TD 2004/D28 - Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the Income Tax Assessment Act 1997 only apply to a liability that an entity has when it joins a consolidated group and the entity has an allocable cost amount worked out for it?

This cover sheet is provided for information only. It does not form part of *TD 2004/D28 - Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the Income Tax Assessment Act 1997 only apply to a liability that an entity has when it joins a consolidated group and the entity has an allocable cost amount worked out for it?*

This document has been finalised by TD 2004/66.

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Draft Taxation Determination

Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* only apply to a liability that an entity has when it joins a consolidated group and the entity has an allocable cost amount worked out for it?

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.

2. Under section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* (ITAA 1997), if a liability taken into account in working out the allocable cost amount (ACA) for an entity that joins a consolidated group is later discharged for a different amount (realised amount), the head company may make a capital gain or loss. A capital gain will arise if the ACA would have been smaller had the realised amount been taken into account in working out the ACA. Alternatively, a capital loss will arise if the ACA would have been greater had the realised amount been taken into account in working out the ACA.

3. Under paragraph 104-530(3)(a) of the ITAA 1997, one of the conditions that must be satisfied in order for CGT event L7 to happen is that a liability of an entity that became a subsidiary member of the group was taken into account in working out the ACA for the subsidiary member under Division 705 of the ITAA 1997. If an ACA is not worked out for an entity that joins a consolidated group (for example, because it is a chosen transitional entity), CGT event L7 will not apply to the later discharge of a liability that the entity had at its joining time.

Date of Effect

4. 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

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

Due date: **13 August 2004**

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Commissioner of Taxation
14 July 2004

Previous draft:
Not previously issued in draft form

Related Rulings/Determinations:
TR 92/20

Subject references:
- accounting liabilities
- CGT event
- CGT event L7
- consolidation
- consolidation – capital gains tax
- consolidation - liabilities
- discharge of liabilities

Legislative references:
- TAA 1953 Pt IVAAA
- ITAA 1997 104-530
- ITAA 1997 104-530(3)(a)
- ITAA 1997 Div 705

ATO references
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