TD 2000/D23 - Income tax: can the amount of a company's preliminary unrealised net loss in step 4 of section 165-115E of Subdivision 165-CC of the Income Tax Assessment Act 1997 be determined using a market valuation of the company's CGT assets en globo?

This document has been Withdrawn.
There is a Withdrawal notice for this document.

Draft Taxation Determination

Income tax: can the amount of a company's preliminary unrealised net loss in *step 4* of section 165-115E of Subdivision 165-CC of the *Income Tax Assessment Act 1997* be determined using a market valuation of the company's CGT assets *en globo*?

Preamble

Draft Taxation Rulings (DTRs) represent the preliminary, though considered, views of the Australian Taxation Office. DTRs may not be relied on by taxation officers, taxpayers and practitioners. It is only final Taxation Rulings that represent authoritative statements by the Australian Taxation Office of its stance on the particular matters covered in the Ruling.

1. Yes. In accordance with subsection 165-115F(7) of the *Income Tax Assessment Act 1997* the Commissioner advises that the amount of a company's preliminary unrealised net loss in *step 4* of section 165-115E can be determined using a market valuation of the company's CGT assets *en globo* provided that:

(a) a generally accepted valuation methodology is used to determine the market value (e.g., a discounted cash flow analysis); and
(b) the amount of the company's preliminary unrealised net loss (if any) for the purposes of *step 4* of section 165-115E is calculated as outlined in paragraph 2 of this Taxation Determination.

2. If an *en globo* market valuation is used, the amount of the company's preliminary unrealised net loss (if any) is the excess of 'A' over 'B' where:

- 'A' is the sum of the individual CGT asset amounts (taking the higher or highest amount if more than one) that would be subtracted from their market values in calculating 'gains' (e.g., notional revenue gains or notional capital gains in terms of section 165-115F) on a notional disposal of the assets at the changeover time; and

- 'B' is the amount of market valuation of the company's assets *en globo.*

3. The requirement to have regard to the higher or highest amount that could be subtracted from market value could be relevant, for example, in relation to a revenue asset where the amount for revenue purposes may differ from its cost base for CGT purposes.

4. The requirement to use amounts in relation to calculating 'gains' will mean that the preliminary net unrealised loss calculated under the *en globo* approach could not be less than would be determined on an asset by asset basis as required under the legislation (sections 165-115E and 165-115F). That is, in approximating the actual preliminary net unrealised loss (which would be based on individual asset valuations), a preliminary net unrealised loss calculated using the *en globo* valuation would err on the side of understating gains and overstating losses.

5. If the *en globo* approach is used, it must be used for all the CGT assets of the company. Selective individual asset valuations are not permitted. As a result, the following provisions do not apply if an *en globo* approach is used: subsection 165-115A(1B) (company may choose to disregard CGT assets acquired for less than $10,000) and sections 165-115E and 165-115F (other than *steps 4* and *5* of section 165-115E and subsection 165-115F(7)). However, if individual asset data is available in respect of assets at more than one changeover time, then this can be used to prevent double counting under subsection 165-115A(3).

Example

6. XYZ Co has assets at a changeover time with the following tax value information.

Non-trading assets (held on capital account)	
Total Cost Bases	$600,000
Total Reduced Cost Bases	$300,000
Trading stock – various items	
Total Division 70 values	$100,000

The *en globo* market valuation of the company's CGT assets is $640,000 using a generally accepted valuation methodology (e.g., a discounted cash flow method). Using this amount, the company would have a preliminary net unrealised loss of $60,000 [$700,000 less $640,000].

Note:
The company may of course calculate unrealised losses and gains in the usual way (on an asset by asset basis).

Your comments

7. We invite you to comment on this Draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

Comments by date:	**12 January 2000**
Contact officer:	**Glenn Davies**
E-mail address:	**glenn.davies@ato.gov.au**
Telephone:	**(07) 3213 5327**
Facsimile:	**(02) 3213 5971**
Address:	**Glenn Davies** **PO Box 10422, Adelaide Street Post Office,** **BRISBANE QLD 4000**

OR

Contact officer: **Robin Roach**
E-mail address: **robin.roach@ato.gov.au**
Telephone: **(02) 9374 8320**
Facsimile: **(02) 93748362**
Address: **Robin Roach**
GPO Box 9990
Sydney NSW 2001

Commissioner of Taxation
20 December 2000

Previous draft:

Not previously issued in draft form.

Subject references:

- *En globo* asset valuation
- market valuation
- preliminary unrealised net loss
- unrealised net loss
- valuation

Legislative references:

- ITAA 1997 165-115A(1B)
- ITAA 1997 165-115A(3)
- ITAA 1997 165-115E
- ITAA 1997 165-115F
- ITAA 1997 165-115F(7)

ATO references:
NO T2000/020985
BO
ISSN: 1038-8982