Worked example

Concessional method for utilising transferred losses

Description

This example shows how to apply the concessional method for utilising losses, which is available for certain losses ('concessional losses') transferred to a consolidated group during the transitional period (that is, 1 July 2002 to 30 June 2004). This method replaces the limits on utilisation that would otherwise apply under the available fraction method.

Commentary

Concessional losses can be used by the head company of the group over three years, subject to it having sufficient income or gains against which those losses can be offset (and provided the relevant recoupment tests are satisfied).

Concessional losses are losses that:

- were originally made outside the group by a company (the real loss-maker) for an income year ending on or before 21 September 1999
- are transferred by the real loss-maker to the head company when the group consolidates before 1 July 2004
- are transferred because the continuity of ownership test (COT) and the control test were satisfied, and
- have not been previously transferred to a group.

The concessional method is optional and, if chosen, applies to all eligible losses in a loss bundle.

Example

Facts

A consolidated group forms on 1 July 2002. A $600 net capital loss incurred by a company in the 1998 income year is transferred to the head company because the COT and the control test are satisfied. The head company does not have any other net capital losses.

The group has capital gains in income years as follows:

- $180 in 2003
- $250 in 2004
- $300 in 2005.

The group does not have any capital losses in these income years.

The head company satisfies the recoupment tests for utilisation of the transferred net capital loss in each of these three income years. The head company chooses to use the concessional method to utilise this loss.

Calculation

The transferred net capital loss satisfies the conditions to be a concessional loss. The limits on utilising the loss are calculated below.

2003 income year

The limit on utilisation of the loss is $200, being one-third of the amount of the loss.

$180 of the loss can be utilised in the 2003 income year, being the amount of the group's capital gains for that year.

2004 income year

The limit on utilisation of the concessional loss is $220, being the difference between:

- two-thirds of the loss ($400), and
- the amount of $180 utilised in the 2003 income year.

As the group's capital gains are greater than this limit, the head company can utilise $220 of the loss in the 2004 income year.

2005 income year

The limit on utilisation of the concessional loss is $200, being the difference between:

- the amount of the loss ($600), and
- the amounts utilised in the 2003 income year ($180) and the 2004 income year ($220).

As the group's capital gains are greater than this limit, the head company can utilise the remaining $200 of the loss in the 2005 income year.

References

Income Tax Assessment Act 1997, section 707-120; as amended by *New Business Tax System (Consolidation) Act (No. 1) 2002* (No. 68 of 2002), Schedule 1

Income Tax (Transitional Provisions) Act 1997, Subdivision 707-C; as amended by *New Business Tax System (Consolidation) Act (No. 1) 2002* (No. 68 of 2002), Schedule 2

Explanatory Memorandum to the New Business Tax System (Consolidation) Bill (No. 1) 2002, Chapter 9