TD 2004/D21 - Income tax: consolidation: capital gains: does the single entity rule in section 701-1 of the Income Tax Assessment Act 1997 mean that section 124-784 does not apply to the consolidated group in relation to shares issued by a subsidiary member to the head company under a scrip for scrip arrangement?

This cover sheet is provided for information only. It does not form part of *TD 2004/D21 - Income tax: consolidation: capital gains: does the single entity rule in section 701-1 of the Income Tax Assessment Act 1997 mean that section 124-784 does not apply to the consolidated group in relation to shares issued by a subsidiary member to the head company under a scrip for scrip arrangement?*

This document has been finalised by TD 2004/51.

Draft Taxation Determination

Income tax: consolidation: capital gains: does the single entity rule in section 701-1 of the *Income Tax Assessment Act 1997* mean that section 124-784 does not apply to the consolidated group in relation to shares issued by a subsidiary member to the head company under a scrip for scrip arrangement?

Preamble

This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxpayers and practitioners as it is not a ruling for the purposes of Part IVAAA of the ***Taxation Administration Act 1953****. It is only final Taxation Determinations that represent authoritative statements by the Australian Taxation Office.*

1. Yes. Section 124-784 of the *Income Tax Assessment Act 1997* (ITAA 1997) sets a cost base for intra-group assets or debt as a result of an intra-group dealing and is inconsistent with the operation of the single entity rule in section 701-1 of the ITAA 1997.

2. Section 124-784 of the ITAA 1997 ordinarily allocates cost base to equity issued or new debt owed by an acquiring company to the ultimate head company of the group as part of an arrangement involving a downstream acquisition of another company if there is a common or significant stakeholder for the arrangement.

Date of Effect

3. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Your comments

4. We invite you to comment on this draft Taxation Determination. Please forward your comments to the contact officer by the due date.

Due date: **30 July 2004**

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Commissioner of Taxation
30 June 2004

Previous draft:

Not previously issued in draft form

Related Rulings/Determinations:

TR 92/20

Subject references:

- capital gains
- CGT exemptions
- consolidation
- consolidation – capital gains tax
- head company
- scrip-for-scrip rollover
- single entity rule

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1997 124-784
- ITAA 1997 701-1

ATO references
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