


TD 2004/D79 - Income tax: consolidation: does the phrase 'could be recognised in the joining entity's statement of financial position' in subsection 705-90(2) of Income Tax Assessment Act 1997 refer to the application of accounting policies consistent with the established accounting framework in preparing an entity's notional statement of financial position as at the joining time?

 This cover sheet is provided for information only. It does not form part of *TD 2004/D79 - Income tax: consolidation: does the phrase 'could be recognised in the joining entity's statement of financial position' in subsection 705-90(2) of Income Tax Assessment Act 1997 refer to the application of accounting policies consistent with the established accounting framework in preparing an entity's notional statement of financial position as at the joining time?*

This document has been finalised by TD 2005/19.



Draft Taxation Determination

Income tax: consolidation: does the phrase ‘could be recognised in the joining entity’s statement of financial position’ in subsection 705-90(2) of *Income Tax Assessment Act 1997* refer to the application of accounting policies consistent with the established accounting framework in preparing an entity’s notional statement of financial position as at the joining time?

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. The phrase ‘could be recognised in the joining entity’s statement of financial position’ refers to the relevant choices of accounting policies in working out the undistributed profits of the joining entity within the established accounting framework that includes accounting standards, statements of accounting concepts and other authoritative pronouncements of the Australian Accounting Standards Board (AASB) in preparing an entity’s notional statement of financial position.
2. This interpretation is consistent with the interpretation of the phrase ‘can or must be recognised in an entity’s statement of financial position’ as used in subsection 705-70(1) of the *Income Tax Assessment Act* (the ITAA 1997).

Explanation

3. Subsection 705-90(2) provides:

First work out the undistributed profits of the joining entity at the joining time. These are the amounts that, in accordance with *accounting standards, or statements of accounting concepts made by the Australian Accounting Standards Board, are retained profits of the joining entity that could be recognised in the joining entity’s statement of financial position if that statement were prepared as at the joining time.

4. Subsection 705-90(2) requires the determination of the undistributed profits of the joining entity at the joining time for the purposes of step 3 of the allocable cost amount (ACA) calculation. The meaning of the word 'could' in the phrase 'could be recognised in the joining entity's statement of financial position' is not defined in the income tax legislation. However, taking the ordinary meaning of the word, it refers to a potential event or situation.¹ 'Could' is also taken to mean the past tense of the word 'can'.²

5. In the context of subsection 705-90(2) the phrase 'could be recognised' is interpreted to mean the same as the phrase 'can or must be recognised' as used in subsection 705-70(1) for reporting and non-reporting entities. Paragraph 19 of TR 2004/14 provides that the phrase 'can or must be recognised' refers to:

...relevant choice of accounting policies applied to accounting standards, statements of accounting concepts and other authoritative pronouncements of the AASB in preparing an entity's notional statement of financial position. Application of the accounting framework to the recognition and measurement of accounting liabilities will, in certain circumstances, allow joining entities a choice of recognising and measuring some liabilities. In those circumstances certain liabilities 'can' be recognised and measured at the joining time, but need not be recognised and measured at that time. However, all other liabilities 'must' be recognised and measured in accordance with applicable accounting standards, statements of accounting concepts and other authoritative pronouncements.

6. The relevant choices of accounting policies applied under the established accounting framework enables the joining entity to determine the undistributed profits.

7. However, the use of the word 'could' in subsection 705-90(2) is not to be interpreted as if the joining entity has additional choices in applying and adopting different accounting policies in determining the undistributed profit amount which are not provided for under the accounting framework.

8. The explanation section of TR 2004/14 provides further guidance about the established accounting framework applied in Australia in the context of recognising and measuring liabilities for step 2 of the ACA process. That explanation is applicable to subsection 705-90(2) with respect to the key phrases identified above that are common to both subsections 705-70(1) and 705-90(2). The phrases 'in accordance with accounting standards, or statements of accounting concepts made by the Australian Accounting Standards Board', 'recognised in the joining entity's statement of financial position' and 'at the joining time', are common to subsections 705-70(1) and 705-90(2).

9. In the context of subsection 705-90(2), paragraphs 8 to 15 of TR 2004/14 provides guidance as to the meaning of 'in accordance with accounting standards, or statements of accounting concepts made by the Australian Accounting Standards Board'. Paragraphs 19 and 20 of TR 2004/14 provide interpretative guidance as to the meaning of the phrase 'be recognised in the entity's statement of financial position'. This discussion is equally applicable in interpreting the phrase 'be recognised in the joining entity's statement of financial position if that statements were prepared as at the joining time' in subsection 705-90(2).

Date of Effect

10. 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).

¹ The Macquarie Dictionary, 1997, 3rd edition, The Macquarie Library Pty Ltd, NSW.

² The Macquarie Dictionary, 1997, 3rd edition, The Macquarie Library Pty Ltd, NSW.

Your comments

11. 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

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Previous draft:

Not previously issued in draft form

Related Rulings/Determinations:

TR 92/20; TR 2004/14

Subject references:

- ACA
- accounting framework
- accounting standards
- allocable cost amount
- can or must
- consolidation

- could be recognised
- notional statement of financial position
- step 3
- undistributed profits

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1997 705-70(1)
- ITAA 1997 705-90(2)

Other references:

- The Macquarie Dictionary

ATO references

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