

person where the directing person or any person controlled by the directing person is able by any means whatsoever (including by exercise of legal or equitable right or by exercise of economic influence) to secure that the affairs of the other person are conducted in accordance with the wishes of the directing person, whether or not that ability is exercised and, without limiting the generality of the foregoing, the directing person controls another person where the other person is—

- (i) A company and more than 50% of the—
 - (A) Voting power; or
 - (B) Nominal capital; or
 - (C) Paid up capital; or
 - (D) Rights that persons have to acquire capital—
 in the company are held by or for the benefit of the directing person or any person that is controlled by the directing person:
- (ii) The directing person, or any person controlled by the directing person, acting in a fiduciary capacity in relation to assets or rights of any person:
- (iii) Acting in a fiduciary capacity in relation to assets or rights of the directing person or any person controlled by the directing person—

whether or not the directing person or the other person are resident in New Zealand; and “controlled”, and “controls” have corresponding meanings:

(d) “Associated persons” means associated persons as determined by section 8 of the Income Tax Act 1976, and also includes any two persons—

- (i) That are controlled by the same person or persons; or
- (ii) Where one of the persons controls the other person;

and “persons associated with each other” has a corresponding meaning:

(e) “Exempt security arrangement” means a security arrangement other than a security arrangement that includes—

- (i) A share in a company which does not rank equally with ordinary shares in the company in terms of voting rights and rights to distributions; or
- (ii) An arrangement pursuant to which—
 - (A) A person has entered into two or more financial arrangements with another person or persons (being persons associated with each other in any case where more than one other person is involved); and
 - (B) Those financial arrangements are dependent upon one another; and
 - (C) Any obligation is to be performed outside New Zealand:

(f) “Interrelated arrangement” means a financial arrangement that consists of two or more arrangements, whether or not those arrangements are themselves financial arrangements;

(g) “Value”, in relation to any arrangement, means—

- (i) In relation to any variable principal debt instrument, other than an interrelated arrangement, the amount of money owing to the holder pursuant to the arrangement;
- (ii) In relation to any fixed principal debt instrument, other than an interrelated arrangement or an instrument involving a notional principal, the greater of the acquisition price of the arrangement or the nominal or face value of the arrangement;
- (iii) In relation to any security arrangement, the greater of—
 - (A) The amount of the maximum liability of the surety under the security arrangement;
 - (B) The sum of the values of the financial arrangements wholly or partially secured by the security arrangement;

(iv) In relation to any financial arrangement involving a notional principal (for example, certain types of interest rate or currency swaps, forward rate agreements, certain futures contracts) the amount of the notional principal:

(v) In relation to any arrangement which is not a financial arrangement, the total amount of consideration required to be provided under the arrangement by the person having the greatest liability under the arrangement:

(vi) In relation to any interrelated arrangement, the sum of the values of the arrangements (other than exempt security arrangements) that constitute the interrelated arrangement:

Provided that where, under an interrelated arrangement, consideration is required to be passed between persons more than once and as a consequence an amount would, but for this proviso, be required to be taken into account more than once in calculating the value of an interrelated arrangement, that amount shall not be taken into account more than once in calculating the value of the financial arrangement:

Provided also that where the value can be ascertained pursuant to more than one of the foregoing subparagraphs, the value shall be ascertained pursuant to the subparagraph that provides the greatest value.

5. *Exemption*—Any person who in an income year is party to an interrelated arrangement shall be exempt from the requirements of section 64H (1) of the Income Tax Act 1976 in respect of the interrelated arrangement and the income year where—

- (a) The making of the interrelated arrangement is a generally accepted commercial practice; and
- (b) The interrelated arrangement is of a kind specified in the Schedule hereto.

This exemption is signed by me on the 24th day of October in the year 1990.

R. D. ADAIR, Deputy Commissioner of Inland Revenue.

Schedule

1. Any interrelated arrangement the value of which does not exceed \$10 million at any time in the income year.

2. Any interrelated arrangement that consists only of—

- (a) One or more financial arrangements, none of which is an exempt security arrangement; and
- (b) One or more exempt security arrangements—

and which would not be an interrelated arrangement but for the existence of the exempt security arrangement or exempt security arrangements.

3. Any interrelated arrangement that has no material purpose and effect other than to achieve the exchange of a sum of money in one currency for an equivalent sum of money in another currency, such exchange not being subject to any agreement to reverse the exchange at some future date.

4. Any interrelated arrangement, in relation to a person,—

- (a) That comprises only obligations (conditional or otherwise) to be fulfilled outside New Zealand; and
- (b) None of the parties to which is an associated person of the person.

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Determination G6C: Foreign Currency Rates

This determination may be cited as “Determination G6C: Foreign Currency Rates”.

1. *Explanation* (which does not form part of the determination).

This determination rescinds and replaces Determination G6B: Foreign Currency Rates, made on the 23rd day of April 1990. Apart from minor amendments, this determination differs from