

Worked example

Apportioning the use of transferred losses

Description As shown in this example, the use of transferred losses is apportioned if the available fraction for a bundle of losses applies for only part of the income year or the available fraction changes during the income year.

Note

For more information about:

- loss bundles and calculating the available fraction → 'Treatment of losses', C3-1; 'Consolidation loss provisions', C3-2-110 (high-level worked example)
- adjustments to available fractions → C3-4-310, C3-4-320, C3-4-330, C3-4-340, C3-4-350, C10-2-310 (worked examples)

Commentary Apportionment applies if:

- losses in a bundle are transferred to the head company by a subsidiary member that is joining the group part-way through the head company's income year, or
- available fractions are adjusted during the year. Adjustments to available fractions are required if additional loss bundles are transferred to the head company at a later transfer time or because there has been a capital injection or a non-arm's length transaction → subsection 707-320(2). In these cases, available fractions have different numerical values for different periods of the income year.

Apportionment where a new loss entity joins a group ensures that a subsidiary's losses are only offset against income generated by the group after the subsidiary became a member of the group.

This apportionment does not apply to losses transferred by a company to itself in its capacity as a head company. → 'Apportioning the use of the head company's own losses', C3-4-620

Apportionment where available fractions have been adjusted during the year ensures that an adjusted available fraction that is less than the previous fraction only applies from the date of the event that initiated the adjustment¹. This allows the group the benefit of the previous higher available fraction for the period of its application.

¹ An adjustment can only result in the same or a reduced fraction.

The apportionment rule in section 707-335 is drafted as a general principle so that if apportionment is required the group cannot use more of its transferred losses than is reasonable having regard to the relevant matters listed.

The relevant matters listed at section 707-335 ensure:

- apportionment is consistent with the available fraction method of determining the use of transferred losses → section 707-310
- the number of days the head company holds the bundle in the income year is taken into account², and
- the number of days the available fraction has a particular value is taken into account.

One approach would be, for each loss bundle, to work out the ‘full-year’ utilisation amount for each relevant available fraction, and then apportion each amount by the relevant ‘number of days’ proportion applicable to the available fraction used.

Another approach would be to work out a single ‘weighted-average’ available fraction for each loss bundle. The weighting would reflect the number of days in the income year that each fraction is relevant. The weighted-average fraction could then be used in applying the available fraction method.

This worked example illustrates each of these approaches.

Example

Facts A consolidated group forms on 1 January 2004, half-way through the head company’s income year. A loss is transferred to the head company (HC) from subsidiary member ACo at the formation time. An available fraction of 0.418 is established for bundle ACo at the initial transfer time.

The group acquires another subsidiary member, BCo, on 1 March 2004. A loss is transferred from BCo to HC at the joining time and the available fraction calculated for the bundle is 0.372. This sequence of events is represented in figures 1 and 2.

² Referred to as the ‘transferee’s loss-holding period’

Figure 1: The group acquires BCo

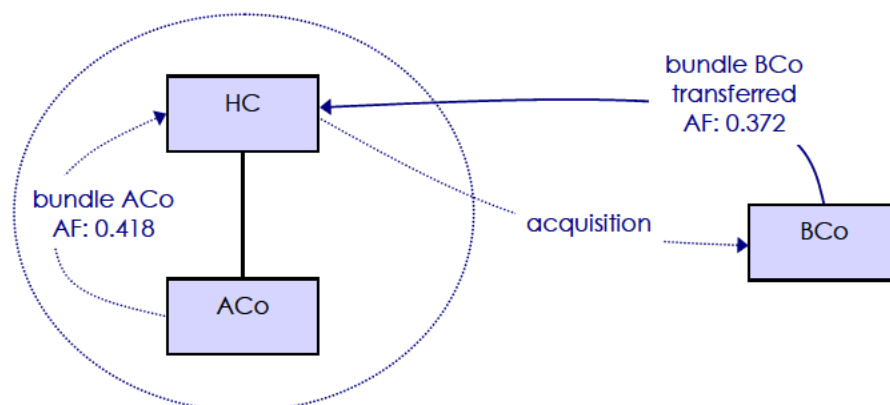
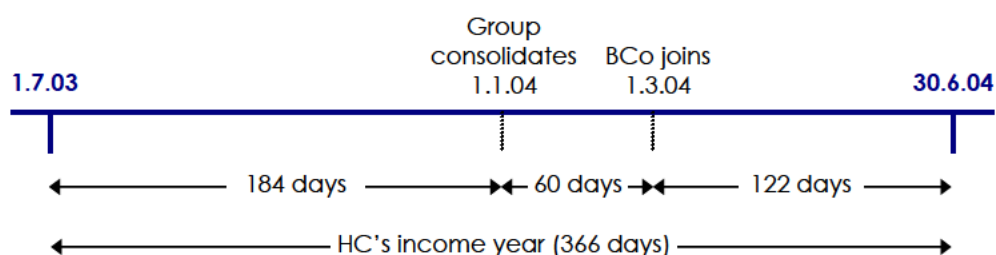


Figure 2: The 2004 income year



HC's transferred losses for the 2004 income year are shown in table 1.

Table 1: Transferred losses

Loss bundle	Unused transferred losses
Bundle ACo	\$350 tax loss (not film)
Bundle BCo	\$200 tax loss (not film)

HC satisfies the recoupment tests for the utilisation of both transferred losses in the 2004 income year.

HC generates \$2,750 of assessable income. Its deductions in relation to that income are \$1,150.

Calculation The group must first adjust the available fraction for bundle ACo as a result of the later transfer of bundle BCo. This is done in accordance with item 3 in the table in subsection 707-320(2).

The available fraction for bundle ACo is multiplied by the item 3 factor:

$$\text{ACo} : 0.418 \times [1 - 0.372] = 0.263$$

Method 1: Apportion the full-year amount

A. Apply the 3-step available fraction method

Step 1 – Work out the categories of group income or gains – subsection 707-310(3)

Table 2: Categories of group income or gains (step 1)

Category of income or gains	Gross amount (\$)	Less: other allowable deductions/reductions (\$)	Less: group/concessional losses of that kind(\$)	Income/ gains available for the bundle (\$)
Other assessable income	2,750	1,150	–	1,600

Step 2 – Calculate the fraction of the income/gains that is attributable to each bundle – subsection 707-310(3)

Table 3: Fraction of income/gains attributable to each bundle (step 2)

Category of income or gains	Loss bundle	Step 1 amount	Multiplied by: available fraction (AF)	Multiplied by: apportionment fraction	AF amount for the bundle
Other assessable income	Bundle ACo	\$1,600	0.418	60/366	\$110
	Bundle BCo	\$1,600	0.263	122/366	\$140
					\$198

} \$250

Step 3(a) – Work out a notional taxable income for bundle ACo – subsection 707-310(2)

Table 4: Taxable income (step 3a)

Assessable income	\$	Deductions/losses	\$
Other assessable income	250	Transferred tax loss	250
Total	250	Total	250

The (notional) taxable income for bundle ACo is \$0 (\$250 – \$250).

\$250 of the loss in bundle ACo can be used by HC when it determines its actual taxable income for the 2004 income year.

Step 3(b) – Work out a notional taxable income for bundle BCo – subsection 707-310(2)

Table 5: Taxable income (step 3b)

Assessable income	\$	Deductions/losses	\$
Other assessable income	198	Transferred tax loss	198
Total	198	Total	198

The (notional) taxable income for bundle BCo is \$0 (\$198 – \$198).

\$198 of the loss in bundle BCo can be used by HC when it determines its actual taxable income for the 2004 income year.

B. Determine group's actual taxable income

Table 6: Taxable income

Assessable income	\$	Deductions/losses	\$
Other assessable income	2,750	Deductions	1,150
		Transferred tax losses (bundle ACo)	250
		Transferred tax losses (bundle BCo)	198
Total	2,750	Total	1,598

The group's taxable income is \$1,152 (\$2,750 – \$1,598).

The loss bundles as at the start of the 2005 income year contain the losses shown in table 7.

Table 7: Losses in loss bundles at start of 2005 income year

Bundle	Loss	Available fraction	Sort
ACo	\$100 (\$350 – \$250)	0.263	Tax loss (not film)
BCo	\$2 (\$200 – \$198)	0.372	Tax loss (not film)

Method 2: Apply a weighted-average available fraction to the bundle

A. Determine the weighted-average fraction for each bundle

Table 8: Weighted-average available fraction for each bundle

Loss bundle	Available fraction (AF)	Multiplied by: apportionment fraction	Apportioned AF	Sum: weighted-average AF
Bundle ACo	0.418	60/366	0.069	0.157
	0.263	122/366	0.088	
Bundle BCo	0.372	122/366	0.124	0.124

B. Apply the 3-step available fraction method using the weighted-average AF

Step 1 – Work out the categories of group income or gains – subsection 707-310(3)

Table 9: Categories of group income or gains (step 1)

Category of income or gains	Gross amount (\$)	Less: other allowable deductions/reductions (\$)	Less: group/concessional losses of that kind(\$)	Income/ gains available for the bundle (\$)
Other assessable income	2,750	1,150	–	1,600

Step 2 – Calculate the fraction of the income/gains that is attributable to each bundle – subsection 707-310(3)

Table 10 Fraction of income/gains attributable to each bundle (step 2)

Category of income or gains	Loss bundle	Step 1 amount	Multiplied by: weighted-average AF	AF amount for the bundle
Other assessable income	Bundle ACo	\$1,600	0.157	\$251
	Bundle BCo	\$1,600	0.124	\$198

Step 3(a) – Work out a notional taxable income for bundle ACo – subsection 707-310(2)

Table 11: Taxable income (step 3a)

Assessable income	\$	Deductions/losses	\$
Other assessable income	251	Transferred tax loss	251
Total	251	Total	251

The (notional) taxable income for bundle ACo is \$0 (\$251 – \$251).

\$251 of the loss in bundle ACo can be used by HC when it determines its actual taxable income for the 2004 income year.

Step 3(b) – Work out a notional taxable income for bundle BCo – subsection 707-310(2)

Table 12: Taxable income (step 3b)

Assessable income	\$	Deductions/losses	\$
Other assessable income	198	Transferred tax loss	198
Total	198	Total	198

The (notional) taxable income for bundle BCo is \$0 (\$198 – \$198).

\$198 of the loss in bundle BCo can be used by HC when it determines its actual taxable income for the 2004 income year.

C. Determine group's actual taxable income

Table 13: Taxable income

Assessable income	\$	Deductions/losses	\$
Other assessable income	2,750	Deductions	1,150
		Transferred tax losses (bundle ACo)	251
		Transferred tax losses (bundle BCo)	198
Total	2,750	Total	1,599

The group's taxable income is \$1,151 (\$2,750 – \$1,599).

The loss bundles as at the start of the 2005 income year contain the losses shown in table 14.

Table 14: Losses in loss bundles at start of 2005 income year

Bundle	Loss	Available fraction	Sort
ACo	\$99 (\$350 – \$251)	0.263	Tax loss (not film)
BCo	\$2 (\$200 – \$198)	0.372	Tax loss (not film)

References

Income Tax Assessment Act 1997 – as amended by *New Business Tax System (Consolidation) Act (No. 1) 2002* (No. 68 of 2002), Schedule 1:

- section 707-310
- subsection 707-320(2)
- section 707-335

Explanatory Memorandum to the New Business Tax System (Consolidation) Bill (No. 1) 2002, Chapter 8