



Tax highlights

10 March 2014

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Key developments this week

Employee remuneration trust arrangements – draft ruling released: On 5 March 2014, the ATO released Draft Tax Ruling [TR 2014/D1](#) relating to the tax treatment of employee remuneration trust arrangements (ERTs). TR 2014/D1 explains the taxation consequences for employers, trustees and employees who participate in an ERT. In particular, it explains how the taxation laws apply when a contribution is made by an employer to the trustee of an ERT and benefits are subsequently paid or provided by the trustee of the ERT to employees.

TR 2014/D1 is proposed to apply both before and after its date of issue. However, TR 2014/D1 will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of TR 2014/D1.

The Commissioner has acknowledged the existence of a large body of private rulings in the past which evidence a more favourable prior general administrative practice in respect of the deductibility to employers of contributions made to the trustee of an ERT than some of the views contained in TR 2014/D1 (refer paragraph 163). The Commissioner will not undertake compliance activities to apply the views expressed in TR 2014/D1 to contributions made prior to the draft ruling issuing. However, if the Commissioner is asked or required to state a view (for example in a private ruling or in submissions in a litigation matter), the Commissioner will do so consistently with the views set out in TR 2014/D1.

Comment – application of TR 2014/D1 to employee share trusts: Employee share trusts (ESTs), which may be considered to be a subset of ERTs, are common commercial vehicles used by taxpayers for many years to facilitate the provision of equity-based remuneration benefits to employees and provide significant commercial benefits to taxpayers with regard to the administration of equity-based remuneration plans. Their use is wide spread amongst private and public companies in Australia and overseas. In simple terms, an EST enables a company to procure (via acquisition or subscription) and hold its own shares via a trust for the purposes of fulfilling its obligations under existing and future equity-based remuneration plans.

Historically, the ATO has allowed a deduction for employer contributions to an EST which, as mentioned above, is evidenced by the large number of private binding rulings (PBR) on point and

available on the ATO's PBR register. However, TR 2014/D1 appears to limit the deductibility of employer contributions by suggesting that such expenditure serves a dual purpose (i.e. both revenue and capital) and must therefore be apportioned on a fair and reasonable basis. To the extent an amount is deemed to be capital, it is no longer immediately deductible. On this basis, the following key points should be noted in relation to the deductibility of contributions to ESTs specifically:

- It is questionable whether TR 2014/D1 applies to ESTs. The ATO [released](#) a factsheet on TR 2014/D1 which suggests ESTs are excluded, particularly if the underlying equity-based remuneration plans are subject to Division 83A of Income Tax Assessment Act 1997 (ITAA 1997)
- If this interpretation is incorrect, or if it is correct but the ATO nonetheless applies these new principles on a broader basis, then:
 - The ATO is pre-empting difficulties in apportioning contributions and has provided a safe harbour methodology, being a 50/50 split between revenue and capital
 - Notwithstanding this, where the employer intends to transfer the equity held by the EST to the employee within a relatively short period of time (defined as 5–7 years), the draft ruling suggests the employer contribution should be fully deductible. This is likely to apply to most ESTs, given they are generally operated on a 'just-in-time' basis
- There are a number of EST PBRs that have been held up by the ATO due to the impending release of TR 2014/D1. The ATO advised that these should now be processed over the coming weeks, so we should find out shortly how the ATO will apply TR 2014/D1 to ESTs.

Affected taxpayers should consider the application of TR 2014/D1 to their ERT arrangements as soon as possible to take advantage of the ATO consultation period, which ends on 18 April 2014.

OECD – comments on discussion draft on transfer pricing documentation and country-by-country reporting: The OECD has [published](#) comments received on the [discussion draft](#) on transfer pricing documentation and country-by-country reporting.

Deloitte Tax LLP has lodged a submission on behalf of the Global Transfer Pricing professionals of the Deloitte Touche Tohmatsu Ltd member firms. The submission expresses the following concerns:

- The discussion draft identifies one of the objectives of the transfer pricing documentation rules as being to provide tax administrations with the information they require to conduct an appropriately thorough examination of the transfer pricing practices of multinational enterprises (MNEs). This is inconsistent with the overarching consideration of balancing MNEs' compliance burdens with the usefulness of the data being collected
- The proposed documentation rules request a significant amount of confidential, non-public business information, but do not provide sufficient procedures to ensure that such information remains confidential.

The Deloitte LLP UK member firm has also lodged a submission based specifically on discussions with businesses in the UK and its experience of the approach taken by UK tax authorities in relation to transfer pricing documentation.

The comments will be discussed by Working Party No. 6 of the Committee on Fiscal Affairs at its March and May 2014 meetings, and during the public consultation to be held in Paris on 19 May 2014.

NSW: Payroll tax rebate announced: The NSW Government has [announced](#) that it will provide an additional \$1000 payroll tax rebate for NSW employers that hire workers who have lost their job through large scale redundancies occurring in NSW between 1 January 2014 and 30 June 2015.

The new measure, known as Fresh Start Support (FSS), would be an extension of the existing Jobs Action Plan (JAP) payroll tax rebate arrangements. It is proposed that the FSS rebate, like the JAP rebate, would be available for eligible workers hired for new jobs that result in an increase to the employer's full-time equivalent employee numbers. Eligibility for the FSS rebate would also depend on new workers having been made redundant by a 'designated employer'. It is proposed that this would automatically include businesses in a metropolitan area that have made 100 or more employees redundant during a 12-month period, and businesses in a non-metropolitan area that have made 50 or more employees redundant during a 12-month period, but could also include other employers with redundancies that materially impact the local area or their particular industry. It is proposed that the \$1000 FSS rebate would be paid on the first anniversary of the employee's employment, at the same time as the first JAP rebate payment. Under the JAP arrangements, eligible employers are currently entitled to rebates totalling \$5000 (i.e. \$2000 paid after 12 months of the employee's hire commencing and \$3000 paid after 24 months). Legislation to add the FSS rebate to the existing JAP arrangements was introduced into the NSW Parliament on 6 March 2014.

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Bills awaiting Royal Assent: The following Bills passed both the House of Representatives and the Senate last week and are now awaiting Royal Assent:

- [Tax and Superannuation Laws Amendment \(2014 Measures No. 1\) Bill 2014](#)
- [Excise Tariff Amendment \(Tobacco\) Bill 2014](#)
- [Customs Tariff Amendment \(Tobacco\) Bill 2014.](#)

Bill on the move: The following Bill was passed by the Senate with amendment and has now returned to the House of Representatives for consideration:

- **[Social Services and Other Legislation Amendment Bill 2013:](#)** The Government amendments made by the Senate to this Bill include the removal of the measure that would have delayed the commencement of the *Charities Act 2013* from 1 January 2014 to 1 September 2014 (the effect of the amendment leaves the commencement of that Act as 1 January 2014). Other amendments made by the Senate defer the commencement of several measures contained in the Bill in light of its delayed passage.

Bill introduced: The following Bill was introduced into the House of Representatives last week:

- **[Export Market Development Grants Amendment Bill 2014:](#)** This Bill amends the *Export Market Development Grants Act 1997* to:
 - Increase the number of grants able to be received by an applicant from seven to eight
 - Reduce the minimum expenses threshold required to be incurred by an applicant from \$20,000 to \$15,000

- Reduce the current \$5,000 deduction from the applicant's provisional grant amount to \$2,500
- Prevent the payment of grants to applicants engaging an EMDG consultant assessed to be a not fit and proper person
- Enable a grant to be paid more quickly where a grant is determined before the 1 July following the balance distribution date.

Progress of Bills relating to the repeal of the carbon tax: The [Clean Energy Legislation \(Carbon Tax Repeal\) Bill 2013](#) and related bills were debated in the Senate last week. The [Climate Change Authority \(Abolition\) Bill 2013](#) was negatived at the second reading stage and will no longer proceed.

ATO considers options for simplified transfer pricing documentation: The ATO has taken a positive step towards easing the transfer pricing compliance burden for certain taxpayers, with the release of a discussion paper entitled, '*Options to simplify transfer pricing documentation*'. The paper was circulated to members of the ATO's transfer pricing Division 815 Technical Working Group for discussion at a meeting of the working group to be held this week. The main purpose of the paper is to develop simplification measures to address compliance and administrative issues affecting the practical application of the transfer pricing documentation requirements under the new transfer pricing rules.

The paper considers three options:

1. A proportional approach – the Commissioner would have the discretion to remit part of the administrative penalty where the general taxation record-keeping requirements have been met by the taxpayer, but the transfer pricing documentation does not meet the minimum requirements to qualify for a reasonably arguable position (RAP). The purpose of the remission of the administrative penalty would be to undo the effect of a higher base-penalty amount being applied in the event of a transfer pricing adjustment, as a result of the absence of a RAP
2. Simplified transfer pricing methods – considers making available certain administrative practices for the application of the transfer pricing rules to certain low-risk transactions. The paper contemplates simplified transfer pricing methodologies for certain types of service arrangements, interest rates on borrowings, and the transfer pricing arrangements of simple distributors
3. A *de minimis* rule – considers an approach whereby the ATO would not undertake transfer pricing compliance activity for certain types of dealings or entities (e.g. dealings below a certain threshold).

Comment: As mentioned above, the paper will form the basis of discussions with the ATO's consultative transfer pricing forum at the group's next meeting on 14 March 2014. However, the ATO is also seeking wider comments regarding the paper. It remains to be seen whether, and if so how, the ATO will follow through on this initiative, but it is certainly a step in the right direction.

Provision of further time for lodgment of 2014 MRRT return: A [legislative instrument](#) was registered on 7 March 2014 to extend the due date for lodgment of an MRRT return for the 2014 year until the later of 1 December 2014 and the first day of the sixth month after the end of the entity's 2014 year. This applies to any entity that:

- is required to lodge an MRRT return for the 2014 MRRT year

- did not pay an MRRT instalment in respect of any instalment quarter during the 2014 MRRT year, and
- is not a 'major producer' as defined in clause 5 of the instrument for the 2014 MRRT year.

Erratum to Taxation Determination (TD) released:

- [TD 2014/1ER](#): Corrects the date of effect for [TD 2014/1](#) (Is the 'dividend access share' arrangement of the type described in this Taxation Determination a scheme 'by way of or in the nature of dividend stripping' within the meaning of section 177E of Part IVA of the *Income Tax Assessment Act 1936* (ITAA 1936)). The TD 2014/1 will apply before and after its date of issue. TD 2014/1 will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the TD.

ATO Interpretative Decisions (ATO IDs) released:

- [ATO ID 2014/10](#): The conclusion that a beneficiary of a unit trust cannot satisfy the qualification period in former section 160APHO of the ITAA 1936 is not a relevant matter for the Commissioner to consider in exercising the discretion to treat the unit holder's interest as vested and indefeasible under former section 160APHL(14)(c) of the ITAA 1936
- [ATO ID 2014/11](#): The exclusion for 'expenditure incurred in the acquisition or construction of a building' in the definition of 'research and development expenditure' in section 73B(1) of the ITAA 1936 does not only include structural elements that form the building. It also includes items that have a separate identifiable nature that nevertheless become an integral part of a building enabling the building to function as the setting for the taxpayer's income-producing activities.

ATO Consultation Hub – list of matters under consideration: The ATO has [listed](#) matters which are currently under consideration to determine if consultation is the best approach to resolve them:

- Tax secrecy and transparency measures (new amendments to *Taxation Administration Act 1953*) – consultation on the 'when' and 'how' of the compulsory publication by the Commissioner of limited tax information of certain entities
- Proposed Law Administration Practice Statement (LAPS) rewrite of Chapter 32 of the ATO Receivables Policy (archived) on deceased estates – PS LA 3643.

ATO Consultation Hub – list of matters under consultation updated: The ATO has [updated](#) its list of matters under consultation. The current list of consultation matters and their progress is as follows:

Trusts	Progress
Alienation of income through discretionary trust partners – consultation on TA 2013/3 for the purpose of producing guidance in an online publication	A draft of a revised publication will be circulated to the Professional Firms' Working Group for comment prior to a further meeting of the Group in March 2014.
Small business capital gains tax (CGT) concessions and unpaid present entitlements – technical clarification of calculation of trust's maximum net asset value	UPDATED: The issue was to be discussed with members of the Trust Reform and Compliance Group on 3 March 2014.
NEW: Australian custodians' tax return obligations in respect of trustee liabilities under	Discussions were held with Australian Custodial Services Association (ACSA)

section 98 of the ITAA 1936 – consideration of streamlined lodgment and processing procedures	members in response to the ACSA submission. The ATO is considering alternative proposals and legal requirements, and is preparing a submission for consideration and endorsement within the ATO. Further consultation will then occur with ACSA.
Income tax consolidation	Progress
Guidance on the application rules to the rights to future income amendments	Five draft taxation determinations – TD 2014/2 - TD 2014/D6 were issued on 15 January 2014. Comments closed 21 February 2014.
International	Progress
Application of the new transfer pricing laws (Division 815 of the ITAA 1997) – consultation on new rulings and practice statements	UPDATED: Next meeting of the Division 815 Technical Working Group is to be held on 14 March 2014. An update on the Division 815 Implementation Project (including consultation) went to the International Steering Committee (ISC) meeting on 26 February 2014. The ISC is overseeing this project.
Treatment of forex gains and losses arising from hedging transactions for the purpose of applying the foreign income tax offset (FITO) limit – provision of further guidance	A draft tax ruling is due for publication on 26 March 2014.
Attribution and inter-branch derivatives – discussion of TR 2001/11 and TR 2005/11 and banking industry practice	UPDATED: Consultation process was agreed with the Australian Bankers Association (ABA) on 9 December 2013. Further meeting with the ABA was held on 27 February 2014.
Application of Subdivision 820-D of the ITAA 1997 to ADIs and its interaction with the consolidation regime and APRA's prudential standards	UPDATED: A further meeting with the ABA was held on 27 February 2014.
Market support payments – consultation in respect of rulings TD 2013/D3 (superseded) and TD 2014/D7	A second draft TD 2014/D7 was released on 29 January 2014. Comments closed on 28 February 2014.
2014 International Dealings Schedule (IDS) and 2014 IDS Instructions – consultation on changes	Consultation in progress.
NEW: Taxation Exemptions for Foreign Governments (Sovereign Immunity) - consultation on guidance in the form of a practice statement	Consultation in progress.
Capital allowances	Progress
Income tax treatment of exploration expenditure – develop the ATO view of exploration and prospecting in the context of a rewrite of TR 98/23	Matter will be discussed with industry in early 2014.

Resource Rent Tax	Progress
PRRT - Meaning of exploration – consultation on TR 2013/D4	Final ruling expected 25 June 2014.
Minerals Resource Rent Tax (MRRT): Cultural heritage payments	Final tax determination is on hold following the Government's announcement that it will seek to repeal the MRRT law from 1 July 2014.
Indirect taxes	Progress
Inform the industry of the ATO's compliance focus in respect of the wine equalisation tax (WET) producer rebate	Extensive industry visitation program has been undertaken. Comments were due on WETR 2013/D1 on 14 February 2014. Matter will be completed by April 2014.
WET earlier producer rebate – consult to determine practical difficulties	Consultation in progress.
Superannuation	Progress
Limited recourse borrowing arrangements – in-house asset exclusion – consultation on draft legislative instrument	<p>UPDATED: A draft Legislative Instrument (LI) and Explanatory Statement (ES) was issued for public comment. Submissions closed on 31 January 2014.</p> <p>All submissions endorsed the proposed instrument. The feedback resulted in minor modifications being made to the ES and no changes to the LI.</p> <p>The LI & ES have been forwarded to Revenue Analysis Branch and Law Design Team for relevant clearances.</p>
Apportionment of expenses incurred by a superannuation entity only partly in gaining its assessable income – consultation on draft ruling TR 2013/D7	Comments closed on 29 January 2014. Consultation will continue until final ruling issued.
Other Matters	Progress
Guidance on ensuring that a partner in a limited partnership is not subject to double taxation – guidance on administration of section 94M(2) of the ITAA 1936	UPDATED: Appropriate consultation partners and process are being identified.
Feasibility and potential operation of statutory remedial powers for the Commissioner of Taxation – working group will examine statutory remedial power (SRP) for the Commissioner to address technical deficiencies in the law in a manner that is favourable to the taxpayer	A series of meetings are being held in February and March 2014 following the establishment of a tripartite limited-life working group.
Review of the effective life of assets used in the scientific, medical and pharmaceutical research industry	Draft life determinations released for comment by 28 February 2014.

Compliance	Progress
ATO approach to reviewing governance and the associated review of PS LA 2004/14 (Access to corporate board documents on tax compliance risk)	UPDATED: Latest meeting held on 10 February 2014. The ATO will be developing a position on how broad the concession should apply, which corporate entities the concession should apply to, and to take back to the group a revised edition of PSLA 2004/14 reflecting these views in a more principles based version.
Use of standardised accounting data to improve compliance case selection	Commenced consultation with pioneering users of XBRL for financial reporting.
Feasibility of use of External Compliance Assurance Processes for basic ATO assurance work e.g. use of registered company auditors	Concept design will be progressed in February and March 2014.

New tax committee formed: On 6 March 2014, *The Australian Financial Review* reported that Treasury has formed a new advisory group of federal Treasury, ATO and private sector experts to provide advice of possible tax changes. According to the report, the tax system committee will meet quarterly and will be headed by the Treasury's revenue group executive director Rob Heferen. Other members of the committee are Deloitte Tax Partner Ms Teresa Dyson, Mr Keith James and Mr Michael Barbour. The committee will act as an independent sounding board for Government before tax policy is developed. Teresa Dyson commented that it was a "hybrid committee" that would have a broad role in helping frame tax policy. In particular, she specified that the committee would be a last-stop review of new policy decisions before announcements are made.

Information from the ATO website:

- **Help your foreign resident clients avoid CGT adjustments:** The ATO has [updated](#) the following guides to assist foreign resident taxpayers in applying the functional currency rules when disposing of indirect Australian real property:
 - [Guide to functional currency rules](#)
 - [CGT on foreign residents, temporary residents and changing residency](#)
- **Monthly PAYG instalments:** The ATO has [released](#) supplementary information for taxpayers who are required to make PAYG instalments payments monthly from 1 January 2014
- **Administrative approach to MRRT nil rate determinations:** The ATO has [released](#) information regarding taxpayers who have a mining project interest (MPI) or hold a pre-mining project interest (PMPI), indicating that they may have to lodge a MRRT instalment liability notice
- **General interest charge (GIC) and shortfall interest charge (SIC) rates:** The schedule of [GIC](#) rates and [SIC](#) rates have been updated by the ATO for the April to June 2014 quarter.

ATO Public Rulings Program – business tax draft determination – Bitcoin: Previously, the ATO Public Rulings Program [indicated](#) that the release of a draft determination on whether Bitcoin is a 'foreign currency' for the purposes of Division 775 of the ITAA 1997 was scheduled to be released on 26 February 2014. However, it has been delayed and is [now scheduled](#) to be released on a date "to be advised".

Taxation Ruling (TR) and draft Taxation Determination (TD) scheduled for release on 12 March 2014:

- TR 2014/1: Commercial software licencing and hosted agreements: derivation of income from agreements for the right to use proprietary software and the provision of related services. Previously issued as [TR 2013/D2](#)
- TD 2014/D8: Can the exemption in section 820-39 of the ITAA 1997 apply to the special purpose finance entity established as part of the “securitised licence structure” used in some social infrastructure Public Private Partnerships? Previously issued as [TD 2012/D11](#).

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Employment taxes

ATO Interpretative Decision (ATO ID) released:

- [ATO ID 2014/12](#): A fee charged by the operator of a commercial parking station for vehicles entering the station from 1.00pm is not a fee charged for 'all-day parking' as defined in section 136(1) of the *Fringe Benefits Tax Assessment Act 1986*.

Fringe benefits tax (FBT) – rates and thresholds: The ATO has [updated](#) the FBT rates and thresholds for the 2012-13 and 2013-14 FBT years.

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Superannuation

ATO Public Rulings Program – superannuation determination – [updated as at 5 March 2014](#):

Final determination scheduled for release in the next two months	
Topic	Planned issue date
In what circumstances is a bank account of a complying superannuation fund a segregated current pension asset under section 295-385 of the ITAA 1997?	9 April 2014 but delayed

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Indirect taxes

Luxury Car Tax Determination (LCTD) scheduled for release on 12 March 2014:

- LCTD 2014/1: Does the luxury car tax value for a car acquired under a hire purchase agreement include the consideration provided for the supply of credit under the agreement? Previously issued as [LCTD 2013/D1](#)

Draft determinations scheduled for release in the next two months	
Topic	Planned issue date
In what circumstances is the supply of a credit card GST-free, or partly GST-free under paragraph (a) of item 4 in section 38-190(1) of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> ?	2 April 2014 but delayed
Are payments made by a supplier of a rental guarantee that is supplied with a taxable supply of real property, an adjustment event for the supply of the real property?	9 April 2014 but delayed

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State and Territory taxes

NSW: Land rich duty – Chief Commissioner refused leave to appeal against Cross City Tunnel decision: The NSW Supreme Court has refused the Chief Commissioner’s application for leave to appeal against the Court’s decision in [CCM Holdings Trust Pty Ltd v Chief Commissioner of State Revenue; CCT Motorway Company Nominees Pty Ltd v Chief Commissioner of State Revenue](#) [2013] NSWSC 1072 (2013 decision).

In the 2013 decision, the Court revoked assessments of duty, including land rich duty, issued by the Chief Commissioner in relation to the 2007 transfer of the ownership of Sydney’s cross city tunnel. The transfer of ownership to the taxpayers was effected by the transfer to them of units in the property trust and shares in the company that, together, held the tunnel assets (including the lease of the tunnel land and the right to charge tolls). The Court found that the tolling right was not a separate item of “property”, but was part of the lease of the tunnel land. It went on to hold that the tolling right and the lease were inseparable parts of a composite whole and that composite right was an “interest in land” within the meaning of “land holding” in the *Duties Act 1997* (NSW) (the Act). The Court concluded that the property trust was “land rich” at the relevant date, but that the transfer of the trust units to the first taxpayer was exempt from duty. This, along with the Court’s conclusion that the second taxpayer was liable only to concessional duty of \$10 in relation to the share transfers, was due to the application of section 54(3) of the Act, i.e. the transaction involved “a transfer of dutiable property to a person other than a special trustee as a consequence of the retirement of a trustee or the appointment of a new trustee”, and that the transfer was not part of a scheme for the conferring of interests in relation to the trust property on a new trustee “to the detriment” of the beneficial interest or potential beneficial interest of any person.

In September 2013 the Chief Commissioner lodged an appeal against the 2013 decision, and on the same day the taxpayers went into voluntary administration. Receivers were appointed soon after and are currently conducting a sale process for the tunnel that is expected to be completed before July 2014. Prior to the first creditors meeting the Chief Commissioner lodged proofs of debt with the administrators in respect of the asserted duty liabilities of the taxpayers (totalling almost \$70m including penalties and interest). A deed of company arrangement was executed by each of the

taxpayers on 11 November 2013. On 16 December 2013, the Chief Commissioner filed a notice of motion in each appeal seeking leave to proceed against the two taxpayers, as required by section 444E of the *Corporations Act 2001* (Cth). In evaluating this application, the Court had regard to the many uncertainties arising from the current circumstances, including the uncertain outcome of the sale process and whether any surplus will be available for distribution to unsecured creditors. The Court refused the application on the basis that there is no utility, at present, in granting leave to the Chief Commissioner to proceed with an appeal against the taxpayers. The Court noted however that relevant circumstances may change and there is nothing to prevent the Chief Commissioner making a further application for leave in that event – click to view [Chief Commissioner of State Revenue v CCM Holdings Trust Pty Ltd](#); [Chief Commissioner of State Revenue v CCT Motorway Company Nominees Pty Ltd](#) [2014] NSWCA 42.

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International tax

Draft TD scheduled for release on 12 March 2014:

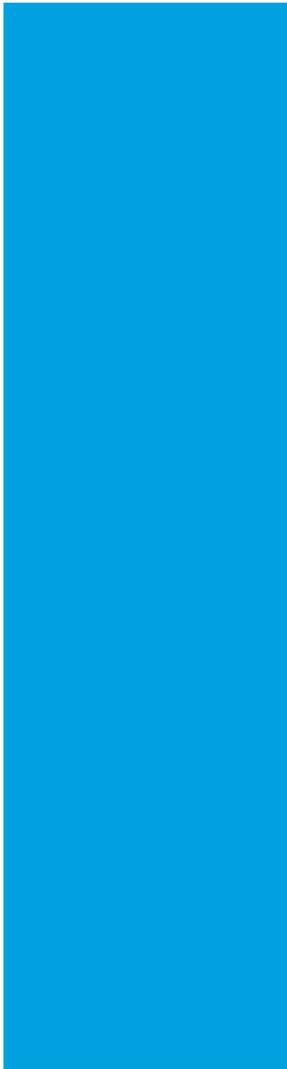
- TD 2014/D9: Does a United Kingdom resident company (UK Co), that beneficially owns a dividend paid by an Australian resident company (Aus Co), hold directly at least 10 per cent of the voting power in Aus Co for the purposes of Article 10.2(a) of the United Kingdom Convention in the following circumstances: (a) a nominee shareholder owns shares carrying at least 10 per cent of the voting power in Aus Co for the benefit of UK Co; and (b) the nominee undertakes to UK Co to exercise all rights of voting and other privileges attaching to the shares in such manner as UK Co shall direct or approve?

ATO Public Rulings Program – international tax related draft rulings – updated as at 5 March 2014:

Draft rulings and determinations scheduled for release in the next two months	
Topic	Planned issue date
Foreign income tax offset: deductions that are 'reasonably related to' amounts of ordinary or statutory income from a non-Australian source	26 March 2014 but delayed
Transfer pricing – the application of section 815-130 of the ITAA 1997	16 April 2014
Transfer pricing – documentation	16 April 2014
Does FRE 4 happen on repayment of a loan obligation incurred prior to the effective date of an applicable functional currency choice and denominated in the same non-Australian dollar currency that later becomes the applicable functional currency?	23 April 2014

Transfer pricing practice statements withdrawn: On 5 March 2014, the ATO withdrew the following practice statements:

- [PS LA 2003/5](#): International Transfer Pricing – Making a determination under Division 13 of Part III of the ITAA 1936 (Division 13) and applying the Business Profits Article or Associated



Enterprises Article of Australia's Double Tax Agreements (advice to ATO staff on the procedure to be followed when making a Division 13 determination or applying the treaty articles): the Practice Statement will be replaced by internal ATO work processes for both legacy cases involving Division 13 and current and future cases involving Division 815 of the ITAA 1997

- [PS LA 2004/13](#): The Transfer Pricing Review Panel (TPRP) (advice to ATO staff on the role, responsibilities and work practices of the TPRP): the Practice Statement will be replaced by internal ATO work processes providing guidance on case reviews
- [PS LA 2005/14](#): Transfer Pricing Review Work (guidance to ATO staff on the review products used for assessing transfer pricing risks and the transfer pricing review process which embodies a transfer pricing record review and a commercial realism assessment): the Practice Statement has been withdrawn because the Transfer Pricing Record Review case type is being decommissioned. It will be replaced by internal ATO work processes for relevant replacement case types.
- [PS LA 2006/9](#): Referral of work to International Strategy and Operations (advice to ATO staff on the type of work to be referred to International Strategy and Operations): the Practice Statement will be replaced by internal ATO work processes for the new International Gatekeeper process.

Dbriefs Bytes: Deloitte Dbriefs Bytes is a short weekly video summary of the significant international tax developments impacting the Asia Pacific region – click to view the latest [Dbriefs Bytes](#).

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