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 virtual PST assets	Section 713-510	The income derived from the virtual PST 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

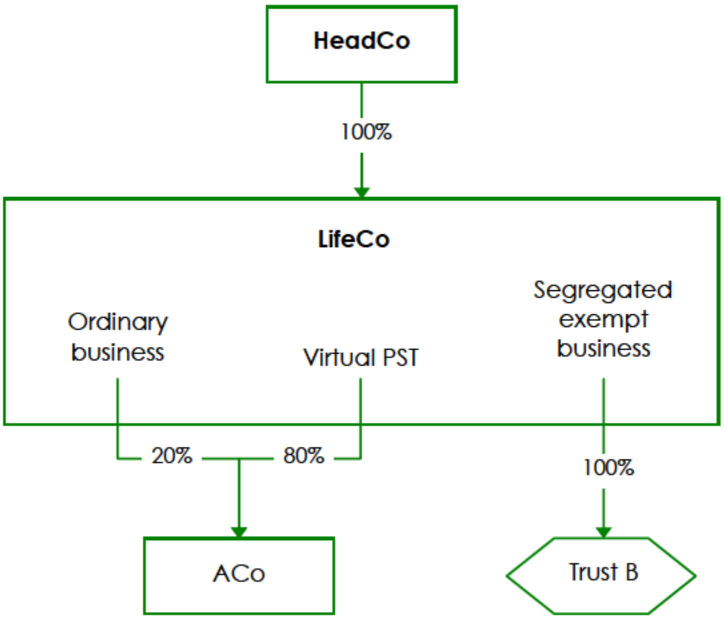
Facts

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 virtual PST 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 virtual PST and ordinary assets.

References

Income Tax Assessment Act 1997, Division 320

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

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