


TD 2004/D51 - Income tax: consolidation: when calculating step 2 of the allocable cost amount for a joining entity, do section 705-75 or 705-80 of the Income Tax Assessment Act 1997 apply to a liability covered by subsection 705-70(2)?

 This cover sheet is provided for information only. It does not form part of *TD 2004/D51 - Income tax: consolidation: when calculating step 2 of the allocable cost amount for a joining entity, do section 705-75 or 705-80 of the Income Tax Assessment Act 1997 apply to a liability covered by subsection 705-70(2)?*

This document has been finalised by TD 2004/72.



Draft Taxation Determination

Income tax: consolidation: when calculating step 2 of the allocable cost amount for a joining entity, do section 705-75 or 705-80 of the *Income Tax Assessment Act 1997* apply to a liability covered by subsection 705-70(2)?

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 IVA of the **Taxation Administration Act 1953**. It is only final Taxation Determinations that represent authoritative statements by the Australian Taxation Office.*

1. No. When calculating step 2 of the allocable cost amount (ACA) of a joining entity (section 705-60 of the *Income Tax Assessment Act 1997* (ITAA 1997)), neither section 705-75 nor 705-80 of the ITAA 1997 apply to a liability covered by subsection 705-70(2) of the ITAA 1997.

Explanation

2. For the purposes of determining the amount to be included at step 2 of the ACA calculation, subsection 705-70(1) of the ITAA 1997 adds together the amounts of all the accounting liabilities¹ of the joining entity at the joining time that can or must be recognised in the entity's statement of financial position. Subsection 705-70(2) of the ITAA 1997 qualifies this by providing that no amount is to be added for an accounting liability that arises because of a joining entity's ownership of an asset if, on disposal of the asset, the accounting liability will transfer to the new owner.

3. Sections 705-75 and 705-80 of the ITAA 1997 adjust the amounts of accounting liabilities that are added at subsection 705-70(1) of the ITAA 1997 in working out the step 2 amount in the ACA calculation. They operate by changing the amount of the accounting liability that would otherwise have been added in working out the step 2 amount under subsection 705-70(1). Sections 705-75 and 705-80 do not, of themselves, bring into account at step 2 any accounting liability that would not otherwise have been included under subsection 705-70(1).

¹ Subsection 705-70(1) explains the term 'accounting liability' for step 2.

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4. As the amount of an accounting liability covered by subsection 705-70(2) of the ITAA 1997 is not added in working out the step 2 amount under subsection 705-70(1) of the ITAA 1997, the liability cannot be subject to an adjustment under section 705-75 or 705-80 of the ITAA 1997.

Date of Effect

5. 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

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

Due date: 1 October 2004
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Commissioner of Taxation

1 September 2004

Previous draft:

Not previously issued in draft form

Related Rulings/Determinations:

TR 92/20

Subject references:

- consolidation - joining
 - consolidation - tax liabilities

- joining entity
 - tax cost setting rules

Legislative references:

- ITAA 1997 705-60
 - ITAA 1997 705-70(1)
 - ITAA 1997 705-70(2)
 - ITAA 1997 705-75
 - ITAA 1997 705-80
 - TAA 1953 Pt IVA

ATO references

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