TD 2004/D81 - Income tax: consolidation: will a choice to consolidate under Part 3-90 of the Income Tax Assessment Act 1997 affect the method of income recognition of the consolidated group?

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This document has been finalised by TD 2005/3.

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Draft Taxation Determination

Income tax: consolidation: will a choice to consolidate under Part 3-90 of the *Income Tax Assessment Act 1997* affect the method of income recognition of the consolidated group?

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. No. In most cases a choice to consolidate under Part 3-90 of the *Income Tax Assessment Act 1997* (ITAA 1997) will have no effect on the appropriate basis of income recognition of the consolidated group for income tax purposes.

Explanation

2. The choice of a method of income recognition directly affects the process of working out the amount of income tax liability or losses and so falls within the core purposes in subsections 701-1(2) and (3) of the ITAA 1997. The single entity rule therefore applies for the purpose of making the choice.

3. Under the single entity rule, the head company of a consolidated group is the only entity in the consolidated group for income tax purposes. The subsidiary members are taken to be parts of the head company for these purposes.

4. The head company of a consolidated group may conduct a range of business activities. Like any other taxpayer, the head company must apply the method of income recognition for each business activity that gives a 'substantially correct reflex of the taxpayer's true income' (*CT v. Executor Trustee and Agency Co of South Australia Limited* (1938) 63 CLR 108).

5. In most cases, the mere fact of consolidation will not affect the choice of the method of income recognition for business activities carried on by a consolidated group, because the business activities carried out within the group will remain the same even though the effect of the single entity rule is that the members of the group are considered to be one entity for income tax purposes.

6. In practice, it is expected that when the head company evaluates the business activities after consolidation, the same accrual accounting method will apply as before consolidation.

7. In a limited number of cases, the effect of the single entity rule may be to alter the evaluation of the business activities to the extent that the method of income recognition may need to change, for example, where the effect of the single entity rule in disregarding intra-group dealings requires that such a change is made.

Date of Effect

8. 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

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

Due date: **14 January 2005**

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Commissioner of Taxation
8 December 2004

Previous draft:

Not previously issued in draft form

Related Rulings/Determinations:

TR 92/20

Subject references:

- cash-accruals
- consolidation
- income recognition
- single entity rule

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1997 Pt 3-90
- ITAA 1997 701-1(2)
- ITAA 1997 701-1(3)

Case references:

- CT v. Executor Trustee and Agency Co of South Australia Limited (1938) 63 CLR 108

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