

Worked example

## Modified membership rules for a joining life insurance company's wholly-owned subsidiary held indirectly through one or more interposed entities

**Description** The 'one in, all in' rule, which provides that all eligible wholly-owned subsidiaries are included in a consolidated group, is modified in certain circumstances where the subsidiary is a life insurance company. This example shows how these modifications extend to a wholly-owned subsidiary of a joining life insurance company where the membership interests in the subsidiary are held indirectly through one or more interposed entities.

**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.

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

Entity	Section excluded under	Reason
A wholly-owned company or unit trust where membership interests are held indirectly through one or more interposed entities by the life insurance company and some but not all of the key interests* are <b>virtual PST assets</b>	Section 713-510	The income derived from the virtual PST is subject to tax at 15%
A wholly-owned company or unit trust where membership interests are held indirectly through one or more interposed entities by the life insurance company and some but not all of the key interests* are <b>segregated exempt assets</b>	Section 713-510	The income derived from segregated exempt assets is exempt from tax

\*The key interests are the membership interests the life insurance company owns directly in the entity or an interposed entity.

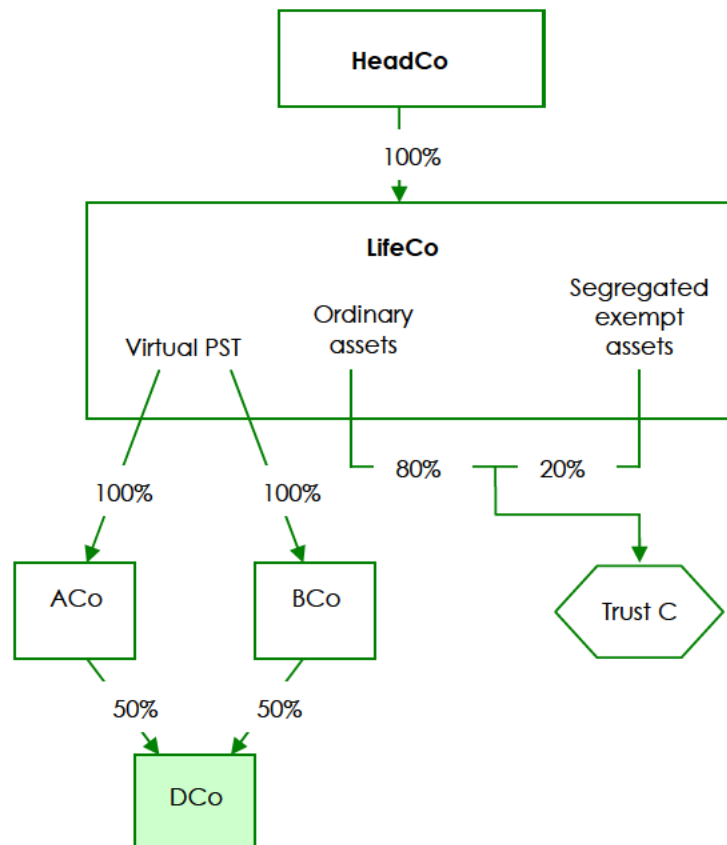
## Example

**Facts** HeadCo beneficially owns 100% of the membership interests in LifeCo, both Australian-resident companies. LifeCo beneficially owns 100% of the membership interests in ACo and BCo (both Australian-resident companies) and trust C (an Australian-resident unit trust). All of the membership interests in DCo (an Australian-resident company) are held indirectly by LifeCo through two interposed entities (i.e. ACo and BCo).

LifeCo holds all of its membership interests in ACo and BCo as virtual PST assets. LifeCo holds 80% of its membership interests in trust C as ordinary assets and holds the remaining 20% as segregated exempt assets.

Figure 1 shows the pre-consolidation group structure.

**Figure 1: Group structure before consolidation**



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## 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:

- ACo and BCo, which are 100% beneficially owned by LifeCo and whose membership interests are virtual PST assets
- DCo, which is 100% beneficially owned by LifeCo through two interposed entities (i.e. ACo and BCo) in which all the key interests are virtual PST assets of LifeCo, and
- Life Co.

Trust C will be precluded from becoming a member of the consolidated group as the membership interests held by LifeCo are a mixture of ordinary and segregated exempt assets.

## References *Income Tax Assessment Act 1997*, Division 320

*Income Tax Assessment Act 1997*, Subdivision 713-L; as amended by *Tax Laws Amendment (2004 measures No.7) Act 2004*, Schedule 6, Part 5

Explanatory Memorandum to Tax Laws Amendment (2004 measures No.7) Bill 2004, Chapter 6

### Revision history

Section C9-6-512 first published 16 December 2005.

### Proposed changes to consolidation

Proposed changes to consolidation announced by the Government are not incorporated into the *Consolidation reference manual* until they become law. In the interim, information about such changes can be viewed at:

- <http://assistant.treasurer.gov.au> (Assistant Treasurer's press releases)
- [www.treasury.gov.au](http://www.treasury.gov.au) (Treasury papers on refinements to the consolidation regime).