


***TD 2005/D39 - Income tax: consolidation:
membership: when does a MEC group come into
existence where a valid choice to form a MEC group
is made under section 719-50 of the Income Tax
Assessment Act 1997?***

 This cover sheet is provided for information only. It does not form part of *TD 2005/D39 - Income tax: consolidation: membership: when does a MEC group come into existence where a valid choice to form a MEC group is made under section 719-50 of the Income Tax Assessment Act 1997?*

This document has been finalised by TD 2006/26.



Draft Taxation Determination

Income tax: consolidation: membership: when does a MEC group come into existence where a valid choice to form a MEC group is made under section 719-50 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. The MEC (multiple entry consolidated) group will come into existence from the beginning of the day specified in the choice where a potential MEC group derived from two or more eligible tier-1 (ET-1) companies of a top company is in existence at the start of that day. The MEC group will comprise those ET-1 companies that jointly made the choice to consolidate and their wholly-owned subsidiaries (if any).
2. Section 719-50 of the *Income Tax Assessment Act 1997* (ITAA 1997) provides that two or more ET-1 companies of a top company can make a choice to consolidate a potential MEC group derived from a combination of those ET-1 companies, so long as none of those ET-1 companies is already a member of a MEC group or consolidated group. The potential MEC group that is to be consolidated must be in existence at the start of the day specified in the notice, and that day must be after 30 June 2002.
3. A choice under section 719-50 of the ITAA 1997 is taken to have started to have effect on the day specified in the choice: section 719-55 of the ITAA 1997. A MEC group will come into existence on that day: subsection 719-5(1) of the ITAA 1997.

Example

4. A Co, B Co and C Co are Australian resident companies wholly owned by TC, a foreign resident top company, and qualify as ET-1 companies. TC has owned all the membership interests in each of the ET-1 companies since 1 January 2000.

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5. *For the purposes of section 719-50 of the ITAA 1997, any of four MEC groups may be formed from the three ET-1 companies:*

- *A Co, B Co and C Co;*
- *A Co and B Co;*
- *A Co and C Co; and*
- *B Co and C Co.*

6. *As A Co, B Co and C Co are a potential MEC group at the start of 1 July 2003, they can jointly make the choice under section 719-50 of the ITAA 1997 specifying that day as the date they wish to form a MEC group.*

7. *A choice made under section 719-50 of the ITAA 1997 is taken to have effect from the beginning of the day specified in the notice, that is, 1 July 2003. If A Co is chosen to be the provisional head company, B Co and C Co will be subsidiary members of the MEC group: see sections 719-25, 719-65 and 719-75 of the ITAA 1997.*

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.

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Commissioner of Taxation
12 October 2005

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 92/20

Subject references:

- choice to consolidate
- eligible tier-1 companies
- MEC group
- potential MEC group

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1997 719-5(1)
- ITAA 1997 719-25
- ITAA 1997 719-50
- ITAA 1997 719-55
- ITAA 1997 719-65
- ITAA 1997 719-75

ATO references

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