



Taxation Determination

Income tax: consolidation: life insurance: do sections 705-75 and 705-80 of the *Income Tax Assessment Act 1997* apply to a policy liability that has been valued under section 713-520 for the purposes of working out step 2 of the allocable cost amount, for a joining entity that is a life insurance company?

Preamble

*The number, subject heading, date of effect and paragraph 1 of this document are a 'public ruling' for the purposes of Part IVA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner.*

1. No. For the purposes of working out step 2 of the allocable cost amount (ACA) for a life insurance company, sections 705-75 and 705-80 of the *Income Tax Assessment Act 1997* (ITAA 1997) do not apply to a policy that has been valued under section 713-520.
2. The step 2 amount of the ACA is worked out under subsection 705-70(1) of the ITAA 1997 by:

...adding up the amounts of each thing (an **accounting liability**) that, in accordance with accounting standards, or statements of accounting concepts made by the Australian Accounting Standards Board, is a liability of the joining entity at the joining time that can or must be recognised in the entity's statement of financial position.

A note to subsection 705-70(1) states that '[c]ertain liabilities of a life insurance company are worked out under Subdivision 713-L: see section 713-520'.

3. Sections 705-75 and 705-80 of the ITAA 1997 adjust the accounting liability as worked out under subsection 705-70(1) in certain circumstances. For example, subsection 705-75(1) reduces the accounting liability under subsection 705-70(1) 'if some or all of an **accounting liability** will result in a deduction to the head company' [emphasis added]. Subsection 705-80(1) may apply to further adjust the amount to be added under subsection 705-70(1) for the accounting liability if:

- (a) for income tax purposes, an **accounting liability**, or a change in the amount of an accounting liability ... is taken into account at a later time than is the case in accordance with accounting standards or statements of accounting concepts made by the Australian Accounting Standards Board;...[emphasis added].

4. The specific provisions dealing with policy liabilities of life insurance companies in subsection 713-520(1) of the ITAA 1997 provide that:

Despite section 705-70, if the joining entity mentioned in step 2 is a life insurance company, the joining entity's liabilities mentioned in this section are to be valued as mentioned in this section.

5. When read with the note to subsection 705-70(1) of the ITAA 1997 (see paragraph 2), it is clear that section 713-520 overrides section 705-70 in respect of the policy liabilities of a life insurance company. Subsections 713-520(2) to (6) prescribe the value to be used for step 2 purposes in respect of these liabilities and replace the amount of the accounting liability that would otherwise be added at step 2 under subsection 705-70(1).

6. This view is supported by the Explanatory Memorandum to the New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002 (the EM). For example, at paragraph 1.8 (see table) the EM indicates that new section 713-520 of the ITAA 1997 will specify the basis of valuing certain life insurance policy liabilities for the purposes of working out the ACA and that, in the absence of the new provision, life insurance policy liabilities would have been valued on an accounting basis. (The values prescribed in section 713-520 are consistent with the basis used in Division 320 of the ITAA 1997).

7. Sections 705-75 and 705-80 of the ITAA 1997 apply to adjust an amount of an accounting liability in subsection 705-70(1) that, in accordance with accounting standards, or statements of accounting concepts made by the Australian Accounting Standards Board, is a liability of the joining entity at the joining time that can or must be recognised in the entity's statement of financial position.

8. In respect of the policy liabilities of a life insurance company, the amount of the accounting liability has been replaced with the value of those liabilities as prescribed by section 713-520 of the ITAA 1997. This value is not an amount of an accounting liability that is recognised for accounting purposes in the entity's statement of financial position. Accordingly, sections 705-75 and 705-80 have no application to step 2 policy liabilities of a life insurance company.

Date of Effect

9. This Determination applies to years commencing both before and after its date of issue. However, it does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Commissioner of Taxation

18 May 2005

Previous draft:
TD 2004/D57

- consolidation
- consolidation – liabilities
- life insurance company

Related Rulings/Determinations:
TR 92/20

Legislative references:

- TAA 1953 Pt IVA
- ITAA 1997 Div 320
- ITAA 1997 705-70
- ITAA 1997 705-70(1)
- ITAA 1997 705-75

Subject references:
- calculation of the allocable cost amount

- ITAA 1997 705-75(1)
- ITAA 1997 705-80
- ITAA 1997 705-80(1)
- ITAA 1997 Subdiv 713-L
- ITAA 1997 713-520
- ITAA 1997 713-520(1)
- ITAA 1997 713-520(2)
- ITAA 1997 713-520(3)
- ITAA 1997 713-520(4)

- ITAA 1997 713-520(5)
- ITAA 1997 713-520(6)

Other references:

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

ATO references

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