


***TD 94/D28 - Income tax: foreign income: can a controlled foreign company (CFC) obtain the benefit of the trading stock exemption under section 521 of the Income Tax Assessment Act 1936 ('the Act')?***

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This document has been finalised by TD 96/39.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

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## Draft Taxation Determination

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### **Income tax: foreign income: can a controlled foreign company (CFC) obtain the benefit of the trading stock exemption under section 521 of the *Income Tax Assessment Act 1936* ('the Act') ?**

1. No. A CFC cannot obtain the benefit of this Foreign Investment Fund (FIF) exemption.
2. The FIF trading stock exemption under section 521 of the Act is available if a taxpayer elects, under subsection 31(5) of the Act, to account for all of its interests in FIFs that are trading stock at market value.
3. However, for the purposes of calculating the attributable income of a CFC, section 397 modifies the trading stock provisions of the Act so that the value of any article of trading stock to be taken into account is its cost price only.
4. Thus, an election cannot be made by, or on behalf of, a CFC under subsection 31(5) to value its trading stock at market value because of the requirement in section 397 that the CFC must value its trading stock at cost price.

**Commissioner of Taxation**

24/3/94

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Foreign source income

Legislative Ref: ITAA 521, 31(5), 397.

Case Ref:

ATO Ref: NAT 93/2948-0

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ISSN 1038 - 8982