


TD 2004/D62 - Income tax: consolidation: can an amount be included in the step 1 amount as well as the step 2 amount of the allocable cost amount calculation in section 705-60 of the Income Tax Assessment Act 1997 ?

 This cover sheet is provided for information only. It does not form part of *TD 2004/D62 - Income tax: consolidation: can an amount be included in the step 1 amount as well as the step 2 amount of the allocable cost amount calculation in section 705-60 of the Income Tax Assessment Act 1997 ?*

This document has been finalised by TD 2004/74.



Draft Taxation Determination

Income tax: consolidation: can an amount be included in the step 1 amount as well as the step 2 amount of the allocable cost amount calculation in section 705-60 of the *Income Tax Assessment Act 1997*?

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. Where an amount is included in step 1, the amount cannot also be added in step 2 of the allocable cost amount (ACA) calculation in section 705-60 of the *Income Tax Assessment Act 1997* (ITAA 1997).

Explanation

2. The fundamental object of the cost setting rules in Subdivision 705-A is to recognise the head company's cost of becoming the holder of the assets of a joining entity as an amount reflecting the group's cost of acquiring the entity. That amount, the ACA, consists of the cost of the group's membership interests in the joining entity, increased by the liabilities of the joining entity and adjusted to take account of any retained profits, distributions of profits, deductions and losses of the joining entity.

3. Subsection 705-10(3) of the ITAA 1997 explains that the reason for recognising the cost in this way is to align the costs of assets with the costs of membership interests and to allow the preservation of this alignment until the joining entity leaves the group.

4. Section 705-60 of the ITAA 1997 sets out the steps in working out the joined group's ACA for a joining entity. Step 1 in this process, as set out in section 705-60, is to start with the costs of the membership interests in a joining entity that are held by members of the group joined. Step 2 is then to 'Add to the result of step 1 the step 2 amount worked out under section 705-70, which is about the value of the joining entity's liabilities'.

5. If an amount were to be taken into account as both a cost of membership interest in step 1 and as a liability of the joining entity in step 2, the costs of the joining entities assets would not reflect the cost of acquiring the entity in accordance with the object in subsection 705-10(2) of the ITAA 1997.

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6. The steps contained in section 705-60 for working out the ACA are the mechanism for enabling the objects of the cost setting rules to be achieved. They should therefore be given an interpretation which is consistent with those objects.

7. In this context the word 'add' at step 2 of section 705-60 of the ITAA 1997 should be interpreted as meaning that an amount cannot be 'added' at step 2 if it has already been included at step 1.

8. This is supported by the ordinary meaning of the word 'add' which means the joining of one amount to another amount for the purpose of finding their combined value. (See the Australian Oxford Dictionary.)

Date of Effect

9. 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

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

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Commissioner of Taxation

15 September 2004

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| <i>Previous draft:</i> Not previously issued in draft form <i>Related Rulings/Determinations:</i> TR 92/20; TR 2004/D2 <i>Legislative references:</i> - ITAA 1997 Subdiv 705-A | - ITAA 1997 705-10(2) - ITAA 1997 705-10(3) - ITAA 1997 705-60 - TAA 1953 Pt IVAAA <i>Other references:</i> - Australian Oxford Dictionary |
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ATO references

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