

Worked example

Modified membership rules for consolidated groups that include a life insurance company

Description Under consolidation, the ‘one in, all in’ rule means that all eligible wholly-owned subsidiaries must be included in a consolidated group. This example shows an exception to that rule, in certain circumstances, when a life insurance company becomes a member of a consolidated group.

Commentary Subdivision 713-L of the *Income Tax Assessment Act 1997* (ITAA 1997) modifies the ‘one in, all in’ rule to ensure that the special rules in Division 320, regarding the segregation of assets, apply appropriately to the head company of a consolidated group that includes a life insurance company. This preserves the mechanism used to determine income (including capital gains) that should be taxed at 15% or that should be exempt from tax.

Entities that are precluded from being subsidiary members of a consolidated group are listed in table 1.

Table 1: Entities precluded from being members of a consolidated group

Entity	Section excluded under	Reason
A wholly-owned company or unit trust where some but not all of the membership interests are complying superannuation/FHSA assets	Section 713-510	The income derived from the complying superannuation/FHSA asset pool is subject to tax at 15%
A wholly-owned company or unit trust where some but not all of the membership interests are segregated exempt assets	Section 713-510	The income derived from segregated exempt assets is exempt from tax

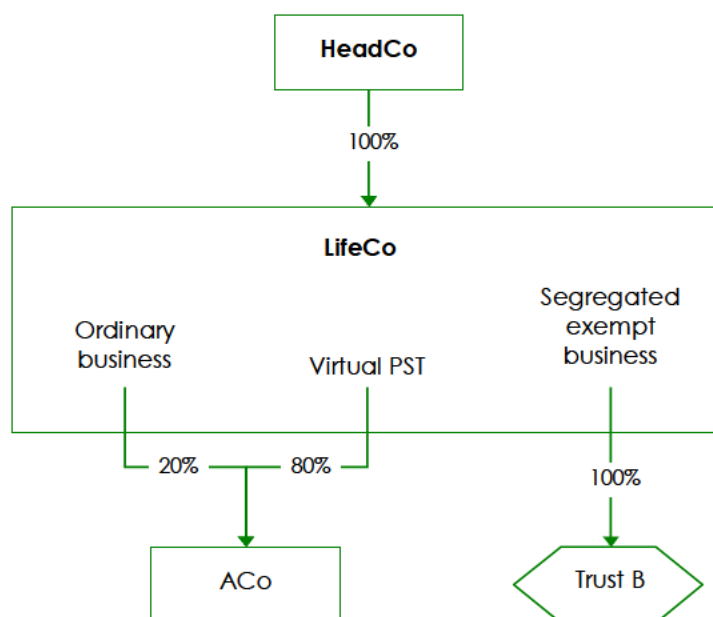
Example

Facts HeadCo beneficially owns 100% of the membership interests in LifeCo, both ordinary Australian-resident companies. LifeCo beneficially owns 100% of the membership interests in ACo (an ordinary Australian-resident company) and trust B (an Australian-resident fixed trust).

LifeCo holds 80% of the membership interests in ACo as complying superannuation/first home saver account (FHSA) assets and holds the remaining 20% of the membership interests as ordinary assets. All of its membership interests in trust B are segregated exempt assets.

Figure 1 shows the pre-consolidation group structure.

Figure 1: Group structure before consolidation



Eligibility **If HeadCo chooses to consolidate, which entities will be eligible to be members of the consolidated group?**

Under the modified membership rules in subsection 713-510(1) for consolidated groups that include a life insurance company, the following entities will be subsidiary members of the consolidated group:

- LifeCo, which is 100% beneficially owned by HeadCo, and
- Trust B, which is 100% beneficially owned by LifeCo and whose membership interests are segregated exempt assets.

ACo will be precluded from becoming a member of the consolidated group as the membership interests held by LifeCo are a mixture of complying superannuation/FHSA and ordinary assets.

References *Income Tax Assessment Act 1997*, Division 320; as amended by *First Home Saver Accounts (Consequential Amendment) Act 2008*

Income Tax Assessment Act 1997, Subdivision 713-L; as amended by:

- *New Business Tax System (Consolidation and Other Measures) Act (No. 2) 2002*, Schedule 6, Part 1
- *First Home Saver Accounts (Consequential Amendment) Act 2008*

Explanatory Memorandum to the New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002, Chapter 1

Revision history

Section C9-6-510 first published 28 May 2003. Further revisions are described below.

Date	Amendment	Reason
6.5.11	Removal of notes on proposed changes to consolidation rules. References to virtual PST and virtual PST assets replaced.	Enactment of <i>First Home Saver Accounts (Consequential Amendment) Act 2008</i>