Worked example

Apportioning the use of the head company's own losses

Description

A head company's use of its own prior year losses, transferred to itself on formation of the consolidated group, is unrestricted in relation to the pre-formation period. Its use of these losses for the post-formation period is subject to the available fraction applicable to those losses.

This example shows how to apportion the utilisation of such prior year losses where a consolidated group forms part-way through the head company's 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)
- apportioning the use of transferred losses → C3-4-610 (worked example)

Commentary

On formation of a consolidated group, losses made by the head company in its capacity as a single entity may be transferred to itself in its capacity as the head company of the group → subsection 707-120(1). An available fraction is calculated for the bundle containing those losses, which is used to limit their annual rate of use by the group.

In determining the utilisation of the head company's own prior year transferred losses, when the head company joins part-way through the income year, the apportionment rule in paragraph 707-335(3)(e) ensures that:

- the available fraction calculated on formation only applies to group income and gains attributable to the post-formation period, and
- the head company's use of its own prior year transferred losses is unrestricted in respect of income or gains attributable to the pre-formation period.

The number of days in the pre-formation period is relevant in determining this apportionment. Apportioning the head company's use of its own losses in this way also better matches the treatment of subsidiary members who are able to use their own losses without restriction for their non-membership period prior to joining.

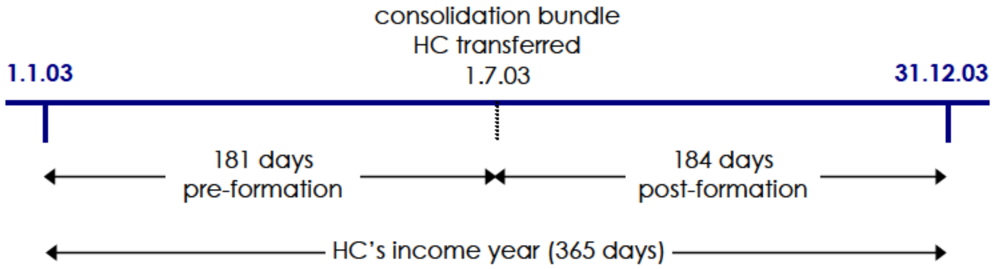
The apportionment rule in paragraph 707-335(3)(e) is drafted so that the head company can use its own losses in respect of the pre-formation period as though the losses had been in a bundle from the start of the income year and an available fraction of 1 had applied to that bundle up until the time of transfer.

Example

Facts

A head company (HC) has a substituted accounting period (income year) ending on 31 December. It forms a consolidated group on 1 July 2003, part-way through its income year. A prior year tax loss of $6,000 is transferred to HC from itself at the formation time. The loss is transferred in bundle HC. An available fraction of 0.126 is established for bundle HC at the initial transfer time.

Figure 1: Formation year



HC's transferred loss for the 2003 income year is shown in table 1.

Table 1: HC transferred losses

Loss bundle	Unused transferred losses
Bundle HCo	$6,000 tax loss (not film)

The head company satisfies the recoupment tests for utilisation of the transferred loss in the 2003 income year.

The head company generates $26,275 of assessable income. Its deductions in relation to that income are $15,678.

Calculation

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	26,275	15,678	–	10,597

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 HC	$10,597	1.000	181/365	$5,255
		$10,597	0.126	184/365	$673

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

Table 4: Taxable income (step 3)

Assessable income	$	Deductions/losses	$
Other assessable income	5,928	Transferred tax loss	5,928
Total	**5,928**	**Total**	**5,928**

The (notional) taxable income for bundle HC is $0 ($5,928 – $5,928).

$5,928 of the loss in bundle HC can be used by HC when it determines its actual taxable income for the 2003 income year.

B. Determine group's actual taxable income

Table 5: Taxable income

Assessable income	$	Deductions/losses	$
Other assessable income	26,275	Deductions	15,678
		Transferred tax losses (bundle HC)	5,928
Total	**26,275**	**Total**	**21,606**

The group's taxable income is $4,669 ($26,275 – $21,606).

Bundle HC as at the start of the 2004 income year contains the unrecouped loss shown in table 6.

Table 6: Unrecouped loss in bundle HC at start of 2004 income year

Bundle	Loss	Available fraction	Sort
HC	$72 ($6,000 – $5,928)	0.126	Tax loss (not film)

References

Income Tax Assessment Act 1997, sections 707-310, 707-335; as amended by *New Business Tax System (Consolidation) Act (No.1) 2002* (No. 68 of 2002), Schedule 1

Income Tax Assessment Act 1997, paragraph 707-335(3)(e); as amended by *New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002* (No. 117 of 2002), Schedule 6

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