



# Commonwealth Consolidated Acts

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## INCOME TAX ASSESSMENT ACT 1936 - SECT 136AD

### Arm's length consideration deemed to be received or given

(1) Where:

(a) a [taxpayer](#) has supplied [property](#) under an international [agreement](#);

(b) the [Commissioner](#), having regard to any connection between any 2 or more of the parties to the [agreement](#) or to any other relevant circumstances, is satisfied that the parties to the [agreement](#), or any 2 or more of those parties, were not dealing at arm's length with each other in relation to the [supply](#);

(c) consideration was received or receivable by the [taxpayer](#) in respect of the [supply](#) but the amount of that consideration was less than the arm's length consideration in respect of the [supply](#); and

(d) the [Commissioner](#) determines that this subsection should apply in relation to the [taxpayer](#) in relation to the [supply](#);

then, for all purposes of the [application](#) of this Act in relation to the [taxpayer](#), consideration equal to the arm's length consideration in respect of the [supply](#) shall be deemed to be the consideration received or receivable by the [taxpayer](#) in respect of the [supply](#).

(2) Where:

(a) a [taxpayer](#) has supplied [property](#) under an international [agreement](#);

(b) the [Commissioner](#), having regard to any connection between any 2 or more of the parties to the [agreement](#) or to any other relevant circumstances, is satisfied that the parties to the [agreement](#), or any 2 or more of those parties, were not dealing at arm's length with each other in relation

to the [supply](#);

(c) no consideration was received or receivable by the [taxpayer](#) in respect of the [supply](#);

and

(d) the [Commissioner](#) determines that this subsection should apply in relation to the [taxpayer](#) in relation to the [supply](#);

then, for all purposes of the [application](#) of this Act in relation to the [taxpayer](#), consideration equal to the arm's length consideration in respect of the [supply](#) shall be deemed to have been received and receivable by the [taxpayer](#) in respect of the [supply](#) at the time when the [property](#) was supplied or, as the case requires, any of the [property](#) was first supplied, or at such later time or times as the [Commissioner](#) considers appropriate.

(3) Where:

(a) a [taxpayer](#) has [acquired property](#) under an international [agreement](#);

(b) the [Commissioner](#), having regard to any connection between any 2 or more of the parties to the [agreement](#) or to any other relevant circumstances, is satisfied that the parties to the [agreement](#), or any 2 or more of those parties, were not dealing at arm's length with each other in relation to the [acquisition](#);

(c) the [taxpayer](#) gave or agreed to give consideration in respect of the [acquisition](#) and the amount of that consideration exceeded the arm's length consideration in respect of the [acquisition](#); and

(d) the [Commissioner](#) determines that this subsection should apply in relation to the [taxpayer](#) in relation to the [acquisition](#);

then, for all purposes of the [application](#) of this Act in relation to the [taxpayer](#), consideration equal to the arm's length consideration in respect of the [acquisition](#) shall be deemed to be the consideration given or agreed to be given by the [taxpayer](#) in respect of the [acquisition](#).

(4) For the purposes of this section, where, for any reason (including an insufficiency of information available to the [Commissioner](#)), it is not possible or not practicable for the [Commissioner](#) to ascertain the arm's length consideration in respect of the [supply](#) or [acquisition](#) of [property](#), the arm's length consideration in respect of the [supply](#) or [acquisition](#) shall be deemed to be such amount as the [Commissioner](#) determines.

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