR 2005/11
	Average balance	Interest	Average balance
Amounts borrowed	C $ 1,420,000 .00	D $ 53,250 .00	E $ 4,900,000 .00
Amounts loaned	F $ 1,460,000 .00	G $ 54,750 .00	H $ 1,310,000 .00

Your transactions with related entities

	Interest bearing loans		Interest free loans
	Average balance	Interest	Average balance
Amounts borrowed	I $ 3,820,000 .00	J $ 143,250 .00	K $ 1,880,000 .00
Amounts loaned	L $ 770,000 .00	M $ 28,875 .00	N $ 1,300,000 .00

QUESTION 15

This question asks whether you had international related party dealings, apart from the dealings covered in questions 8 to 14.

We would expect the majority of international related party dealings entered into by taxpayers to come within the types of dealings covered by questions 8 to 14. Where dealings of a type covered by questions 8 to 14 were entered into but the form of the question (or associated instructions) means that particular amounts were not required to be disclosed at those questions, these amounts are also not required to be disclosed at this question.

An international related party dealing is taken to have been covered by questions 8 to 14, regardless of whether it was reported using tax or accounting figures, and should not be reported again at this question.

If you had international related party dealings, apart from the dealings covered in questions 8 to 14, answer yes to this question and complete the required fields.

The dollar amounts or values asked for in this question are all based on your accounting records.

Note that amounts included in your answers to questions 2 to 6 may be included again at questions 8 to 15.

In the first column, at **C** provide the total amount of expenditure incurred in respect of these international related party dealings.

In the second column, at **D** provide the total amount of revenue earned in respect of these international related party dealings.

In the third column, at **E** specify the principal arm's length pricing method used to set or review the consideration for these international related party dealings.

For the list of pricing methodology codes, see 'Appendix 6' on page 70.

In last row at **F**, provide a description of the principal activity undertaken in these international related party dealings (limit your description to 200 characters).

QUESTION 16

This question asks whether you have had any international related party dealings involving no payment or a non-monetary payment (as defined below). Information regarding the nature of these dealings and where they occurred will further assist us in identifying if there has been international related party dealings that may give rise to a:

- transfer pricing risk (but would not be reported at other questions in the schedule due to the nature of the consideration being nil or non-monetary)
- a possible capital gains tax risk.

No payment

Where there has been no charge or adjustment allocating income or expenditure between related parties for the provision of services, transfer of property or other relevant international related party dealings, then this would be taken to be a dealing for no payment.

NOTE

- You are not required to report at this question, any interest free loans disclosed at question 14.
- You are not required to report transactions where you have received a benefit for no payment.
- You are required to report transactions where you have provided a benefit for no payment.

Non-monetary payment

The nature of a dealing involving a non-monetary payment may be a barter, swap, bonus or discount, or any type of similar agreement.

A non-monetary payment will generally include any consideration other than one of the following:

- monetary payment
- payment by cheque
- telegraphic and bank-to-bank transfer of funds
- inter-company loan account charges.

In particular, debt-for-equity swaps and non-monetary settlements of inter-company loan accounts will be taken to be a non-monetary payment.

Capital or revenue in nature?

Whether the dealings between related parties are capital or revenue in nature is a matter to be decided based on the facts and circumstances of each case. The leading Australian case on this topic is *Sun Newspapers Ltd and Associated Newspapers Ltd v FC of T (1938) 61 CLR 337; 5 ATD 87*. This case established that expenditure incurred in establishing, replacing and enlarging the profit yielding structure (ie the business entity/structure) is of a capital nature and should be contrasted with working or operating expenses incurred to operate the business and generate business income. The test laid down in the Sun Newspapers case involves three elements, none of which are by themselves decisive:

- Is the expenditure on something that will result in an enduring benefit?
- The manner in which the advantage is to be used or enjoyed.
- The means adopted to obtain the benefit.

Guidance can also be found in various other common law sources and ATO guidance such as Taxation Rulings. We strongly recommend that you source appropriate guidance in light of the particular facts and circumstances of your case.

To answer this question, you will need to ascertain whether you had international related party dealings where:

- you provided a benefit of a capital nature for no payment (if so print **X** at **C** to answer yes)
- you provided a benefit of a revenue nature for no payment (if so print **X** at **F** to answer yes)
- the payment was non-monetary and of a capital nature (if so print **X** at **I** to answer yes)
- the payment was non-monetary and of a revenue nature (if so print **X** at **L** to answer yes).

For those types of international related party dealings that you answered 'yes' (ie that type of dealing occurred during your income year), you will need to indicate the location of the related party you dealt with and the nature of the dealing.

If you have had more than one particular type of international related party dealing, complete the principal country and nature of item label according to the dealing with the highest dollar value.

For the list of country codes, see 'Appendix 3' on page 63.

For the nature of item codes, see 'Appendix 8' on page 70.

EXAMPLE 1

A taxpayer provides core banking system software valued at 100 million to an international related party located in the United States. For the purposes of this example, assume the core banking system software forms part of the taxpayer's capital assets. The taxpayer does not charge the international related party for the software. This would meet the criteria of an international related party dealing involving no payment that was capital in nature.

EXAMPLE 2

A taxpayer purchases a derivative portfolio for $20 million from an international related party located in the United Kingdom. For the purposes of this example, assume the portfolio forms part of the taxpayer's ordinary revenue assets. If, rather than paying for the portfolio with a $20 million funds transfer to the related party, the decision was made to settle the debt by any of the following:

- forgiving royalties that would otherwise be payable by the international related party
- transferring title in a fixed asset
- agreeing to a discount on specified future transactions
- then this would meet the criteria of an international related party dealing involving a non-monetary payment that was revenue in nature.

EXAMPLE 3

During the current income year an Australian taxpayer had the following international related party dealings involving no payment or a non-monetary payment.

Payment type	Capital or revenue	Country	Country code	Nature of item	Item code	Value of dealing
No payment	Capital	United States	USA	Provided Real property	3	$50 million
No payment	Capital	United Kingdom	GBR	Provided Company shares	1	$75 million
Non-monetary payment	Revenue	Singapore	SGP	Insurance policies	8	$68 million
Non-monetary payment	Revenue	Japan	JPN	Loan assets	5	$101 million

With this information, the Australian taxpayer completes question 16 as follows.

	Capital			*Revenue*		
	Yes	Foreign country	Nature of item	Yes	Foreign country	Nature of item
No payment	C X	D G B R	E 1	F	G	H
Non-monetary payment	I	J	K	L X	M J P N	N 5

QUESTION 17

There are compliance risks associated with restructures, particularly those involving international related parties. In order to analyse the compliance risks of these restructures we need to understand the nature of restructuring undertaken by Australian taxpayers with international related parties. This question seeks to identify significant restructures undertaken between Australian taxpayers and international related parties.

This question also collects information about restructures involving your branch operations. Aspects of this restructure may be reflected in internally recorded 'dealings' with your branch that record your attribution of your income and expenditure to the branch operations: refer to the Introduction of these instructions for more information.

Accordingly, for the purpose of this question, also treat the reference to a 'party' as though it extended to:

- offshore branch operations carried on by an Australian resident – treat such operations as though they were instead a separate 'party' located in the branch country
- Australian branch operations carried on by a non-resident – treat such operations as though they were instead a separate 'party' located in Australia.

For the purposes of this question we wish to adopt a wide meaning of the term restructuring which goes beyond the generally accepted financial definition.

Restructuring for the purposes of this question refers to arrangements whereby assets, functions and/or risks of a business are transferred between you and international related parties where the value of the change exceeds $50 million. This may include:

- reorganisation of your structure resulting in the disposal or acquisition of entities or the change in ownership of entities
- establishing, expanding, downsizing, liquidating or relocating business operations or business lines, resulting in
  - the acquisition and/or the disposal of assets or liabilities (tangible or intangible)
  - the transfer of functions between yourself and international related parties (eg transfer of trading, sales or marketing functions)
  - the movement of risks between yourself and international related parties
  - the increase or decrease of rights or obligations
  - the significant modification of service arrangements

- where there has been a change in the nature of the business carried on through your branch operations, for example, you have commenced or ceased to use your property in your branch operations or you have commenced or ceased to perform functions or services through your branch operations
- the dollar amounts or values asked for in this question are all based on your accounting records. We recognise that this question requires you to determine whether the value of a restructure is greater than $50 million, even though there may not be payment of consideration in respect of some transactions forming part of the restructure. For these transactions we ask you to make a reasonable determination of the value and we do not expect you to obtain a formal valuation for this purpose.

To complete this question, you need to:

- determine if you undertook any restructures where the value of the restructure exceeded $50 million
- disregard all restructures where there is no international related party involvement
- then determine the three restructures with the highest dollar value
- for each of these three restructures
  - identify the principal international related party involved in the restructure
  - determine if this related party was either a related branch or a related entity
  - determine the country where this related party was located
  - describe the nature of the restructure in terms of the assets, liabilities, functions, risks, rights or obligations
  - determine the overall affect of this restructure, in terms of acquiring or disposing of assets, liabilities, functions, risks, rights or obligations.

In the first two columns, place a cross in the box:

- at **C**, **I** or **O** if the principal international related party involved in respect of the restructure was not a branch
- at **D**, **J** or **P** if the principal international related party involved in respect of the restructure was a branch.

In the third column, at **E**, **K** or **Q** specify the code of the country in which the principal international related party to the relevant restructure was located.

For the list of codes for all countries, refer to 'Appendix 3' on page 63.

In the fourth column at **F**, **L** or **R**, specify the code that best describes the nature of the restructure in terms of the asset, liability, function, risk, right or obligation.

For the list of codes describing the nature of the restructure, see 'Appendix 8' on page 70.

In the last two columns, place a cross in the box:

- at **G**, **M** or **S** if the overall affect of the restructure was the acquisition of assets, liabilities, functions, risks, rights or obligations
- at **H**, **N** or **T** if the overall affect of the restructure was the disposal of assets, liabilities, functions, risks, rights or obligations.

If the restructure equally applied to the acquisition and disposal of assets, liabilities, functions, risks, rights or obligations, place a cross in both the acquisition and disposal boxes.

EXAMPLE

During the income year an Australian resident taxpayer shut down its Singapore branch operations. This included ceasing to carry on trading in derivative contracts through its Singapore branch operations. However, the taxpayer continued to carry on trading in those same derivative contracts other than through its Singapore branch. Other assets were sold to different entities. The following provides a summary of the transactions that were undertaken as part of the restructure.

Item	Disposing entity location and type	Related to Australian taxpayer	Acquiring entity location and type	Related to Australian taxpayer	Dollar value
Derivative portfolio	Singapore branch	Yes	Australian entity (excluding Singapore branch operations)	Yes	$400,000,000
Singapore building	Singapore branch	Yes	Jersey subsidiary	Yes	$45,000,000
Furniture and equipment	Singapore branch	Yes	Singapore entity	No	$21,000,000
Total					**$466,000,000**

In this example there are several relevant events involved in closing the Singapore branch operations. These events are all part of the same restructure.

The Australian taxpayer does not report the transactions involving the sale of the building and furniture and equipment as an Australian resident is not a counterparty to these transactions since, for the purpose of this question, a resident's offshore branch operations are treated as a separate party located in the branch jurisdiction.

The Australian taxpayer completes question 17 as follows.

Restructure	Entity	Branch	Foreign country	Nature of item	Acquisition	Disposal
1	C Yes	D Yes X	E S G P	F 4	G Yes X	H Yes
2	I Yes	J Yes	K	L	M Yes	N Yes
3	O Yes	P Yes	Q	R	S Yes	T Yes

QUESTION 18

You should print X at B to answer yes if, in performing your analysis for question 17 you work out that you undertook a restructure where one of the following applies:

- that involved an international related party located in a specified country
- the value of the restructure exceeded $50 million
- this restructure was not reported at question 17 as it was not one of your three restructures with the highest dollar value.

This information will help us to assess the extent of compliance risks associated with restructures undertaken with international related parties in specified countries.

SECTION D: FINANCIAL SERVICES

QUESTION 19

Complete by placing an 'X' in the applicable box. If you answer 'yes', you need to complete the remaining labels as appropriate.

To complete this question, you will need to:

- identify all financing arrangements you held during the income year that were undertaken with international related parties and the characterisation between debt and equity is different under Division 974 of the ITAA 1997 from your treatment for accounting purposes
- identify which of those financing arrangements would be classified as debt interests and which would be classified as equity interests under Division 974 of the ITAA 1997
- identify which of those financing arrangements you received from a related party and those that you provided to a related party
- calculate the average quarterly balance of each relevant financing arrangement (by adding the relevant financing arrangement amount at the end of each quarter and dividing by four)
- add up the total of the average quarterly balances of each financial arrangement that you
  - received from a related party and is characterised as a debt interest under Division 974 of the ITAA 1997
  - provided to a related party and is characterised as a debt interest under Division 974 of the ITAA 1997
  - received from a related party and is characterised as an equity interest under Division 974 of the ITAA 1997
  - provided to a related party and is characterised as an equity interest under Division 974 of the ITAA 1997.

This information will help us assess the risk that an interest has been mischaracterised as either:

- a debt interest and inappropriate tax deductions have been claimed
- an equity interest and inappropriate franked distributions have been made.

The information reported at this question may also help us in:

- identifying arrangements with international related parties where the use of hybrid instruments may indicate a tax risk
- assessing any risk regarding your thin capitalisation position.

The terms debt interest and equity interest are defined in Division 974 of the ITAA 1997.

> For help working out the tax characterisation of an interest as debt or equity (debt and equity tests), refer to:
> - Division 974 of the ITAA 1997
> - *Debt and equity tests guide* available on our website at **www.ato.gov.au**

EXAMPLE

Bob & Co analyses the financial arrangements they held during the income year that were entered into with international related parties.

Bob & Co identifies the following information:

Table 1

Financial arrangements	Tax treatment	Received or provided	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Redeemable preference shares	Equity	Received	35,000,000	27,000,000	42,000,000	23,000,000
Convertible notes	Debt	Received	16,800,000	16,800,000	16,800,000	16,800,000
Perpetual notes	Debt	Provided	31,000,000	28,500,000	25,000,000	22,500,000
Stapled Security	Equity	Received	27,500,000	32,500,000	32,500,000	0

Bob & Co then collates the following information for those financial arrangements where the debt equity characterisation under Division 974 of the ITAA 1997 is different from their accounting purposes.

Table 2

Financial arrangements	Average quarterly balances			
	Tax treats as debt		Tax treats as equity	
	Received	Provided	Received	Provided
Redeemable preference shares	na	na	31,750,000	na
Convertible notes	16,800,000	na	na	na
Perpetual notes	na	26,750,000	na	na
Stapled security	na	na	23,125,000	na
Totals	**16,800,000**	**26,750,000**	**54,875,000**	**0**

With this information Bob & Co complete question 19 as follows.

		Amounts received		Amounts provided
Average quarterly balance of debt interests	C $	16,800,000 .00	D $	26,750,000 .00
Average quarterly balance of equity interests	E $	54,875,000 .00	F $	.00

QUESTION 20

Complete by placing an 'X' in the applicable box. If you answer 'yes', you need to specify which (if any) of the tax timing method elections you have made to assess your gains and losses from financial arrangements.

These tax timing method elections are contained in subdivisions 230-C to 230-F of the ITAA 1997.

The taxation of financial arrangements (TOFA) rules contained in Division 230 of the ITAA 1997 modernise the tax treatment of gains and losses from financial arrangements. Understanding whether you are subject to the TOFA rules will provide us with the necessary context to understand the information you report regarding your financial arrangements.

For help working out if 'Division 230' applies and the relevant threshold tests, refer to:
- *Guide to taxation of financial arrangements stages 3 and 4* available on our website at **www.ato.gov.au**
- section 230-455 of the ITAA 1997.

QUESTION 21

Complete by placing an 'X' in the applicable box. If you answer 'yes', you need to provide the relevant amounts at **C**, **D**, **E** and **F**.

If you are a foreign bank or a qualifying foreign financial entity that carries on business operations through an Australian branch, and you have not elected to opt out of Part IIIB of the ITAA 1936, then the rules in Part IIIB of the ITAA 1936 apply.

For the purposes of Part IIIB of the ITAA 1936 the following terms are defined in section 160ZZV of the ITAA 1936:
- *Australian Branch* in relation to a foreign bank, means a permanent establishment in Australia through which the bank carries on banking business.
- *Foreign Bank* means a body corporate that is a foreign authorised deposit taking institution (ADI) for the purposes of the *Banking Act 1959*.
- *Financial entity* and *Foreign entity* both have the meaning given in section 995-1 of the ITAA 1997.

EXAMPLE

ABC Co is an authorised deposit taking institution and the TOFA rules contained in Division 230 of the ITAA 1997 apply to all of its financial arrangements entered into on or after 1 July 2010.

ABC Co has made valid elections under Division 230 of the ITAA 1997 to apply the fair value and general retranslation tax timing methods to all its financial arrangements subject to TOFA.

With this information, ABC Co would complete question 20 as follows.

Elective fair value method	C	X
Elective foreign exchange retranslation method – general	D	X
Elective foreign exchange retranslation method – designated qualifying foreign exchange accounts	E	
Elective hedging method	F	
Elective financial reports method	G	
No elections made	H	

Label C

Include at **C** your average quarterly notional borrowings. This is calculated by:

- adding up your notional borrowings determined under subsection 160ZZZ(1) of the ITAA 1936 at the end of each quarter in your financial year
- dividing it by four.

Label D

Include at **D** the amount of your notional interest deductions under section 160ZZZA of the ITAA 1936 (capped at LIBOR). If you are an offshore banking unit (OBU), do not include the notional interest amount attributable to OB activities under Division 9A of Part III of ITAA 1936.

Label E

Include at **E** the amount of your notional interest deductions under section 160ZZZA of the ITAA 1936 attributable to OB activities under Division 9A of Part III of ITAA 1936 (if you are an OBU).

Label F

Include at **F** the amount of withholding tax you paid on the notional interest amount you claimed under section 160ZZZA of the ITAA 1936.

> ! Interest withholding tax is payable on 50% of the amount of notional interest determined under section 160ZZZA by reason of the operation of section 160ZZZJ of the ITAA 1936.

QUESTION 22

Complete by placing an 'X' in the applicable box. If you were a registered OBU or the head company of a consolidated group that included a registered OBU during the income year, answer 'yes' and complete the remaining labels as appropriate.

We are seeking further information to determine:

- the extent of use of the OBU provisions and the types of OBU activities undertaken
- to help in assessing your level of compliance with these provisions; for example, the correct classification of OBU activities.

To examine and quantify these risks we need to identify the nature and significance of the activities undertaken by OBUs.

At the labels for **Gross OB income**, you need to show the amounts of your assessable OB income worked out in accordance with section 121EE of the ITAA 1936.

At the labels for **Net OB income/loss**, you need to show the amounts of your assessable OB income worked out in accordance with section 121EE of the ITAA 1936 less the amount of your exclusive OB deductions within the meaning of subsection 121EF(3) of the ITAA 1936.

Where it is not possible for you to provide the amount of assessable OB income and allowable OB deductions for each relevant kind of OB activity, provide the best level of information about your gross income and net income based on your accounting records. If this applies to you, you are also required to record as reconciliation adjustments:

- the difference between the amounts you must show at the labels for each OB activity type based on your accounting records
- the amount of your total assessable OB income and allowable OB deductions for the income year worked out in accordance with sections 121EE and 121EF of the ITAA 1936.

If it is possible for you to provide the amount of your assessable OB income under section 121EE and exclusive OB deductions under subsection 121EF(3) of the ITAA 1936 for each relevant kind of OB activity, the amount you show for total assessable OB income and net OB income/loss will be the sum of the amounts you have written in the respective labels for each OB activity type. You do not need to complete the reconciliation adjustment label.

For the purposes of providing information at this question regarding your OB activities with related parties, treat related party as having the same meaning as it has in determining your international related parties.

To complete this question, you need to:

- for each OB activity type listed in the schedule
  - work out the (gross) amount of your assessable OB income in accordance with section 121EE of the ITAA 1936
  - calculate your net OB income/loss in accordance with sections 121EE and 12EF of the ITAA 1936 (by subtracting exclusive OB deductions for the OB activity type from the assessable OB income for the activity)
  - identify your OB activities undertaken with related parties
  - calculate the amount of your (gross) assessable OB income, within the meaning of section 121EE of the ITAA 1936, for the OB activities you have undertaken with related parties
- work out the amount of your general OB deduction and apportionable OB deductions for the income year in accordance with section 12EF of the ITAA 1936.

In the first column:

- write at **C**, **F**, **I**, **L**, **O**, **R**, **U** and **X**, the amount of your assessable OB income for the income year worked out in accordance with section 121EE of the ITAA 1936, for each specified OB activity type
- at **AB**, write the sum of the amounts you have written at **C**, **F**, **I**, **L**, **O**, **R**, **U** and **X**
- where it is not possible for you to provide the amount of assessable OB income for each relevant kind of OB activity, write at AE the total gross income reconciliation adjustment for the income year (reconciling the gross income you must write for each OB activity at **C**, **F**, **I**, **L**, **O**, **R**, **U** and **X** based on your accounting records with your total assessable OB income worked out under section 121EE of the ITAA 1936 for the income year that you must write at **AH**)
- write at **AH** the amount of your total assessable OB income for the income year worked out under section 121EE.

In the second column:

- write at **D**, **G**, **J**, **M**, **P**, **S**, **V** and **Y**, the amount of your net OB income/loss for each specified OB activity type (calculated by subtracting the amount of your exclusive OB deductions for the income year, within the meaning of subsection 121EF(3), for the OB activity type, from the amount of assessable OB income which you have written at **C**, **F**, **I**, **L**, **O**, **R**, **U** or **X** in the first column for that activity type).
- at **AA**, write the sum of the amount of your general OB deduction and the amount of your apportionable deductions worked out under section 121EF of the ITAA 1936 for all your OB activities for the income year
- at **AC**, write the sum of the amounts you have written at **D**, **G**, **J**, **M**, **P**, **S**, **V** and **Y** less the amount of your general OB deduction and apportionable OB deductions you have written at **AA**
- where it is not possible for you to provide the amount of exclusive OB deductions, within the meaning of subsection 121EF(3), for each relevant kind of OB activity, write at AF the total net income/loss reconciliation adjustment for the income year (reconciling the net income/loss you must write for each OB activity at **D**, **G**, **J**, **M**, **P**, **S**, **V** and **Y** based on your accounting records with the amount of your total assessable OB income less allowable OB deductions that you must write at **AI**)
- write at **AI** the amount of your total assessable OB income, subject to subsection 121EG(1), less allowable OB deductions, subject to subsection 121EG(2), for the income year.

In the third column:

- write at **E**, **H**, **K**, **N**, **Q**, **T**, **W** and **Z**, the amount of your assessable OB income for the income year, determined in accordance with section 121EE of the ITAA 1936, for each specified OB activity type for OB activities undertaken with related parties
- at **AD**, write the sum of the amounts you have written at **E**, **H**, **K**, **N**, **Q**, **T**, **W** and **Z**
- where it is not possible for you to provide the amount of assessable OB income for each relevant kind of OB activity undertaken with related parties, write at AG the total gross income reconciliation adjustment for related party OB activities (reconciling the gross income amounts you must write at **E**, **H**, **K**, **N**, **Q**, **T**, **W** and **Z** for each OB activity undertaken with related parties based on your accounting records with your total assessable OB income for all your OB activities undertaken with related parties that you must write at **AJ**)
- write at **AJ** the amount of your total assessable OB income for the income year, determined under section 121EE, for all your OB activities undertaken with related parties.

EXAMPLE

During the income year, XYZ Co, an Australian taxpayer with an OBU, extracted the following information from its tax records (that is all figures are as worked out for tax purposes) for its financial services activities.

Activity type	Related party	Total assessable income	Assessable OB income	Assessable non-OB income	Exclusive deductions
Borrowing & lending	Yes	100,000	100,000		25,000
Borrowing & lending	Yes	150,000		150,000	45,000
Borrowing & lending	No	125,000	125,000		40,000
Guarantee-type	Yes	90,000	90,000		10,000
Guarantee-type	No	110,000		110,000	30,000
Trading	Yes	250,000	250,000		200,000
Trading	Yes	140,000		140,000	30,000
Trading	No	300,000	300,000		120,000
Eligible contract	No	210,000	210,000		60,000
Advisory	No	80,000	80,000		10,000
Advisory	Yes	100,000	100,000		25,000
Hedge	Yes	390,000		390,000	270,000
Total		**2,045,000**	**1,255,000**	**790,000**	**865,000**

The OB income can be summarised as follows.

Activity type	Assessable OB income	Net OB income/loss (assessable OB income – exclusive OB deductions)	Assessable OB income from related parties
Borrowing & lending	225,000	160,000	100,000
Guarantee-type	90,000	80,000	90,000
Trading	550,000	230,000	250,000
Eligible contract	210,000	150,000	
Advisory	180,000	145,000	100,000
Total	**1,255,000**	**765,000**	**540,000**

Additional information:

- XYZ Co has total allowable deductions of $100,000, within the meaning of subsection 121EF(4), attributable to both their OB activities and non-OB activities.
- XYZ Co did not incur any apportionable deductions, within the meaning of subsection 121EF(5), during the income year.
- All of XYZ Co's exclusive OB deductions and exclusive non-OB deductions, within the meaning of subsections 121EF(3) and (6), for its borrowing and lending activities were for expenses in the nature of interest.
- None of XYZ Co's exclusive deductions for any other kinds of activities were for expenses in the nature of interest.

In accordance with subsection 121EF(4), XYZ Co works out the proportion of their $100,000 of deductions attributable to both their OB activities and non-OB activities – that is their general OB deduction amount under the following equation:

$$\text{Deduction} \times \frac{\text{Adjusted assessable OB income}}{\text{Adjusted total assessable income}}$$

Adjusted assessable OB income is the amount of the OBU's assessable OB income less the amount of the OBU's exclusive OB deductions for interest (including discounts in the nature of interest).

Adjusted total assessable income is the amount of the OBU's total assessable income less the sum of the OBU's exclusive OB deductions for interest and the OBU's exclusive non-OB deductions for interest (including discounts in the nature of interest).

Accordingly, the amount of XYZ Co's general OB deduction equals

$$\$100{,}000 \times \frac{\$1{,}255{,}000 - (\$25{,}000 + \$40{,}000)}{\$2{,}045{,}000 - (\$25{,}000 + \$40{,}000 + \$45{,}000)}$$

$$= \$100{,}000 \times \frac{\$1{,}190{,}000}{\$1{,}935{,}000}$$

$$= \$61{,}498$$

With this information XYZ Co completes question 23 as follows.

		Gross OB income		Net OB income/loss		Gross OB income from related parties
Borrowing or lending	C$	225,000 .00	D$	160,000 .00 /	E$	100,000 .00
Guarantee-type	F$	90,000 .00	G$	80,000 .00 /	H$	90,000 .00
Trading	I$	550,000 .00	J$	230,000 .00 /	K$	250,000 .00
Eligible contract	L$	210,000 .00	M$	150,000 .00 /	N$	.00
Investment	O$	.00	P$	.00 /	Q$	.00
Advisory	R$	180,000 .00	S$	145,000 .00 /	T$	100,000 .00
Hedging	U$	.00	V$	.00 /	W$	.00
Other – as declared by regulation	X$	.00	Y$	.00 /	Z$	.00
General OB deductions and apportionable OB deductions			AA$	61,498 .00		
TOTAL	AB$	1,255,000 .00	AC$	703,502 .00 /	AD$	540,000 .00
Accounting to tax reconciliation amounts	AE$	.00	AF$	.00 /	AG$	.00
TOTAL ASSESSABLE INCOME	AH$	1,255,000 .00	AI$	703,502 .00 /	AJ$	540,000 .00

SECTION E: INTEREST IN FOREIGN ENTITIES

QUESTION 23

Complete by placing 'X' in the applicable box. If you answer 'yes', you need to include the number of controlled foreign companies (CFCs) and controlled foreign trusts (CFTs) that you had an interest in at the end of the income year.

This is one of a number of questions dealing with CFCs and CFTs. These questions are for the purpose of understanding your interests and dealings with these overseas entities and assessing compliance with the relevant tax legislation.

An interest in a CFC or CFT may be either direct or indirect, and has the same meaning as set out in Division 3 of Part X of the ITAA 1936.

> For information about when an entity has a controlling interest in a foreign company or foreign trust, refer to *Foreign income return form guide* available on our website at **www.ato.gov.au**

Appendix 4 contains a table of listed countries and appendix 2 specified countries. All other foreign countries, including section 404 countries, are included in the other unlisted country category.

Labels C, D and E

Identify the CFCs and CFTs you had at the end of your income year. Then, referring to the tables at appendix 2 and appendix 4, identify the category of country of residency of each CFC or CFT.

At **C**, enter the number of your CFCs and CFTs identified as residents of listed countries.

At **D**, enter the number of your CFCs and CFTs identified as residents of specified countries.

At **E**, enter the number of your CFCs and CFTs identified as residents of other unlisted countries.

If the number of CFCs and CFTs is:
- less than 10, write **0** (zero) as the first digit
- more than 99, write **99**
- is zero, leave the relevant answer block blank.

EXAMPLE

Jack brothers & Co had at the end of their income year the following:
- two German resident CFTs
- three Japanese resident CFCs
- one Cayman Islands resident CFT.

As Germany and Japan are listed countries, they entered 05 at **C** to record its five listed country CFTs and CFCs at the end of its income year.

At **D**, they entered 01 to record its specified country CFT.

They left all other boxes blank.

	Listed country	Unlisted country: Specified	Unlisted country: Other unlisted
Number of CFCs and CFTs	C 05	D 01	E

QUESTION 24

Provide the amounts included in your assessable income under the particular sections of the ITAA 1936. This information is required to assess the risk of assessable foreign income not being correctly accounted for under the relevant tax legislation.

If you have an amount of foreign income that is assessable under sections 456, 457 or 459A of the ITAA 1936, enter the total amount assessable under each of the sections at the appropriate labels.

> For more information about working out if these provisions apply to you, including an overview of the necessary calculations, refer to *Foreign income return form guide* available on our website at **www.ato.gov.au**
>
> For companies conducting banking or insurance activities (AFI or Australian financial institutions), there are special rules that apply. These rules are not discussed in the guide and you should refer to Part X of the ITAA 1936.

Labels A, B, C and D

If you included attributable income in your assessable income for the income year under section 456 of the ITAA 1936, you need to complete **A**, **B**, **C** and **D** as required.

Section 456 of the ITAA 1936 includes certain amounts of attributable income of a CFC in the assessable income of an Australian resident taxpayer that is an attributable taxpayer.

> To help work out the amounts to include, refer to:
> - *Foreign income return form guide* available on our website at **www.ato.gov.au**
> - section 456 of the ITAA.

To complete **A**, **B** and **C**, you are required to identify the residency of each CFC or CFT for which you included attributable income in assessable income under section 456 of the ITAA 1936 for the income year. The tables of listed countries are in appendix 4 and specified countries are in appendix 2 With reference to the tables, work out the amounts referrable to those entities in each of the location categories:
- listed country
- specified country
- other unlisted country.

At **A**, enter the attributable income included in your assessable income from your CFCs and CFTs identified as residents of listed countries.

At **B**, enter the attributable income included in your assessable income from your CFCs and CFTs identified as residents of specified countries.

At **C**, enter the attributable income included in your assessable income from your CFCs and CFTs identified as residents of other unlisted countries. Include at this label any attributable income included in assessable income under section 456 of the ITAA 1936 that you have not already included at **A** and **B**.

At **D**, enter the total of **A**, **B** and **C**.

EXAMPLE

An Australian resident shareholder (attributable taxpayer) includes section 456 attributable income in its assessable income from CFCs and CFTs which are resident of countries set out in the following table.

CFC or CFT country of residence	Section 456 attributable income amount
Canada	1,010,000
Niue	501,000
Panama	629,000
Italy	459,000
Total	**2,599,000**

As Canada is a listed country, the section 456 amount entered at **A** is $1,010,000.

As Niue and Panama are specified countries, the section 456 amount entered at **B** is:

Niue	$501,000
Panama	$629,000
Total entered at B	**$1,130,000**

As Italy is an other unlisted country, the section 456 amount entered at **C** is $459,000.

The total amount of section 456 attributable income entered at **D** is $2,599,000.

	Listed country	*Unlisted country* Specified	*Unlisted country* Other unlisted	Total
Section 456 – CFCs attributable income	A$ 1,010,000 .00	B$ 1,130,000 .00	C$ 459,000 .00	D$ 2,599,000 .00

Label E

If you included an amount of foreign income in your assessable income for the income year under section 457 of the ITAA 1936, you need to complete **E**.

Section 457 of the ITAA 1936 includes in the assessable income of a resident taxpayer, who is an attributable taxpayer in relation to a CFC, certain amounts in respect of a change of residence of the CFC from an unlisted country to a listed country or to Australia.

To help work out the amounts to include, refer to:
- *Foreign income return form guide* available on our website at **www.ato.gov.au**
- section 457 of the ITAA 1936.

To complete **E**, add all amounts included in your assessable income under section 457 of the ITAA 1936 and enter this total at **E**.

Label F

If you included an amount of foreign income in your assessable income for the income year under section 459A of the ITAA 1936, you need to complete **F**.

Section 459A of the ITAA 1936 includes amounts in an attributable taxpayer's assessable income where the amount that accrues to the benefit of a CFC or CFC is not taxed in Australia.

To help work out the amounts to include, refer to section 459A of the ITAA 1936.

To complete **F**, add all amounts included in your assessable income under section 459A of the ITAA 1936 and enter this total at **F**.

QUESTION 25

Complete by placing an 'X' in the applicable box.

This information will help us to identify if there is a risk that a transaction has occurred to which section 47A of the ITAA 1936 would apply.

When a CFC resident in an unlisted country provides, either directly or indirectly, an eligible benefit to an associated entity, section 47A can apply to deem that benefit a dividend.

Unless otherwise specified, the terms in this question have the same meaning as set out in section 47A of the ITAA 1936.

Broadly, a benefit is defined in section 47A to include the following:

- a waiver or release of an obligation to pay or repay an amount (waiver of debts)
- the granting of a non-arm's length loan
- transfers of property or services for no or inadequate consideration
- the payment of a call on an allotment of shares
- share or unit acquisitions for non-arms length consideration.

For more detailed information, refer to:

- section 47A of the ITAA 1936
- *Taxation Ruling TR 2002/2 Income tax: meaning of 'Arm's Length' for the purpose of subsection 47A(7) of the Income Tax Assessment Act 1936 (ITAA 1936) dividend deeming provisions*.

QUESTION 26

Complete by placing an 'X' in the applicable box. If you answer 'yes', you will need to specify the amounts of foreign non-assessable non-exempt income you derived under any of the following:

- section 23AH – foreign branch income of Australian companies
- section 23AI – amounts paid out of attributed CFC income
- section 23AJ – non-portfolio dividends from foreign companies.

This question provides us with an understanding of the amount of non-assessable non-exempt income being derived in different tax jurisdictions and helps identify the nature of that income.

To complete this question, work out the amount of your foreign income received as non-assessable non-exempt income under each of the sections 23AH, 23AI or 23AJ of the ITAA 1936 and the amount of this income derived from entities resident in each of the location categories:

- listed country
- specified country
- other unlisted country.

The amount of income reported under section 23AH should include the total of both income and capital gains that are non-assessable non-exempt under that section.

For more information about when an entity has an interest in a foreign company or foreign trust, refer to *Foreign income return form guide* available on our website at **www.ato.gov.au**

For guidance in working out if these provisions apply to you, refer to sections 23AH, 23AI or 23AJ of the ITAA 1936.

Appendix 4 contains a table of listed countries and appendix 2 contains a table of specified countries. All other foreign countries, including section 404 countries, are included in the other unlisted country category.

If there is no non-assessable non-exempt income for some labels, leave those labels blank.

EXAMPLE

An Australian resident receives the following non-assessable non-exempt income amounts as set out in the table.

Country	Section 23AH amount	Section 23AI amount	Section 23AJ amount
Branch in the United States of America	12,000,000		
Liechtenstein		42,000	
Belgium		630,000	
Belgium			450,000

As the United States of America is a listed country and the non-assessable non-exempt income is a section 23AH amount, the entity enters $12,000,000 at **C**.

Liechtenstein is a specified country and as the non-assessable non-exempt income is a section 23AI amount, $42,000 is entered at **G**.

As Belgium is not a listed country or a specified country it is an 'other unlisted country'. Consequently, the section 23AI non-assessable non-exempt income amount of $630,000 is entered at **H** and the 23AJ amount of $450,000 is entered at **K**.

All other labels are left blank.

	Listed country	*Unlisted country* Specified	*Unlisted country* Other unlisted
Section 23AH – foreign branch income of Australian companies	C$ 12,000,000 .00	D$ .00	E$ .00
Section 23AI - amounts paid out of attributed CFC income	F$ .00	G$ 42,000 .00	H$ 630,000 .00
Section 23AJ - non-portfolio dividend from foreign companies	I$ .00	J$ .00	K$ 450,000 .00

QUESTION 27

Complete by placing an 'X' in the applicable box. If you answer 'yes', you need to specify the total amount of the capital gain/losses made in respect of interests in foreign companies and the amounts of any reductions made under subdivision 768-G of ITAA 1997.

Write the total capital gain amount at **C** and the total amounts of reductions at **D**. Write the total capital loss amounts at **E** and the total amounts of reductions at **F**.

Information regarding capital gains and capital losses made in relation to interests in foreign companies will enable us to assess if there is a risk to revenue from foreign sourced capital gains not being returned correctly.

Under subdivision 768-G of the ITAA 1997 if a company held a voting interest of at least 10% in a foreign company, and held that interest for a continuous period of at least 12 months in the two years before the specified capital gains tax (CGT) event, it may be entitled to apply this measure.

For more information, refer to subdivision 768-G of the ITAA 1997.

EXAMPLE

During the income year, AAA Co an Australian resident company, sold shares in three foreign-resident companies: BBB Co, CCC Co and DDD Co.

The sale of the shares in BBB Co resulted in a capital gain under CGT event A1 of $750,000. This amount of capital gain was reduced by 42%, or $315,000, in accordance with subdivision 768-G of the ITAA 1997 resulting in a capital gain amount of $435,000.

The sale of shares in CCC Co resulted in a capital loss under CGT event A1 of $769,000. This amount of capital loss was reduced by 50%, or $384,500, in accordance with subdivision 768-G of the ITAA 1997 resulting in a capital loss amount of $384,500.

The sale of shares in DDD Co resulted in a capital loss under CGT event A1 of $50,000. This amount was not reduced by subdivision 768-G of the ITAA 1997.

To complete this question AAA Co enters the total capital gain amount of $750,000 at **C** and the total capital gain reduction amount of $315,000 at **D**. AAA Co adds the capital loss amounts from the sale of shares in CCC Co and DDD Co together and enters the amount of $819,000 at **E**. AAA Co enters the total capital loss reduction amount of $384,500 at **F**.

Capital gain amounts	**C $**	750,000 .00	**Capital gain reductions**	**D $**	315,000 .00
Capital loss amounts	**E $**	819,000 .00	**Capital loss reductions**	**F $**	384,500 .00

QUESTION 28

Complete by placing an 'X' in the applicable box. If you answer 'yes', you need to provide information about the three transfers to a non-resident trust estate with the highest dollar value.

Do not include transfers performed for clients.

You should answer 'no' to this question where the only transfers an entity makes that falls within this question involve:

- the transfer of property or services to a public unit trust that is a non-resident trust estate, and
- the sole purpose of the underlying transfer was the acquisition of units in the trust estate where the parties to the underlying transfer were at arms length.

This is because Division 6AAA of the ITAA 1936 will apply to a public unit trust that is non-resident trust estate as defined in section 102AAB of the ITAA 1936 where subparagraph 102AAT(1)(a)(ii) of the ITAA 1936 is satisfied.

To complete this question, you need to:

- identify all the transfers of property or services you made/caused, in the last three income years, to a non-resident trust that is still in existence
- work out the three transfer amounts with the highest dollar value.

In the first column at **C**, **E** and **G**, provide the amount/value of the three transfers of the highest dollar value in descending order of total dollar value.

In the second column at **D**, **F** and **H**, list the relevant exception code in respect of the transfer amount provided in the first column. For those transfers to which no exception code applies leave the relevant answer block blank.

This question will help us to identify if there is a risk that income of a non-resident trust estate has not been appropriately returned in the assessable income of an Australian resident transferor.

Unless otherwise specified, the terms used in this question have the same meaning as set out in Division 6 and 6AAA of the ITAA 1936.

The terms 'transfer', 'property' and 'services' are defined in section 102AAB of the ITAA 1936. Sections 102AAJ and 102AAK of the ITAA 1936 provide guidance in relation to whether there was a transfer or a deemed transfer of property or services to a non-resident trust estate.

For a list of the relevant exceptions and codes, see 'Appendix 9' on page 71.

EXAMPLE

During the last three income years, an Australian resident taxpayer makes the following transfers to a non-resident trust that is still in existence.

Transfer	Amount
Transfer of property made to the ABC discretionary trust (resident in Canada) for no consideration (not arm's length)	12,000,000
Transfer made to the AAA discretionary trust for the arm's length acquisition of materials to be used in the taxpayer's business.	60,000,000
Transfer of cash made to the XYZ Public Unit Trust for the sole purpose of acquiring units in that trust.	28,000,000

The taxpayer will complete question 28 as follows.

		Transfer amount		Exemption code
Transfer 1	C $	60,000,000 .00	D	1
Transfer 2	E $	28,000,000 .00	F	5
Transfer 3	G $	12,000,000 .00	H	

QUESTION 29

Complete by placing an 'X' in the applicable box.

To complete this question, you need to work out if one of the follow applied:

- you were a beneficiary
- you had an interest in the income or capital
- you had a right to acquire an interest in the income or capital, of a non-resident trust estate during the income year.

This question will help us to identify if there is a risk that income of a non-resident trust estate has not been appropriately returned in the assessable income of an Australian resident beneficiary.

Unless otherwise specified, the terms used in this question have the same meaning as set out in Division 6 and 6AAA of the ITAA 1936.

QUESTION 30

Complete by placing an 'X' in the applicable box. If you answer 'yes', you need to include:

- the number of foreign hybrid limited partnerships (FHLPs) or foreign hybrid companys (FHCs) you had interest in during the income year at **C**
- the total amount of your share of net income/distribution of profit received at **D**.

This question will help us to identify if there is a risk that income of a FHLP or a FHC has not been appropriately returned in Australia as an assessable distribution.

FHLP has the same meaning as set out in section 830-10 of the ITAA 1997.

FHC has the same meaning as set out in section 830-15 of the ITAA 1997.

EXAMPLE

ABC Co is an Australian resident taxpayer that is a partner in several foreign hybrid limited partnerships. It also holds shares in a foreign hybrid company. During the income year ABC Co received the following in respect of its interests in these entities.

Entity	Amount
Share of net income from the BBB Partnership	750,000
Share of net income from the CCC Partnership*	(100,000)
Distribution of profit from the XYZ Company	275,000
Total	**925,000**

* This would be the deductible amount per section 830-45 of the ITAA 1997.

ABC Co will complete question 30 as follows.

Number of FHLPs or FHCs you had interests in	C	3
Total amount of your share of net income/distribution of profit	D $	925,000 .~~00~~ /

SECTION F: THIN CAPITALISATION

QUESTION 31

Complete by placing 'X' in the applicable box. If you answer 'no', go to question 41.

The thin capitalisation regime prevents an excessive allocation of debt for tax purposes to the Australian operations of multinationals and ensures that Australia obtains a fair share of tax from those who operate internationally.

You may be excluded from the requirement to apply the thin capitalisation provisions if one of the following applies:

- you and your relevant associates have total debt deductions of $250,000 or less
- you satisfy section 820-37 of the ITAA 1997.

For more information about the thin capitalisation rules, refer to *Thin capitalisation guides* available on our website at **www.ato.gov.au**

QUESTION 32

Complete by placing an 'X' in the applicable box. If you answer 'yes', you need to provide the ABN of the head company of the group or single company at **C** and then go to question 41.

If you carry on qualifying Australian branch operations that are treated, under subdivision 820-FB of the ITAA 1997, as part of a consolidated group or MEC group or a single company for thin capitalisation purposes, you will not be required to complete the remaining thin capitalisation questions. This is because the questions must be completed in the return of the head company or the single company on the basis of including your branch operations.

If you do carry on qualifying Australian branch operations that are not treated as part of a consolidated group, MEC group or single company by reason of the operation of subdivision 820-FB, you must complete the following thin capitalisation questions for the branch operations.

QUESTION 33

Provide your entity type as at the end of the income year.

The thin capitalisation rules apply differently depending on an entity's type. To work out how the thin capitalisation rules apply to a particular entity we need to know which category the entity belongs to.

At **A**, using the tables below, write the code which represents the type of thin capitalisation entity you are at the end of the income year or relevant period. If you do not know what type of entity you are, refer to the relevant provisions in Division 820 of the ITAA 1997.

If your type of thin capitalisation entity changed during the year, you only need to complete section F for the type of thin capitalisation entity you were at the end of the income year or relevant period.

TABLE: Non-authorised deposit-taking institution (ADI)

Code	Type
1	Outward investor (general) under subsections 820-85(2) and 820-583(2)
2	Outward investor (financial) under subsections 820-85(2) and 820-583(3)
3	Inward investment vehicle (general) under subsections 820-185(2) and 820-583(5)
4	Inward investment vehicle (financial) under subsections 820-185(2), 820-583(6) and 820-609(6)
5	Inward investor (general) under subsection 820-185(2)
6	Inward investor (financial) under subsection 820-185(2)

TABLE: ADI

Code	Type
7	Outward investing entity (ADI) under subsections 820-300(2), 820-583(7), 820-587 and 820-609
8	Inward investing entity (ADI) under subsections 820-395(2) and 820-609(4)

QUESTION 34

Complete by placing an 'X' in the applicable box. If you answer 'yes', your type of thin capitalisation entity changed during the year from the type of entity covered by code **1**, **3** or **6** (general) to the type of entity covered by code **2**, **4** or **6** (financial).

The thin capitalisation provisions make a distinction between a non-ADI 'financial entity' and a 'general entity'. Special rules apply to qualifying financial entities.

For more information about the different types of thin capitalisation entities, refer to Division 820 of the ITAA 1997.

QUESTION 35

Provide the method you used to calculate your average values. Enter the code from the table below that represents the type of averaging method you used for calculating 'average values'.

Code	Averaging method used
1	Opening/closing balances method under section 820-635
2	Three measurement days method under section 820-640
3	Frequent measurement (quarterly) method under subsection 820-645(2)
4	Frequent measurement (regular intervals) method under subsection 820-645(4)

For more information about these methods or 'average values', refer to Division 820 of the ITAA 1997.

QUESTION 36

You must complete all labels. However, if you have written code **7** or **8** (ADI) at question 33 label A, you do not need to completed **E** and **H**.

To complete this question, you need to:

- At **A**, write the total amount of your debt deductions for the income year that are allowable before applying the thin capitalisation provisions in Division 820 of the ITAA 1997.
- At **B**, write the amount of your debt deductions that were deductible under section 25-90 of the ITAA 1997 (costs in relation to a debt interest incurred in deriving non-assessable non-exempt income under section 23AI, 23AJ or 23AK of the ITAA 1936) for the income year. If none of the debt deductions shown at **A** were deductible under section 25-90, enter 0 (zero) at **B**.
- At **C**, write the amount of your debt deductions for any debt interest held or ultimately funded (via a back-to-back arrangement) by a non-resident person who is either a controller or majority owner of you, or is controlled or majority owned by the same persons as you (this includes majority ownership through other companies, partnerships or trusts). If none of the debt deductions shown at **A** were for debt interests held or ultimately funded by such non-resident entities, enter 0 (zero) at **C**.
- At **D**, write the amount of your debt deductions that are disallowed for the income year under the following sections if you have written
  - code **1** or **2** at question 33 label A, the amount disallowed under sections 820-115 and 820-120
  - code **3**, **4**, **5** or **6** at question 33 label A, the amount disallowed under sections 820-220 and 820-225
  - code **7** at question 33 label A, the amount disallowed under sections 820-325 and 820-330
  - code **8** at question 33 label A, the amount disallowed under sections 820-415 and 820-420.
- At **E**, write the amount of your adjusted average debt for the income year worked out under the following sections if you have written
  - code **1** or **2** at question 33 label A, under subsection 820-85(3)
  - code **3**, **4**, **5** or **6** at question 33 label A, under subsection 820-185(3).
- At **F**, write the total amount by which your assets have been revalued for thin capitalisation purposes for the income year (this is to be included in the amount you write at question 36 label H).
- At **G**, write the following amount for the income year if you have written
  - code **1**, **2**, **3**, **4**, **5** or **6** at question 33 label A, the amount by which your adjusted average debt at question 36 label E exceeds your maximum allowable debt at question 36 label I
  - code **7** at question 33 label A, the amount by which your minimum capital amount at question 36 label I exceeds the amount of your adjusted average equity capital at question 37 label C
  - code **8** at question 33 label A, the amount by which your minimum capital amount at question 36 label I exceeds the amount of your average equity capital at question 37 label C.
- At **H**, write the amount of the average value of your assets required to be included in step 1 of the following sections if you have written
  - code **1** at question 33 label A, under section 820-95
  - code **2** at question 33 label A, under section 820-100
  - code **3** at question 33 label A, under section 820-195
  - code **4** at question 33 label A, under section 820-200
  - code **5** at question 33 label A, under section 820-205
  - code **6** at question 33 label A, under section 820-210.

- At **I**, write the following amount if you have written
  - code **1** or **2** at question 33 label A, your maximum allowable debt determined under section 820-90
  - code **3**, **4**, **5** or **6** at question 33 label A, your maximum allowable debt determined under section 820-190
  - code **7** at question 33 label A, your minimum capital amount determined under section 820-305
  - code **8** at question 33 label A, your minimum capital amount determined under section 820-400.

QUESTION 37

Complete by placing 'X' in the applicable box. If you have written code **1**, **2**, **3**, **4**, **5** or **6** (non-ADI) at question 33 label A, answer 'no'.

If you have written code **7** or **8** (ADI) at question 33 label A, answer 'yes' and complete all labels applicable.

If you have written code **7** (outward investing entity ADI) at question 33 label A, write the following amounts at the following labels:

- At **C**, the amount of your adjusted average equity capital worked out under subsection 820-300(3).
- At **D**, the amount of the average value of risk-weighted assets that you are required to include in step 1 in section 820-310 (after excluding the value of risk-weighted assets attributable to the assets specified in paragraphs (a), (b) and (c) of step 1 in section 820-310).
- At **E**, the amount of ADI equity capital attributable to your overseas permanent establishment that you were required, under paragraph 820-300(3)(a), to subtract in determining the amount of adjusted average equity capital you had to write at question 37 label C.
- At **J**, the amount of the average value of your 'total risk-weighted assets', used to work out your Tier 1 capital reported to APRA for your ADI group, attributable to your overseas permanent establishment(s) that you were required, under paragraph (a) of step 1 in section 820-310, to subtract in determining the amount of the average value of risk-weighted assets you had to write at question 37 label D.
- At **F**, the amount of the average value of all your controlled foreign entity equity, within the meaning of section 820-890, that you were required, under paragraph 820-300(3)(b), to subtract in determining the amount of adjusted average equity capital you had to write at question 37 label C.
- At **G**, the amount of tier 1 prudential capital deductions that you are required to include in step 3 in section 820-310.

If you have written code **8** (inward investing entity ADI) at question 33 label A, write the following amounts at the following labels:

- At **C**, the amount of the average equity capital worked out under subsection 820-395(3).
- At **H**, the amount of the average value of all your risk weighted assets attributable to your Australian permanent establishments (but after excluding those assets which are attributable to offshore banking activities) that you are required to include in step 1 of section 820-405.
- At **I**, the amount of the average value of the total amounts you have made available to your Australian permanent establishments, that will never give rise to any debt deductions, that you are entitled to include, under paragraph 820-395(3)(b), in working out the amount of average equity capital you had to write at question 37 label C.

QUESTION 38

Complete by placing an 'X' in the applicable box. If you have written code **7** or **8** (ADI) at question 33 label A, answer 'no'. If you have written code **1**, **2**, **3**, **4**, **5** or **6** (non-ADI) at question 33 label A, answer 'yes' and complete all applicable labels.

At **C**, write the amount of the average value of your non-debt liabilities, as defined in subsection 995-1(1), which you are required to subtract in determining your safe harbour debt amount as follows if you have written:

- code **1** at question 33 label A, subtracted in step 6 of section 820-95
- code **2** at question 33 label A, subtracted in step 6 of subsection 820-100(2)
- code **3** at question 33 label A, subtracted in step 4 of section 820-195
- code **4** at question 33 label A, subtracted in step 4 of subsection 820-200(2)
- code **5** at question 33 label A, subtracted in step 4 of section 820-205
- code **6** at question 33 label A, subtracted in step 4 of subsection 820-210(2).

At **D**, write the amount of the average value of your associate entity debt, within the meaning of section 820-910, which you are required to subtract in working out your safe harbour debt amount as follows if you have written:

- code **1** at question 33 label A, subtracted in step 2 of section 820-95
- code **2** at question 33 label A, subtracted in step 2 of subsection 820-100(2)
- code **3** at question 33 label A, subtracted in step 2 of section 820-195
- code **4** at question 33 label A, subtracted in step 2 of subsection 820-200(2)
- code **5** at question 33 label A, subtracted in step 2 of section 820-205
- code **6** at question 33 label A, subtracted in step 2 of subsection 820-210(2).

At **E**, write the amount of the average value of your associate entity equity, within the meaning of section 820-915, which you are required to subtract in working out your safe harbour debt amount as follows if you have written:

- code **1** at question 33 label A, subtracted in step 3 of section 820-95
- code **2** at question 33 label A, subtracted in step 3 of subsection 820-100(2)
- code **3** at question 33 label A, subtracted in step 3 of section 820-195
- code **4** at question 33 label A, subtracted in step 3 of subsection 820-200(2)
- code **5** at question 33 label A, subtracted in step 3 of section 820-205
- code **6** at question 33 label A, subtracted in step 3 of subsection 820-210(2).

At **F**, write the amount of the average value of your associate entity excess amount, within the meaning of section 820-920, which you are required to add in working out your safe harbour debt amount as follows if you have written:

- code **1** at question 33 label A, added in step 8 of section 820-95
- code **2** at question 33 label A, added in step 10 of subsection 820-100(2)
- code **3** at question 33 label A, added in step 6 of section 820-195
- code **4** at question 33 label A, added in step 8 of subsection 820-200(2)
- code **5** at question 33 label A, added in step 6 of section 820-205
- code **6** at question 33 label A, added in step 8 of subsection 820-210(2).

At **K**, write the amount of the average value of your excluded equity interests, within the meaning of section 820-946, which you are required to subtract in working out your safe harbour debt amount as follows if you have written:

- code **1** at question 33 label A, subtracted in step 1A of section 820-95
- code **2** at question 33 label A, subtracted in step 1A of subsection 820-100(2)
- code **3** at question 33 label A, subtracted in step 1A of section 820-195
- code **4** at question 33 label A, subtracted in step 1A of subsection 820-200(2)
- code **5** at question 33 label A, subtracted in step 1A of section 820-205
- code **6** at question 33 label A, subtracted in step 1A of subsection 820-210(2).

If you have written code **2**, **4** or **6** (financial) at question 33 label A, at **G**, write the average value of your zero capital amount, within the meaning of section 820-942, which you are required to subtract in working out your safe harbour debt amount as follows if you have written:

- code **2** at question 33 label A, subtracted in step 7 of subsection 820-100(2)
- code **4** at question 33 label A, subtracted in step 5 of subsection 820-200(2)
- code **6** at question 33 label A, subtracted in step 5 of subsection 820-210(2).

If you have written code **2**, **4** or **6** (financial) at question 33 label A, at **H**, write the average value of your on-lent amount, as defined in subsection 995-1(1), which you are required to subtract in working out your safe harbour debt amount as follows if you have written:

- code **2** at question 33 label A, subtracted in step 6 of subsection 820-100(3)
- code **4** at question 33 label A, subtracted in step 4 of subsection 820-200(3)
- code **6** at question 33 label A, subtracted in step 4 of subsection 820-210(3).

If you have written code **1** or **2** (outward investor) at question 33 label A, at **I**, write the average value of all your controlled foreign entity equity, within the meaning of section 820-890, which you are required to subtract in working out your safe harbour debt amount as follows if you have written:

- code **1** at question 33 label A, subtracted in step 5 of subsection 820-95
- code **2** at question 33 label A, subtracted in step 5 of subsection 820-100(2).

If you have written code **1** or **2** (outward investor) at question 33 label A, at **J**, write the average value of all your controlled foreign entity debt, within the meaning of section 820-885, which you are required to subtract in working out your safe harbour debt amount as follows if you have written:

- code 1 at question 33 label A, subtracted in step 4 of subsection 820-95
- code 2 at question 33 label A, subtracted in step 4 of subsection 820-100(2).

QUESTION 39

Complete this question by placing 'X' in the applicable box. If you answer 'yes' provide your arm's length debt or capital amount calculated under Division 820 of the ITAA 1997.

To complete this question, you need to write the following amounts at **C** if you have written:

- code **1** or **2** at question 33 label A, the arm's length debt amount worked out in accordance with section 820-105.
- code **3**, **4**, **5** or **6** at question 33 label A, the arm's length debt amount worked out in accordance with section 820-215.

- code **7** at question 33 label A, the arm's length capital amount worked out in accordance with section 820-315
- code **8** at question 33 label A, the arm's length capital amount worked out in accordance with section 820-410.

QUESTION 40

Complete by placing an 'X' in the applicable box. You must answer 'yes' and complete all the applicable labels if you have written:

- codes **1** or **2** (outward investor (non-ADI)) at question 33 label A and you rely on the worldwide gearing debt amount as calculated in section 820-110
- code **7** (outward investing entity (ADI)) at question 33 label A and you rely on the worldwide capital amount as calculated in section 820-320.

If you have written codes **3**, **4**, **5**, **6** or **8** at question 33 label A, you do not need to complete this question.

If you have written code **7** (outward investing entity (ADI)) at question 33 label A, write:

- At **C**, the worldwide group capital ratio worked out in accordance with subsection 820-320(3). For example, if the amount worked out under step 1 of the method statement in subsection 820-320(3) is 5.42% of the amount worked out under step 2, the fractional whole number you must write at **C** is **0.05420**.
- At **D**, your worldwide capital amount worked out under subsection 820-320(2).

If you have written code **1** or **2** (outward investor (non-ADI)) at question 33 label A, at **E** write the amount of your worldwide debt, as defined in subsection 995-1(1), used to calculate the result of step 1 in the following subsections if you have written:

- code **1** at question 33 label A, step 1 in subsection 820-110(1)
- code **2** at question 33 label A, step 1 in subsection 820-110(2).

If you have written code **1** or **2** (outward investor (non-ADI)) at question 33 label A, write at **F** the amount of your worldwide equity, as defined in subsection 995-1(1), used to calculate the result of step 1 in the following subsections if you have written:

- code **1** at question 33 label A, step 1 in subsection 820-110(1)
- code **2** at question 33 label A, step 1 in subsection 820-110(2).

If you have written code **1** or **2** (outward investor (non-ADI)) at question 33 label A, write at **G** your worldwide gearing debt amount worked out under the following subsections if you have written:

- code **1** at question 33 label A, under subsection 820-110(1)
- code **2** at question 33 label A, under subsection 820-110(2).

SECTION G: DECLARATION

QUESTION 41

Answer this question by completing all labels.

APPENDIXES

APPENDIX 1: FINANCIAL SERVICES INDUSTRY CODES

The relevant industry code must be an accurate description of your main business activity. Your main business activity is the activity from which your business derived the highest gross income. For example, if you are the head entity of an income tax consolidated group whose only source of income is dividends from the shares you hold in your subsidiaries, your main business activity would be the activity from which the income tax consolidated group derived the highest gross income.

Business industry code	Industry sub-heading	Industry activity
62100	Central banking	Central bank operation
62210	Depository financial intermediation	Bank operation
		Development bank operation
		Savings bank operation
		Trading bank operation
62220	Depository financial intermediation	Building societies
		Permanent building society operation
62230	Depository financial intermediation	Credit unions
62290	Depository financial intermediation	Finance company operation
		Money market dealers
62300	Non-depository financing	Financing nec
		Terminating building society operation
62400	Financial asset investing	Corporate unit trusts – assessed as companies
		Friendly society operation
		Holding company operation – ie holding shares in subsidiary companies
		Investment association operation
		Investment company operation
		Investment operation – own account
		Public trading trust operation – assessed as companies
		Unit trust – corporate operation, assessed as companies
		Unit trust – public trading operation, assessed as companies
		Unit trust operation – except corporate and public trading trusts
63100	Life insurance	Life insurance provision
63210	Health and general insurance	Funeral benefit provision
		Health insurance

Business industry code	Industry sub-heading	Industry activity
63220	Health and general insurance	Accident insurance provision
		Fire insurance provision
		General insurance
		Household insurance
		Insurance – accident, house, marine and general
		Motor vehicle insurance
		Third-party insurance
		Travel insurance provision
		Workers' compensation insurance
64110	Auxiliary finance and investment services	Commodity futures broking or dealing
		Financial asset broking service
		Mortgage broking service
		Stockbroking or trading
64190	Auxiliary finance and investment services	Credit card administration service
		Executor service
		Financial service nec
		Nominee service
		Portfolio investment management services
		Security valuation service
		Share registry operation
		Superannuation fund management service – on a fee or commission basis
		Trustee service
64200	Auxiliary insurance services	Actuarial service
		Claim assessment service
		Insurance agency service
		Insurance broking service
		Insurance consultant service
		Investing in patents and copyrights

APPENDIX 2: SPECIFIED COUNTRIES AND CODES

Specified country	Code	Specified country	Code
Andorra	AND	Liechtenstein	LIE
Anguilla	AIA	Marshall Islands	MHL
Antigua and Barbuda	ATG	Mauritius	MUS
Aruba	ABW	Monaco	MCO
Bahamas	BHS	Montserrat	MSR
Bahrain	BHR	Nauru	NRU
Belize	BLZ	Netherlands Antilles	ANT
Bermuda	BMU	Niue	NIU
British Virgin Islands	VGB	Panama	PAN
Cayman Islands	CYM	St Kitts and Nevis	KNA
Cook Islands	COK	St Lucia	LCA
Cyprus	CYP	St Vincent & the Grenadines	VCT
Dominica	DMA	Samoa	WSM
Gibraltar	GIB	San Marino	SMR
Grenada	GRD	Seychelles	SYC
Guernsey	GGY	Turks and Caicos Islands	TCA
Isle of Man	IMN	US Virgin Islands	VIR
Jersey	JEY	Vanuatu	VUT
Liberia	LBR		

APPENDIX 3: COUNTRY NAMES AND CODES

Guernsey, Jersey and Isle of Man each have a separate country code.

Country	Code
Afghanistan	AFG
Aland Islands	ALA
Albania	ALB
Algeria	DZA
American Samoa	ASM
Andorra	AND
Angola	AGO
Anguilla	AIA
Antarctica	ATA
Antigua and Barbuda	ATG
Argentina	ARG
Armenia	ARM
Aruba	ABW
Austria	AUT
Azerbaijan	AZE
Bahamas	BHS
Bahrain	BHR
Bangladesh	BGD
Barbados	BRB
Belarus	BLR
Belgium	BEL
Belize	BLZ
Benin	BEN
Bermuda	BMU
Bhutan	BTN
Bolivia	BOL
Bosnia and Herzegovina	BIH

Country	Code
Liberia	LBR
Libya	LBY
Liechtenstein	LIE
Lithuania	LTU
Luxembourg	LUX
Macau	MAC
Macedonia, The Former Yugoslav Republic of	MKD
Madagascar	MDG
Malawi	MWI
Malaysia	MYS
Maldives	MDV
Mali	MLI
Malta	MLT
Marshall Islands	MHL
Martinique	MTQ
Mauritania	MRT
Mauritius	MUS
Mayotte	MYT
Mexico	MEX
Micronesia, Federated States of	FSM
Moldova	MDA
Monaco	MCO
Mongolia	MNG
Montenegro	MNE
Montserrat	MSR
Morocco	MAR
Mozambique	MOZ

Country	Code
Botswana	BWA
Bouvet Island	BVT
Brazil	BRA
British Indian Ocean Territory	IOT
British Virgin Islands	VGB
Brunei Darussalam	BRN
Bulgaria	BGR
Burkina Faso	BFA
Burundi	BDI
Cambodia	KHM
Cameroon	CMR
Canada	CAN
Cape Verde	CPV
Cayman Islands	CYM
Central African Republic	CAF
Chad	TCD
Chile	CHL
China	CHN
Christmas Island	CXR
Cocos (Keeling) Islands	CCK
Colombia	COL
Comoros	COM
Congo, Democratic Republic of (was Zaire)	COD
Congo, People's Republic of	COG
Cook Islands	COK
Costa Rica	CRI
Côte D'Ivoire (Ivory Coast)	CIV
Croatia (Hrvatska)	HRV
Cuba	CUB
Cyprus	CYP
Czech Republic	CZE

Country	Code
Myanmar (was Burma)	MMR
Namibia	NAM
Nauru	NRU
Nepal	NPL
Netherlands, The	NLD
Netherlands Antilles	ANT
New Caledonia	NCL
New Zealand	NZL
Nicaragua	NIC
Niger	NER
Nigeria	NGA
Niue	NIU
Norfolk Island	NFK
Northern Mariana Islands	MNP
North Korea	PRK
Norway	NOR
Oman	OMN
Pakistan	PAK
Palau	PLW
Palestinian Territory, Occupied	PSE
Panama	PAN
Papua New Guinea	PNG
Paraguay	PRY
Peru	PER
Philippines	PHL
Pitcairn Island	PCN
Poland	POL
Portugal	PRT
Puerto Rico	PRI
Qatar	QAT
Reunion	REU

Country	Code
Denmark	DNK
Djibouti	DJI
Dominica	DMA
Dominican Republic	DOM
East Timor (Timor Leste)	TLS
Ecuador	ECU
Egypt	EGY
El Salvador	SLV
Equatorial Guinea	GNQ
Eritrea	ERI
Estonia	EST
Ethiopia	ETH
Falkland Islands (Malvinas)	FLK
Faroe Islands	FRO
Fiji	FJI
Finland	FIN
France	FRA
French Guiana	GUF
French Polynesia	PYF
French Southern Territories	ATF
Gabon	GAB
Gambia	GMB
Georgia	GEO
Germany	DEU
Ghana	GHA
Gibraltar	GIB
Greece	GRC
Greenland	GRL
Grenada	GRD
Guadeloupe	GLP

Country	Code
Romania	ROU
Russian Federation	RUS
Rwanda	RWA
St Helena	SHN
St Kitts and Nevis	KNA
St Lucia	LCA
St Pierre and Miquelon	SPM
St Vincent and The Grenadines	VCT
Samoa	WSM
San Marino	SMR
Sao Tome and Principe	STP
Saudi Arabia	SAU
Senegal	SEN
Serbia	SRB
Seychelles	SYC
Sierra Leone	SLE
Singapore	SGP
Slovakia (Slovak Republic)	SVK
Slovenia	SVN
Solomon Islands	SLB
Somalia	SOM
South Africa	ZAF
South Georgia and the South Sandwich Islands	SGS
South Korea	KOR
Spain	ESP
Sri Lanka	LKA
Sudan	SDN
Suriname	SUR
Svalbard and Jan Mayen Islands	SJM
Swaziland	SWZ

Country	Code
Guam	GUM
Guatemala	GTM
Guernsey	GGY
Guinea	GIN
Guinea-Bissau	GNB
Guyana	GUY
Haiti	HTI
Heard and McDonald Islands	HMD
Holy See (Vatican City State)	VAT
Honduras	HND
Hong Kong	HKG
Hrvatska (Croatia)	HRV
Hungary	HUN
Iceland	ISL
India	IND
Indonesia	IDN
Iran	IRN
Iraq	IRQ
Ireland	IRL
Isle of Man, The	IMN
Israel	ISR
Italy	ITA
Ivory Coast (Côte D’Ivoire)	CIV
Jamaica	JAM
Japan	JPN
Jersey	JEY
Jordan	JOR
Kazakhstan	KAZ
Kenya	KEN
Kiribati	KIR
Korea, Democratic People’s Republic of (North Korea)	PRK

Country	Code
Sweden	SWE
Switzerland	CHE
Syria	SYR
Taiwan	TWN
Tajikistan	TJK
Tanzania, United Republic of	TZA
Thailand	THA
Timor-Leste (East Timor)	TLS
Togo	TGO
Tokelau	TKL
Tonga	TON
Trinidad and Tobago	TTO
Tunisia	TUN
Turkey	TUR
Turkmenistan	TKM
Turks and Caicos Islands	TCA
Tuvalu	TUV
Uganda	UGA
Ukraine	UKR
United Arab Emirates	ARE
United Kingdom	GBR
United States	USA
United States Minor Outlying Islands	UMI
United States Virgin Islands	VIR
Uruguay	URY
Uzbekistan	UZB
Vanuatu	VUT
Vatican City State (Holy See)	VAT
Venezuela	VEN
Vietnam	VNM
Wallis and Futuna Islands	WLF

Country	Code
Korea, Republic of (South Korea)	KOR
Kuwait	KWT
Kyrgyzstan	KGZ
Laos	LAO
Latvia	LVA
Lebanon	LBN
Lesotho	LSO

Country	Code
Western Sahara	ESH
Yemen	YEM
Zambia	ZMB
Zimbabwe	ZWE

APPENDIX 4: LISTED COUNTRY NAMES AND CODES

Listed country	Code
Canada	CAN
France	FRA
Germany	DEU
Japan	JPN
New Zealand	NZL
United Kingdom of Great Britain and Northern Ireland	GBR
United States of America	USA

APPENDIX 5: ACTIVITY CODES

Activity code	Activity code description
1	**Administrative services** Activities that relate to an entity's operations but excluding activities relating to financing and production. These activities include: ■ management services ■ marketing ■ back office services ■ administrative services associated with recharge amounts ■ accounting services.
2	**Advisory services** Activities involving the provision and receipt of professional advice where a fee is paid for the advice, including: ■ consultancy activities ■ investment advice ■ legal advice.

Activity code	Activity code description
3	**Brokerage** Activities involving the mediation between a buyer and a seller, occurring in a range of products, including: ■ mortgages, where brokers act as intermediaries to sell mortgage loans on behalf of individuals or businesses ■ commodities, where brokers execute orders to buy or sell commodity contracts on behalf of clients ■ investment, where brokers act as intermediaries between investment buyers and sellers.
4	**Cash & trade services** Activities involving the facilitation of fund transfers and the exchange of goods and services, including: ■ cash management systems (payment processing systems) ■ foreign exchange clearing services ■ trade settlements ■ letters of credit (trade, insurance and export).
5	**Custody and transaction clearing services** Custody are all activities that are associated with the safekeeping of securities for customers, also includes the collection of dividends, interest and proceeds from securities sales. Transaction clearing are all activities the management of post-trading, pre-settlement credit exposures, to ensure that trades are settled in accordance with market rules, including: ■ reporting and monitoring ■ risk margining ■ netting of trades to single positions.
6	**Derivatives** Activities undertaken in respect of derivatives (a financial instrument derived from some other asset, index, event, value or condition). The overall derivatives market has five major classes of underlying asset: ■ interest rate derivatives (ie interest rate swaps/options) ■ foreign exchange derivative (ie currency swaps/options) ■ credit derivatives (ie credit default swaps/options) ■ equity derivatives (ie equity swaps/ warrants) ■ commodity derivatives (ie commodity swaps/gold options).
7	**Financing activities** Activities involving dealings in financial instruments that would qualify as financial assets or financial liabilities under relevant Australian accounting standards or comparable foreign accounting standards but excludes financial instruments that would meet the definition of a derivative. At the time of this publication, the two key Australian accounting standards relevant to this question include: ■ AASB 132 Financial Instruments: Presentation ■ AASB 139 Financial Instruments: Recognition and Measurement. Note: The relevant amounts may be reported in the financial statements as revenue/gains or expenses/losses, depending on the accounting treatment of your relevant financial assets and financial liabilities (and this includes amounts relating to hedging items that are classified in the financial statements as financial assets or financial liabilities). Therefore, for the purposes of this activity code, the terms: ‘expenditure and losses’; and ‘revenue and gains’; are interchangeable.

Activity code	Activity code description
8	**Guarantees** Activities associated with contracts under which a party agrees to perform an obligation or discharge a liability of another entity should that entity fail to do so.
9	**Insurance and reinsurance** Insurance and reinsurance activities include general insurance, life insurance and health insurance.
10	**Leasing** Activities that relate to agreement between two parties under which one is granted the right to use the property of the other for a specified period of time in return for a series of payments by the user to the owner.
11	**Licensing or transfer of intellectual property** Activities involving an intellectual property rights owner (licensor) and another entity which is given authorisation to use these rights (licensee) in exchange for an agreed payment (fee or royalty). This includes activities involving: ■ technology license agreements ■ trademark licensing agreements ■ copyright license agreements ■ trademark license agreements ■ franchise agreements.
12	**Securitisation services** Activities involving the packaging of an income by the party entitled to it, and the subsequent sale of such income stream to investors.
13	**Super** Activities associated with providing, funding or offering investment strategies for financial security upon retirement.
14	**Treasury activities** Activities involved in the managing of the taxpayer's financial operations, including: ■ the generation of internal and external funding ■ risk management systems development and review ■ the management of currencies and cash flows ■ complex strategies, policies and procedures relating to the taxpayer finance.
15	**Underwriting services** Activities involves measuring risk exposure and determining the premium that needs to be charged to insure that risk, including: ■ securities underwriting (underwriter assumes risk in bringing the issue to market by guaranteeing the issuer will receive a certain price when the offering is sold to investors) ■ bank underwriting (underwriting is the detailed credit analysis preceding the granting of a loan, based on credit information furnished by the borrower). Note: Insurance underwriting should be reported under activity code 9 – insurance and reinsurance.
16	**Receipt/payment of dividends and distributions from trusts and partnerships**
99	**Other** All other activities not listed above.

APPENDIX 6: ARM'S LENGTH METHODOLOGIES

The arm's length pricing methodologies should be identified using the codes listed below.

Arm's length pricing method	Code
Comparable uncontrolled price method	1
Resale price method	2
Cost-plus method	3
Profit split method	4
Transactional net margin method	5
Marginal costing	6
Cost-contribution arrangement	7
Apportionment of costs	8
Apportionment of income	9
Fixed mark-up applied to cost	10
Fixed percentage of resale price	11
Other arm's length methods	12
No transfer pricing method used	13

Note: The 'fixed mark-up applied to cost' and 'fixed percentage of resale price' methodology codes should be used when 'administrative practice' as described by *Taxation Ruling TR 99/1 Income tax: international transfer pricing for intra-group services* has been utilised to set the pricing of intra group services.

APPENDIX 7: DERIVATIVE CODES

The type of derivative should be identified using the codes listed below.

Type of derivative	Code
Credit default swaps	1
Currency swaps	2
Interest rate swaps	3
Swaps – other	4
Forwards	5
Options	6
Warrant	7
Other	8

Note: Cross currency interest rate swap transactions are to be included under the code for currency swaps.

APPENDIX 8: NATURE OF ITEM CODES

Item code description	Item code
Company shares	1
Interests in trust, partnership or other entity type	2
Real property	3
Derivative portfolio	4
Loan assets	5
Loan liabilities	6
Deposits/investment assets	7
Insurance policies	8
Contractual interests	9
Intellectual property/intangibles	10
Other assets	11
Other liabilities	12
Other functions	13
Other risks	14
Insurance recapitalisation	15

Note:

- Where you believe that more than one item code may apply, use the most appropriate code.
- Terms used in these codes should be interpreted in accordance with their ordinary meaning as used in the context of the industry to which the term relates (generally the financial services industry for questions in this schedule).

APPENDIX 9: TRANSFEROR TRUST EXCEPTION CODES

Sub-section/section		Code
102AAT(1)(a)(i)(A) to (D)	The transfer was: ■ made to a non-resident discretionary trust ■ an arm's length transaction undertaken in the ordinary course of business.	1
102AAT(1)(a)(i)(A) to (C) & (E)	The transfer was: ■ made to a non-resident discretionary trust ■ an arm's length transaction not undertaken in the ordinary course of business ■ neither the transferor or its associates were in a position to control the trust (from the time of the transfer until the end of the transferor's current year of income).	2
102AAT(1)(a)(i)(A) to (C) & (F)	The transfer was: ■ made to a non-resident discretionary trust ■ made either on or before 12 April 1989 ■ neither the transferor or its associates were in a position to control the trust (from 12 April 1989 until the transferor's current year of income). This exemption will not apply to transfers made in the last three income years.	3
102AAT(1)(a)(ii)(A) to (C)	The transfer was: ■ made to a non-resident non-discretionary trust ■ made either on or after 12 April 1989 for a consideration equal to or greater than the arm's length amount.	4
102AAT(1)(a)(ii)(A), (B) & (D)	The transfer was: ■ made to a public unit trust (that is a non-resident trust estate) ■ made either on or after 12 April 1989 ■ for a consideration equal to or greater than the arm's length amount ■ the sole purpose of the transaction was the arm's length acquisition of units in a public unit trust.	5
102AAZE	De minimis exemption The transfer was made to a non-resident trust that is a resident of a listed country and the total of the attributable incomes of all non-resident trust estates is qual to or less than the lesser of: ■ $20,000, or ■ 10% of the total of the net incomes of the trust estates.	6

DEFINITIONS

Capital
For the purposes of the definition of 'International related parties', means an equity interest of 10% or greater.

International related parties
Includes the following:
- any overseas entity or person who participates directly or indirectly in your management, control or capital
- any overseas entity or person in respect of which you participate directly or indirectly in the management, control or capital
- any overseas entity or person in respect of which persons who participate directly or indirectly in its management, control or capital are the same persons who participate directly or indirectly in your management, control or capital.

International related party dealings
Means international transactions, agreements or arrangements between related parties; for example, an agreement with your foreign subsidiary. The term includes all transactions between an Australian resident and international related parties.

Life insurance policy
Has the meaning given to the expression life policy in the *Life Insurance Act 1995* but includes both of the following:
- a contract made in the course of carrying on business that is a *life insurance business because of a declaration in force under section 12A or 12B of that Act
- a sinking fund policy within the meaning of that Act.

Participate(s)
Includes a right of participation, the exercise of which is contingent on an agreed event occurring.

Person
Has the same meaning as in subsection 6(1) of the ITAA 1936 and section 995-1 of the ITAA 1997.

Specified countries
Are tax jurisdictions of interest as listed in appendix 2.

MORE INFORMATION

PUBLICATIONS

Publications referred to in these instructions

- *Business industry codes* (NAT 1827)
- *Company tax return instructions* (NAT 0669)
- *Income Tax Assessment Act 1936*
- *Income Tax Assessment Act 1997*
- Income Tax Regulations 1936
- *Taxation Ruling TR 94/14 Income tax: application of Division 13 of Part III (international profit shifting) some basic concepts underlying the operation of Division 13 and some circumstances in which section 136AD will be applied*
- *Taxation Ruling TR 97/20 Income tax: arm's length transfer pricing methodologies for international dealings*
- *Taxation Ruling TR 98/11 Income tax: documentation and practical issues associated with setting and reviewing transfer pricing in international dealings*
- *Taxation Ruling TR 1999/1 Income tax: international transfer pricing for intra-group services*
- *Taxation Ruling TR 2001/11 Income tax: international transfer pricing – operation of Australia's permanent establishment attribution rules*
- *Taxation Ruling TR 2004/1 Income tax: international transfer pricing – cost contribution arrangements.*

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For queries on your order, phone **1300 720 092**.

If you know the title of the publication you want to order, you can use our automated speech recognition system operating 24-hours a day, seven day a week, phone us on **13 72 26.**

PHONE

Business **13 28 66**

For general business tax enquiries including:

- GST rulings
- pay as you go (PAYG) instalments and withholdings (from interest, dividends and royalties)
- business deductions
- activity statements (including lodgment and payment)
- accounts and business registration (including ABN and TFN).

Tax agents **13 72 86**

For enquiries from registered tax agents.

Super Choice **13 28 64**

For information about choice of super funds and the role of the employer.

Tax reform **13 24 78**

For information about new measures for business.

Account management **13 11 42**

For information about outstanding lodgment or payment obligations for:

- activity statements
- PAYG withholding
- income tax
- fringe benefits tax.

Individual **13 28 61**

For individual income tax and general personal tax enquiries.

Super **13 10 20**

If you do not speak English well and need help from the ATO, phone the Translating and Interpreting Service on **13 14 50**.

If you are deaf, or have a hearing or speech impairment, phone the ATO through the National Relay Service (NRS) on the numbers listed below:

- TTY users, phone **13 36 77** and ask for the ATO number you need
- Speak and Listen (speech-to-speech relay) user, phone **1300 555 727** and ask for the ATO number you need
- internet relay user, connect to the NRS **www.relayservice.com.au** and ask for the ATO number you need.