

CGT events arising out of the cost setting rules

In calculating the tax cost setting amounts for an entity joining or leaving a consolidated or MEC group, the CGT events listed in the following table may take place, resulting in a capital gain or capital loss for the head company as indicated.

CGT event	Description	Time of event	Applies to	Capital gain	Capital loss	Legislative references (ITAA 1997 and Explanatory Memorandums – EM)
L1	A reduction under section 705-57 in the tax cost setting amounts of assets of an entity becoming a member of a consolidated or MEC group	Just after the entity becomes a member of the group	The head company, which is allowed a capital loss equal to the reduction; the loss being deductible over five years	No capital gain	Amount of reduction Note: Broadly, unless s. 701B-1 of the IT(TP)A 1997 applies, the head company is only able to utilise 1/5th of the capital loss each year, over five years.	s. 104-500 s. 705-57, s. 705-163, s. 705-240 EM to NBTS (Consolidation and Other Measures) Bill (No.1) 2002, paragraphs 1.89 – 1.114 and 1.175 – 1.181
L2	The amount of ACA remaining after applying step 3A for any pre-formation rollover is negative	Just after the entity becomes a member of the group	The head company, which makes a capital gain equal to the amount remaining	Amount remaining	No capital loss	s. 104-505 s. 705-93, s. 705-147, s. 705-227 EM to NBTS (Consolidation and Other Measures) Bill (No.2) 2002, paragraphs 5.119 – 5.122 EM to Tax Laws Amendment (2010 Measures No. 1) Bill 2010, paragraphs 5.158 – 5.179

CGT event	Description	Time of event	Applies to	Capital gain	Capital loss	Legislative references (ITAA 1997 and Explanatory Memorandums – EM)
L3	The sum of the tax cost setting amounts for all the joining entity's retained cost base assets that become those of the head company exceeds the entity's ACA	Just after the entity becomes a member of the group	The head company, which makes a capital gain equal to the excess	Amount of excess Note: If the entity becoming a member has linked assets and liabilities, any retained cost base assets, to the extent they have already been taken into account in working out the ACA, are not counted in working out the amount of the excess. → C2-1-310	No capital loss	s. 104-510 Note to s. 705-25, note 1A to s. 705-35, paragraphs 705-35(1)(b), 705-59(5)(b) – item 4 EMs to: NBTS (Consolidation and Other Measures) Bill (No.2) 2002, paragraphs 5.123 – 5.126 TLAB (No. 6) 2003, paras 3.42 – 3.56
<p><i>Note – changes to consolidation rules</i></p> <p>A modification to the treatment of doubtful debts for cost setting purposes allows for the reduction of any CGT event L3 capital gain in respect of doubtful debts as retained cost base assets with a corresponding reduction to the tax cost setting amount of the head company's outstanding debts. This applies from 10 February 2010, unless the head company makes a written choice within the prescribed time to apply the changes from 1 July 2002 → section 705-27 ITAA 1997</p>						
L4	There are no reset cost base assets against which to apply the remaining amount of the ACA under paragraph 705-35(1)(c)	Just after the entity becomes a member of the group	The head company, which makes a capital loss equal to the amount remaining	No capital gain	Amount of excess	s. 104-515 and note 2 to s. 705-35 EM to NBTS (Consolidation and Other Measures) Bill (No.2) 2002, paragraphs 5.127 – 5.131
L5	In calculating the ACA for a leaving entity, the amount remaining after applying step 4 of the table in section 711-20 is negative	When the entity leaves the group	The head company, which makes a capital gain equal to the amount remaining	Amount remaining	No capital loss	s. 104-520 EM to NBTS (Consolidation and Other Measures) Bill (No.2) 2002, paragraphs 5.132 – 5.135

CGT event	Description	Time of event	Applies to	Capital gain	Capital loss	Legislative references (ITAA 1997 and Explanatory Memorandums – EM)
L6	Where the head company of a consolidated or MEC group has a net overstated or a net understated tax cost setting amount for the subsidiary member because of errors in working out the tax cost of its reset cost base assets	Start of the income year in which the Commissioner becomes aware of the errors	The head company, which makes a capital gain if there is a net overstated amount and a capital loss if there is a net understated amount	The net overstated amount resulting from the errors, or a portion of that amount	The net understated amount resulting from the errors, or a portion of that amount	s. 104-525, s. 705-315, s. 705-320 EM to NBTS (Consolidation and Other Measures) Bill (No.2) 2002, paragraphs 5.17 – 5.34
L7	The discharged liability of a subsidiary member is greater than the amount taken into account in working out the entity's ACA	Start of the income year in which the liability is discharged	The head company, provided liability is discharged before 10 February 2010		The ACA calculated using the correct amount for the liability less the ACA calculated at the joining time	Former s. 104-530 EM to NBTS (Consolidation and Other Measures) Bill (No.2) 2002, paragraphs 5.35 – 5.42 IT(TP)A 1997
L8	A reduction in the tax cost setting amounts for reset cost base assets on joining cannot be allocated because of restrictions on amounts allocated for assets held on revenue account	Just after the entity becomes a member of the group	The head company, which makes a capital loss equal to the unallocated amount of the reduction	No capital gain	Amount of reduction that cannot be allocated	s.104-535 ss. 705-40(1) & ss. 705-40(2) EM to TLAB (No. 8) 2003, paragraphs 2.19 – 2.22

References Legislation

Income Tax Assessment Act 1997, section 104-500; as amended by *New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002* (No. 117 of 2002)

Income Tax Assessment Act 1997, section 104-505; as amended by:

- *New Business Tax System (Consolidation and Other Measures) Act 2003* (No. 16 of 2003)
- *Tax Laws Amendment (2010 Measures No. 1) Act 2010* (No. 56 of 2010), Schedule 5, Parts 5 and 13

Income Tax Assessment Act 1997, sections 104-510, 104-515, 104-520, 104-525 and 104-530; as amended by *New Business Tax System (Consolidation and Other Measures) Act 2003* (No. 16 of 2003)

Income Tax Assessment Act 1997, section 104-535; as amended by *Taxation Laws Amendment Act (Act 107) 2003*

Income Tax Assessment Act 1997, sections 705-93, 705-147, 705-227 and subsection 995-1(1); as amended by *Tax Laws Amendment (2010 Measures No. 1) Act 2010* (No. 56 of 2010), Schedule 5, Part 5

Income Tax (Transitional Provisions) Act 1997, section 701B-1; as amended by *New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002* (No. 117 of 2002)

Taxation determinations

TD 2004/64 – Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* apply to amounts of a liability that accrue after the time that the entity with the liability became a subsidiary member of a consolidated group?

TD 2004/65 – Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* apply where: (a) an entity becomes a member of a consolidated group; (b) the entity owes a liability to another member of the group at that time; and (c) the liability is later discharged?

TD 2004/66 – Income tax: consolidation: capital gains: can section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* only apply if an allocable cost amount is worked out for an entity?

TD 2004/67 – Income tax: consolidation: capital gains: does the determination of a capital gain or loss under section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* require a full reconstruction of the allocable cost amount in relation to the relevant liability?

TD 2004/87 – Income tax: consolidation: can the head company of a transitional group make a capital loss under section 104-500 (CGT event L1) of the *Income Tax Assessment Act 1997* in respect of the assets of a chosen transitional entity?

TR 2007/7 – Income tax: consolidation: errors in tax cost setting amounts of reset cost base assets

Revision history

Section C2-1-410 first published 14 July 2004.

Further revisions are described below.

Date	Amendment	Reason
26.10.05	New references to taxation determinations. Changes to L1 row, capital loss column.	For clarification.
26.6.07	Notes on proposed changes to the treatment of doubtful debts for cost setting purposes and to repeal CGT event L7.	Reflect announcement on 8 May 2007 by Assistant Treasurer in media release no. 50.
6.5.11	CGT event L3: Insertion of note on changes to consolidation rules in relation to the treatment of doubtful debts. CGT event L7: revision including removal of note on proposed changes.	Legislative amendments.