TD 2004/66 - Income tax: consolidation: capital gains: can section 104-530 (CGT event L7) of the Income Tax Assessment Act 1997 only apply if an allocable cost amount is worked out for an entity?

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Taxation Determination

Income tax: consolidation: capital gains: can section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* only apply if an allocable cost amount is worked out for an entity?

Preamble

The number, subject heading, date of effect and paragraphs 1 to 3 of this document are a 'public ruling' for the purposes of Part IVAAA of the ***Taxation Administration Act 1953*** *and are legally binding on the Commissioner.*

1. Yes.

2. Under section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* (ITAA 1997), if the amount of a liability taken into account in working out the allocable cost amount (ACA) for an entity that becomes a subsidiary member of a consolidated group is later discharged for a different amount ('the realised amount'), the head company may make a capital gain or loss. A capital gain will arise if the ACA would have been smaller had the realised amount been taken into account in working out the ACA. Alternatively, a capital loss will arise if the ACA would have been greater had the realised amount been taken into account in working out the ACA.

3. One of the conditions for CGT event L7 to apply is that a liability of an entity that becomes a subsidiary member of a consolidated group must have been taken into account in working out the ACA for the subsidiary member under Division 705 of the ITAA 1997 (see paragraph 104-530(3)(a) of the ITAA 1997). If an ACA is not worked out for an entity that becomes a subsidiary member of a consolidated group (for example, because it is a chosen transitional entity), CGT event L7 cannot apply to the later discharge of a liability that the entity had when it became a subsidiary member of the group.

Date of Effect

4. This Determination applies to years commencing both before and after its date of issue. However, it does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Commissioner of Taxation
3 November 2004

Previous draft:
TD 2004/D28

Related Rulings/Determinations:
TR 92/20

Subject references:
- accounting liabilities
- CGT event
- CGT event L7
- consolidation
- consolidation – capital gains tax
- consolidation - liabilities
- discharge of liabilities

Legislative references:
- TAA 1953 Pt IVAAA
- ITAA 1997 104-530
- ITAA 1997 104-530(3)(a)
- ITAA 1997 Div 705

ATO references
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