

TD 94/88A - Addendum - Income tax: does Division 3B of Part III of the Income Tax Assessment Act 1936 (Division 3B) apply to ordinary shares denominated in foreign currency?

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Addendum

Taxation Determination

Income tax: does Division 3B of Part III of the *Income Tax Assessment Act 1936* (Division 3B) apply to ordinary shares denominated in foreign currency?

This Addendum amends Taxation Determination TD 94/88 following the introduction of the *New Business Tax System (Taxation of Financial Arrangements) Act (No. 1) 2003*. The Addendum also removes incidental references to Taxation Ruling TR 93/8, which was withdrawn on 3 July 1996.

TD 94/88 is amended as follows:

1. Paragraph 2

Delete the first sentence which refers to Taxation Ruling TR 93/8.

2. Paragraph 5

Delete the last sentence which refers to Taxation Ruling TR 93/8.

3. New sub-heading and new paragraphs 7 to 9

Insert:

Note

7. Division 775 of the *Income Tax Assessment Act 1997* (ITAA 1997) was introduced by *The New Business Tax System (Taxation of Financial Arrangements) Act (No. 1) 2003* (the Act) on 17 December 2003 and contains measures that relate to the recognition and treatment of foreign currency gains and losses. These provisions apply from the 'applicable commencement date' as defined in section 775-155 of the ITAA 1997— for most taxpayers, this was 1 July 2003.

8. Under the Act, Division 3B was repealed, but continues to apply in the following limited situations:

- in relation to an eligible contract entered into before the applicable commencement date; and
- for the purposes of working out the assessable income or allowable deductions of an Authorised Deposit-taking Institution (ADI) or a non-ADI financial institution (within the meaning of the ITAA 1997).

9. This Taxation Determination continues to apply only in those limited situations described above in paragraph 8.

This Addendum applies on and from the 'applicable commencement date', as defined in section 775-155 of the ITAA 1997.

Commissioner of Taxation

27 October 2004

ATO references

NO: 2003/11684

ISSN: 1038-8982