|  |
| --- |
| Treasurer’s Direction (mandatory) |
| **Purpose** | To provide a framework and minimum control requirements for the application of the Northern Territory tax equivalent regime and dividend policy for government business divisions |
| **Last reviewed** | Not applicable |
| **Operative date** | Commencing from 1 July 2018 |
| **References** | * Guidance document – Northern Territory tax equivalent regime and dividend policy **(recommended to be read in conjunction with this Treasurer’s Direction)**
* *Financial Management Act 1995*
* *Income Tax Rates Act 1986* (as amended)
* Northern Territory Government policy statement on competitive neutrality
 |

# Overview

## Northern Territory tax equivalent regime

1. The Northern Territory tax equivalent regime (TER) subjects government business divisions (GBDs) to income tax equivalent payments, which approximate Commonwealth income taxes that would be payable if the business were privately owned.

## National tax equivalent regime

1. The National tax equivalent regime(NTER) is an administrative arrangement under which Commonwealth income tax legislation is notionally applied to government trading entities.
2. Entities subject to the NTER are listed in the NTER entity register maintained by the Australian Taxation Office on behalf of the states and territories.

## Scope

1. The TER applies to GBDs identified in the Treasurer’s Revocation of Determination and Determination of Government Business Divisions.
2. Entities which are registered under the NTER are excluded from the scope of this Treasurer’s Direction.

# TER application

## Calculation of income tax equivalent payments

1. A GBD must apply the accounting profits model to calculate income tax equivalent payments.
2. To calculate the income tax equivalent liabilities, the prevailing company tax rate published in the *Income Tax Rates Act 1986* (as amended),must be applied to the audited accounting profit of a GBD for each financial year.
3. A GBD may apply prior year accounting losses to reduce all or part of the taxable income for a particular financial year, provided the prior year accounting loss has not previously been used to reduce taxable income.
4. Unrealised gains or losses resulting from a valuation adjustment must be excluded from a GBD’s audited accounting profit and the calculation of tax.
5. Tax will be due and payable on a valuation adjustment when a gain or loss has been realised through a sale.

## Payment of income tax equivalents

1. A GBD must pay its income tax equivalent liability, as reported in the annual audited financial statements, within six months after the end of the financial year or another period approved by the Treasurer.
2. Payments of income tax equivalent liability must be remitted to the Department of Treasury and Finance (DTF).

## Role of the tax assessor

1. The tax assessor is charged with the authority of administering the TER.
2. For the purposes of the TER, the role and power of the tax assessor rests with the Treasurer, and is carried out through appointed officers within DTF.

# Dividend policy

1. A GBD is subject to:
	1. an ordinary dividend on an annual basis (see paragraphs 16 to 17) and or
	2. a special dividend in certain circumstances (see paragraphs 18 to 19).

## Types of dividends

### Ordinary dividends

1. All GBDs, with the exception of the Northern Territory Treasury Corporation, are subject to an annual ordinary dividend payment of 50 per cent of the adjusted after-tax profit pursuant to application of paragraphs 8 and 9, unless otherwise determined by the Treasurer.
2. The Northern Territory Treasury Corporation is subject to an annual ordinary dividend payment of 100 per cent of its adjusted after-tax profit, pursuant to the application of paragraphs 8 and 9.

### Special dividends

1. Special dividends are dividends paid out of accumulated profits or capital reserves and are distinct from ordinary dividends.
2. The Treasurer may direct a GBD to pay a special dividend if he or she is satisfied that the GBD has the resources to do so.

## Accounting for dividends

1. A GBD must recognise a provision to pay ordinary dividends, when declared in the year they relate to, in accordance with Australian accounting standards.
2. Pursuant to paragraphs 16 and 17, ordinary dividends are deemed declared annually.

## Payment of dividends

1. An annual ordinary dividend must be paid to the Central Holding Authority (CHA) within six months after the end of the financial year.
2. A special dividend must be paid to the CHA in accordance with the timeframe advised by DTF.

# Seeking exemptions or adjustments

## Payment extensions and arrangements

1. A GBD may seek approval for an extension to make payment or request a payment arrangement from DTF in writing, stating the reasons for the inability to make payments by the prescribed date.
2. All requests for a payment extension or arrangement must include adequate information including full details of the relevant facts and appropriate documents to allow DTF to assess the request and provide a timely response.

## Income tax equivalent payment adjustments

1. A GBD may be exempt from compliance with competitive neutrality requirements such as paying income tax equivalents in situations where it is demonstrated that the benefits of introducing competitive neutrality are outweighed by the costs.
2. A GBD must seek Treasurer’s approval to include and or exclude a transaction or item when calculating its income tax equivalent liability – all requests must include adequate information including full details of the relevant facts and appropriate documents to allow the Treasurer to assess the request and provide a timely response.

## Dividends

1. A GBD may seek an exemption or adjustment from paying an ordinary dividend for a financial year, through a formal request to the Treasurer, if one or more of the following criteria are met:
	1. payment may inhibit liquidity and or capital requirements of the GBD, for example, where funds are required for current or future significant projects
	2. payment may deteriorate the capital structure of the GBD, for example, where the GBD’s debt to equity ratio is unsustainable or insolvent.

# Recordkeeping

1. An accountable officer must keep appropriate documentation on calculations of income tax equivalents and dividends including any approved adjustments and other relevant information.
2. Pursuant to paragraph 29, an accountable officer must retain such records for the specified minimum period, in accordance with the agency’s records disposal schedule.

# Reporting

1. An accountable officer must provide to DTF, upon request, appropriate documentation on the calculation of income tax equivalents and dividends and other relevant information as necessary.

|  |
| --- |
| Change history |
| **Version** | **Date** | **Author** | **Change details** |
| 1.0 | July 2018 | DTF | Initial version |