Worked example

Amount of CGT event L1 capital loss that can be utilised

Description

As shown in this example, a capital loss made under CGT event L1 is available to be claimed by the head company over five years.

Commentary

The reduction amount calculated under section 705-57[1] is treated as a capital loss, which is referred to as a 'CGT event L1 capital loss'. This capital loss is spread over five income years, starting in the income year in which the entity becomes a subsidiary member of the consolidated group.[2]

Generally, net capital losses are applied in the order they are made (→ section 102-15). The CGT event L1 capital loss forms part of the net capital loss for the year in which the event happens. The ordering rule applies to this net capital loss even though the ability to use that part of the net capital loss attributable to the CGT event L1 capital loss is spread over five years.

Example

Facts

HCo is the head company of a consolidated group.

In the 2005–06 income year, HCo makes the following capital gains and losses:

- capital gains $200,000
- CGT event L1 capital loss $500,000
- other current year capital losses $80,000

In the 2006–07 income year, HCo makes a net capital loss of $100,000.

In the 2007–08 income year, HCo makes capital gains of $240,000.

[1]Under section 705-57, there is a reduction in the tax cost setting amount for the head company of certain assets of an entity joining a consolidated group where the group's membership interests in the entity were previously pre-CGT membership interests.

[2] There are transitional provisions whereby a CGT event L1 capital loss may be claimed in less than five years in certain circumstances.

Calculation

Table 1 shows how HCo works out its net capital gain for the three income years.

Table 1: HCo net capital gain

	2006 ($)	2007 ($)	2008 ($)
(CGT event L1 capital loss: $500,000)			
Capital gains	200,000	Nil	240,000
less Current year group capital loss	80,000	100,000	Nil
less CGT event L1 capital loss	100,000*	–	–
less Prior year net capital losses	–	–	240,000**
Net capital gain for the income year	20,000	–	Nil
Net capital loss for the income year	400,000[t]	100,000	–
Carried forward net capital losses	400,000	100,000 (2007)	60,000 (2007)
		400,000 (2006)	200,000 (2006)

* This is calculated as: 1/5 x 500,000 = 100,000 (subsection 104-500(4)).

** This comprises:

(a) $200,000 of the 2006 net capital loss, attributable to the CGT event L1 capital loss, calculated as:

(3/5 x 500,000) - 100,000 = 200,000 (item 2, subsection 104-500(5)), and

(b) $40,000 of the 2007 net capital loss.

t The remaining $400,000 of the CGT event L1 capital loss forms part of the net capital loss for the 2006 income year. As the group capital loss for this year was fully applied, all of the 2006 net capital loss is attributable to the CGT event L1 capital loss. HC has both a net capital gain and a net capital loss for this income year.

References

Income Tax Assessment Act 1997, sections 104-500, 705-57; as amended by *New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002* (No. 117 of 2002), Schedule 4

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