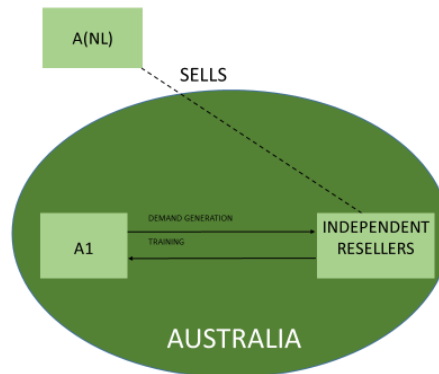


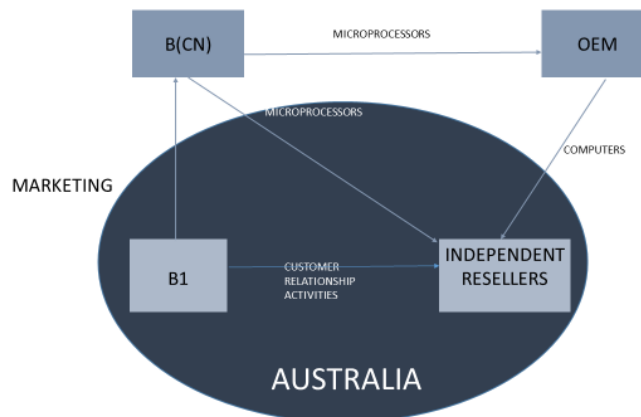
Draft Taxation Determination (TD 2018/D1) examples



A's Australian subsidiary is the first point of contact for resellers as they are in the same time zone and share a common language. It provides:

- (a) demand generation activities with an independent reseller
- (b) training of independent resellers

The Commissioner considers that both are "directly in connection with" the supply in Australia.



The Australian entity is a subsidiary of foreign company B.

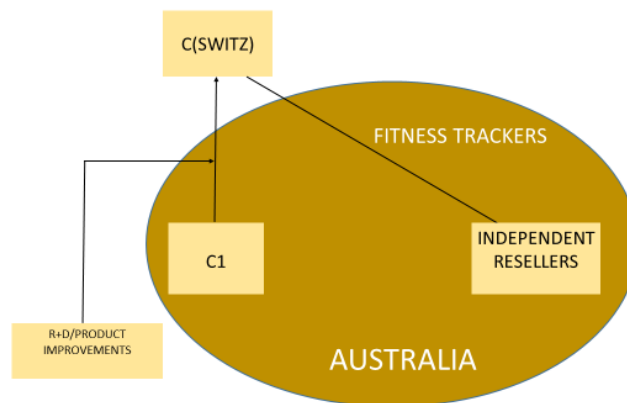
B manufactures computer microprocessors for sales to a foreign original equipment manufacturer OEM. OEM uses B's microprocessors in OEM's computers for sale on

the global market (including Australia). B sells microprocessors as a standalone product in Australia through independent resellers.

The Australian staff of B:

- (a) identify potential new resellers and advise the resellers of new products available from B
- (b) attend trade shows with OEM's staff to educate customers who might later purchase B's standalone microprocessors from resellers

The Commissioner considers that example (a) is "directly in connection with", but example (b) is indirect and is likely to escape being a scheme.



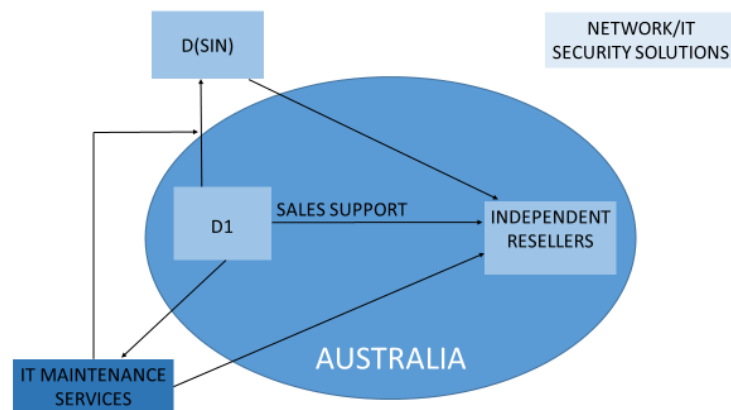
C is a foreign company that manufactures fitness tracking devices.

C's Australian subsidiary:

- (a) Checks and updates Australian GPS data for use in products worldwide;
- (b) Corrects errors in the data;
- (c) Negotiates the purchase of data;
- (d) Liaises with local regulatory authorities to ensure the product meets Australian safety standards; and/or
- (e) Performs market research about the needs of end users and contract research and development on the electronic components.

The Commissioner considers that while they may ultimately affect the creation of the product itself, C's Australian subsidiary's activities are only indirectly connected with the supply.

The arrangement is unlikely to be a scheme: see also *Westreco v Commissioner* 60 TCM 824 (1990) in respect of fragmented multinational R&D programmes and transfer pricing.



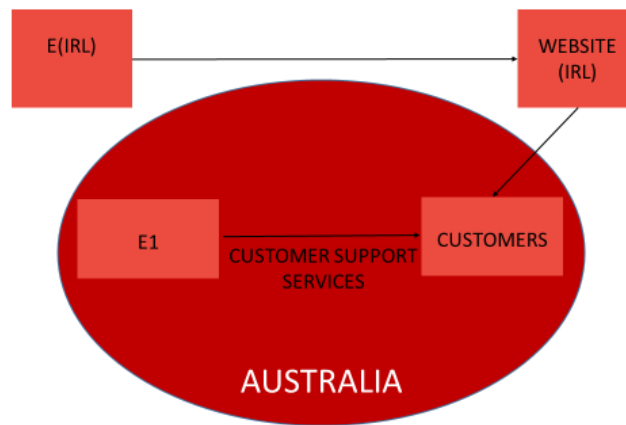
D's Australian subsidiary provides sales support and "follow the sun" engineering support services.

D's Australian subsidiary carries out:

- (a) Sales support
- (b) "Follow the sun" IT maintenance services which are transferred between teams as business hours end in each region and engineering staff D's Australian subsidiary provide IT maintenance services as part of this arrangement

The Commissioner considers that example (a) is "directly in connection with" the supply.

The Commissioner considers that examples (b) is indirect.



E is a foreign company that develops and licenses CAD software that can be purchased and downloaded from a website hosted in the foreign country. The foreign company has a subsidiary in Australia which:

- (a) Employs customer support staff who provide telephone based assistance with installation and set-up, and product training for 30 days after the product has been downloaded; and
- (b) Designs advertising campaigns and arranges for them to be displayed in local print and digital media, subject to approval of the foreign company, as part of end to end sales process in Australia - direct.

The Commissioner considers that both are "directly in connection with" the supply: see also Chapter 7 of the 2015 OECD report .