# *TD 2004/D74 - Income tax: consolidation: can the head company of a consolidated group claim a deduction, following Taxation Ruling IT 333, for a consumable's tax cost setting amount when the consumable is used, where:(a) an entity acquired the consumable before it became a subsidiary member of the consolidated group (the joining time); and (b) at the joining time, some of the consumable remained on-hand and its expenditure had not been fully deducted?*

# Draft Taxation Determination

## Income tax: consolidation: can the head company of a consolidated group claim a deduction, following Taxation Ruling IT 333, for a consumable's tax cost setting amount when the consumable is used, where:

(a) an entity acquired the consumable before it became a subsidiary member of the consolidated group (the joining time); and

(b) at the joining time, some of the consumable remained on-hand and its expenditure had not been fully deducted?

***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. A deduction would be available to the head company of a consolidated group for a consumable's tax cost setting amount at the time the consumable is used by the consolidated group. The deduction is allowed at this time following the practice set out in Taxation Ruling IT 333.

**Explanation**

2. The income tax treatment of assets commonly referred to as 'consumables' is not expressly provided for by the *Income Tax Assessment Act 1997* (ITAA 1997) nor the *Income Tax Assessment Act 1936* (ITAA 1936). Consumables are things that are destroyed or cease to exist as soon as they are used, such as fuel. They are not depreciating assets as defined in subsection 40-30(1) of the ITAA 1997. They are also distinguished from trading stock which includes raw materials and other assets, such as parts, that are incorporated into a final product.

3. IT 333 provides that a deduction for expenditure incurred on a consumable is allowable on either an incurred basis or a usage basis, depending upon the circumstances. The ruling provides that where a taxpayer is building up a store or stockpile of consumables in excess of normal requirements, deductions for the expenditure incurred on the consumables may be claimed only as the consumables are used up ('the usage basis').

4. A consumable acquired by an entity before it became a subsidiary member of a consolidated group that is still on hand at the joining time becomes an asset of the head company at the joining time. Subsection 701-10(4) of the ITAA 1997 provides that its tax cost is set at its tax cost setting amount at that time.

5. It is the consumable's tax cost setting amount which is used for calculating the amount of the deduction allowable to the head company when it uses the consumable. Where the consumable is stockpiled and is then later used the head company is entitled to a deduction for the consumable's tax cost setting amount.

6. A consumable is a CGT asset. Under subsection 701-10(4) and subsection 701-55(5) of the ITAA 1997 its cost base and reduced cost base are increased or reduced at the time the entity becomes a subsidiary member of the group so that it equals the consumable's tax cost setting amount.

7. When the consumable is used up CGT event C1 in section 104-20 of the ITAA 1997 happens to the head company. Under subsections 110-55(4) and 110-55(5) of the ITAA 1997 the consumable's reduced cost base is reduced to nil because of the head company's entitlement to a deduction, at that time, for the consumable's tax cost setting amount.

**Example**

8. *Sub Co is a wholly-owned subsidiary of Head Co.*

9. *On 21 June 2003, Sub Co acquires fuel for $50,000 and stockpiles it for use in its business. Following IT 333 this expenditure is deductible on a usage basis.*

10. *Head Co and Sub Co choose to consolidate with effect from 1 July 2003 but Head Co does not apply the transitional provisions to Sub Co. Head Co therefore resets the tax cost of Sub Co's assets under the tax cost setting rules.*

11. *The fuel remains stockpiled on 30 June 2003 therefore Sub Co was not entitled to deduct the fuel's cost when completing its 2002–03 income tax return. Sub Co's terminating value for the asset is $50,000 and its market value at that time is $60,000.*

12. *Head Co works out a tax cost setting amount for the fuel of $58,000. The fuel is stockpiled for Head Co's use. All of the fuel is used up in the 2003–04 income year.*

13. *Head Co is taken to have acquired the fuel on 21 June 2003 and to hold it on 1 July 2003. For deductibility purposes, the cost of the fuel is its tax cost setting amount of $58,000.*

14. *When Head Co uses the fuel for deductible purposes it will be entitled to claim a deduction of $58,000. As all the fuel is used up in the 2003–04 income year, Head Co is entitled to claim a deduction of $58,000 in that year.*

15. *For the purposes of the capital gains tax provisions, the fuel's cost base or reduced cost base is taken to be $58,000 on 1 July 2003. When the fuel is used up, CGT event C1 happens. However, the reduced cost base must reflect the extent of the deduction allowable. As the reduced cost base becomes nil, there is no capital loss incurred by Head Co.*

### Date of Effect

16. 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

17. 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** |
| **Contact officer:** | **Paul Corrie** |
| **E-mail address:** | **paul.corrie@ato.gov.au** |
| **Telephone:** | **(08) 9268 5926** |
| **Facsimile:** | **(08) 9268 5616** |
| **Address:** | **GPO Box 9990<br>Perth WA 6001** |

**Commissioner of Taxation**
8 December 2004

*Previous draft:*
Not previously issued in draft form

*Related Rulings/Determinations:*
IT 333; TR 92/20

*Subject references:*
- allowable deductions
- capital gains tax
- capital loss
- CGT asset
- consumables
- inherited history rules
- joining entity
- joining time
- reduced cost base
- reset cost base assets
- tax cost is set
- tax cost setting amount

*Legislative references:*
- TAA 1953 Pt IVAAA
- ITAA 1936
- ITAA 1997 40-30(1)
- ITAA 1997 104-20
- ITAA 1997 110-55(4)
- ITAA 1997 110-55(5)
- ITAA 1997 701-10(4)
- ITAA 1997 701-55(5)

*Other references:*
- Consolidation reference manual at C9-5-340

ATO references
NO: 2004/10514
ISSN: 1038-8982