

## Worked example

## Eligibility for resident entities where there is an interposed foreign resident entity

**Description** This example shows how wholly-owned Australian-resident subsidiaries of eligible tier-1 companies can be members of a multiple entry consolidated (MEC) group even when a foreign-resident entity is interposed between such subsidiaries and the eligible tier-1 companies (or their wholly-owned subsidiaries).

Note that this is not the same as entities interposed between the top company and eligible tier-1 companies.

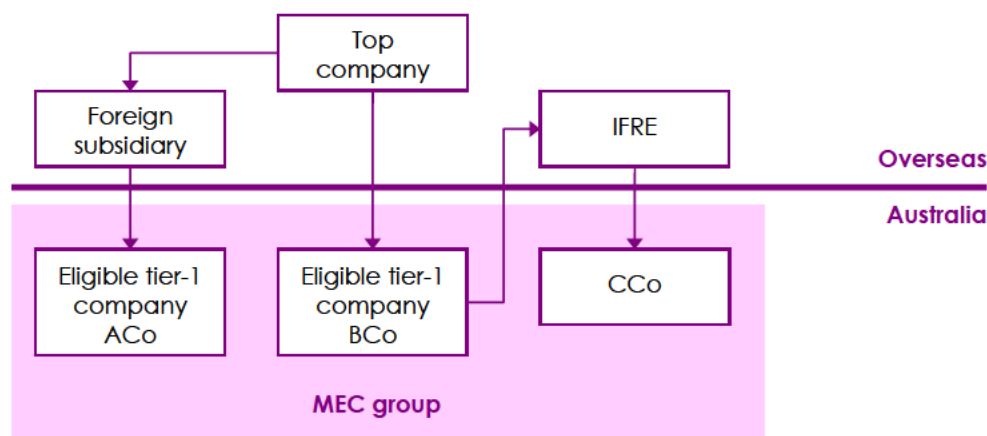
**Commentary** In addition to the general rules, a wholly-owned Australian-resident subsidiary of an eligible tier-1 company can be a member of a MEC group if it is an eligible resident company that follows an interposed foreign-resident entity (IFRE) or entities.

There are restrictions to resident trusts and partnerships being members of a MEC group under the IFRE tests. A resident trust or partnership and any of its subsidiaries cannot become members of a MEC group where they immediately follow the IFRE.

### Example 1 Eligible company

An IFRE is interposed between eligible tier-1 company BCo and its wholly-owned subsidiary company CCo. As CCo follows the IFRE as the first Australian-resident entity, it can be a member of the MEC group under the interposed foreign-resident entity tests. All the membership interests in the IFRE must be held by eligible tier-1 companies and their wholly-owned subsidiaries – that is, in this example, by either ACo or BCo or both.

**Figure 1: Eligible company**



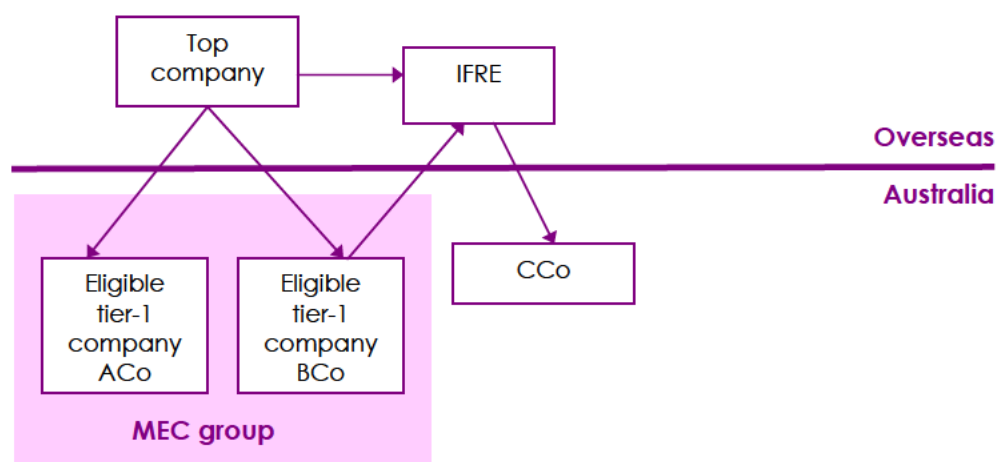
Note: Top company interests in IFRE would disqualify CCo from membership.

## Example 2 Ineligible company

The IFRE must be a wholly-owned subsidiary of one or more eligible tier-1 companies to allow a resident company that follows the IFRE to be a member of the MEC group.

CCo cannot be a member of the MEC group because some of the membership interests in the IFRE are held by an entity other than the eligible tier-1 company – that is, the top company.

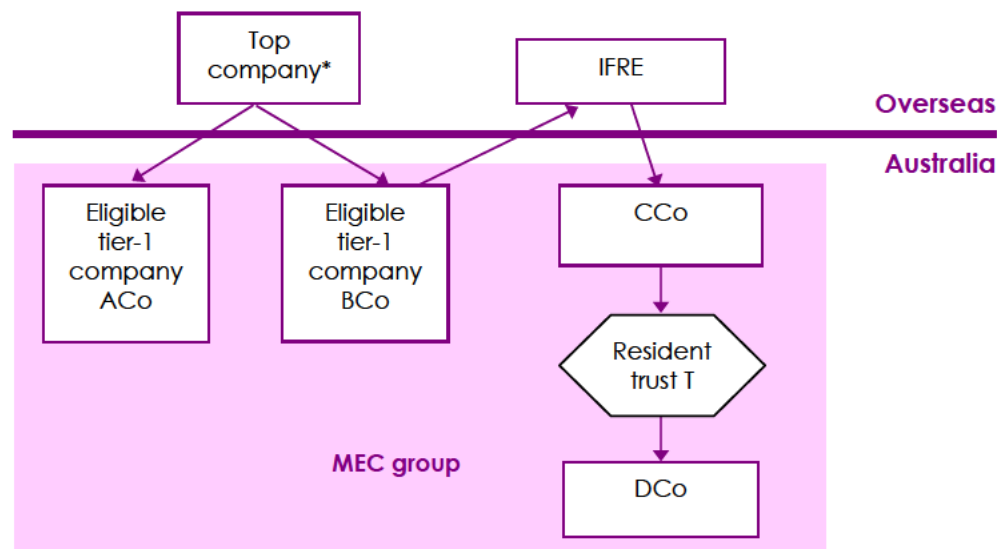
Figure 2: Ineligible company



## Example 3 Eligible trust

Resident trust T is a wholly-owned subsidiary of company CCo, which is a member of the MEC group under the interposed foreign resident entity test. Therefore, trust T and its subsidiary company DCo can be included as members of the MEC group.

Figure 3: Eligible trust

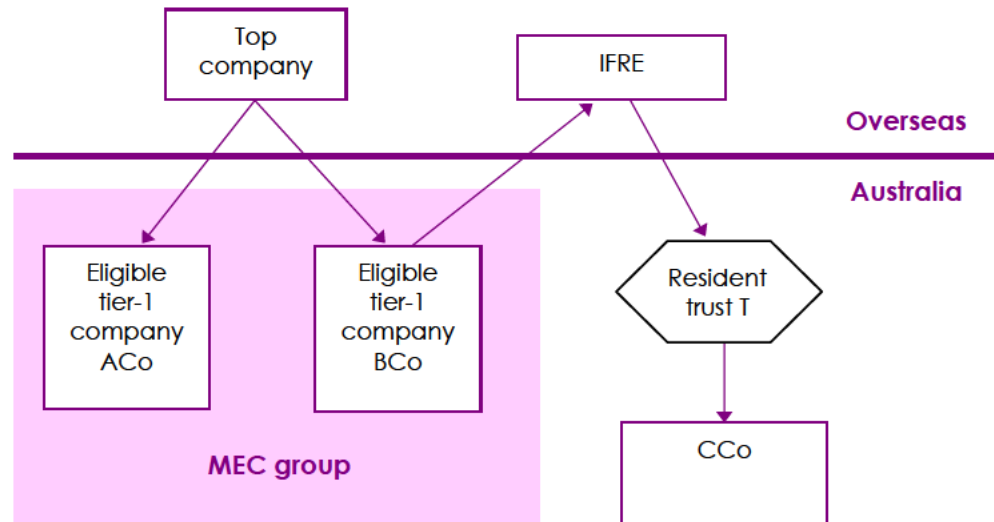


\* Top company interests in IFRE would disqualify CCo and its subsidiaries from membership.

#### Example 4 Ineligible trust

Resident trust T cannot become a member of a MEC group as it is the first entity after the IFRE. Nor can CCo, which is a subsidiary of T, be a member.

Figure 4: Ineligible trust



**References** *Income Tax Assessment Act 1997*, section 719-10; as amended by *New Business Tax System (Consolidation) Act (No. 1) 2002* (No. 68 of 2002), Schedule 1

Explanatory Memorandum to the New Business Tax System (Consolidation) Bill (No. 1) 2002, chapter 4, paragraphs 4.47–4.52