TD 2006/21 - Income tax: consolidation: imputation: which entity in a MEC group is responsible for meeting obligations imposed by Part 3-6 (the imputation provisions) of the Income Tax Assessment Act 1997 in relation to a frankable distribution made to members outside the group by an eligible tier-1 company in the group that is not the provisional head company?

This cover sheet is provided for information only. It does not form part of *TD 2006/21 - Income tax: consolidation: imputation: which entity in a MEC group is responsible for meeting obligations imposed by Part 3-6 (the imputation provisions) of the Income Tax Assessment Act 1997 in relation to a frankable distribution made to members outside the group by an eligible tier-1 company in the group that is not the provisional head company?*

Taxation Determination

Income tax: consolidation: imputation: which entity in a MEC group is responsible for meeting obligations imposed by Part 3-6 (the imputation provisions) of the *Income Tax Assessment Act 1997* in relation to a frankable distribution made to members outside the group by an eligible tier-1 company in the group that is not the provisional head company?

This Ruling provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*. A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes. If you rely on this ruling, we must apply the law to you in the way set out in the ruling (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

Ruling

1. The provisional head company is responsible for meeting the obligations on and from the day specified in the choice made under section 719-50 of the *Income Tax Assessment Act 1997* (ITAA 1997) to consolidate the MEC (multiple entry consolidated) group. Therefore, the provisional head company will be required to provide a distribution statement under section 202-75 of the ITAA 1997 in relation to each frankable distribution made by an eligible tier-1 (ET-1) company in the group on or after the day specified in the choice. The distribution statement must be given to the recipient(s) of the distribution.

Example

2. *A Co, B Co and C Co, each of whom are Australian resident companies, are wholly-owned subsidiaries of Top Co.*

3. *A Co, B Co and C Co are all members of a potential MEC group. A Co, B Co and C Co, being the eligible tier-1 companies of that group, jointly choose to form a MEC group. A Co is nominated as the provisional head company.*

4. *If either B Co or C Co make a frankable distribution, subsection 719-435(1) of the ITAA 1997 would apply so that the imputation provisions will operate as if A Co, the provisional head company, had made the frankable distributions to the members of B Co and C Co as if they were members of A Co.*

5. *Whilst A Co remains the provisional head company of the MEC group it will be required to provide distribution statements in relation to any frankable distributions made by B Co or C Co. The distribution statements would be provided to the recipients of the distributions.*

Date of effect

6. 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.

Commissioner of Taxation
12 April 2006

Appendix 1 – Explanation

This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.

Explanation

7. Subsection 719-435(1) of the ITAA 1997 provides that where an ET-1 company member of a MEC group, other than the provisional head company, makes a frankable distribution to its members, Part 3-6 of the ITAA 1997 applies as if the provisional head company of the MEC group had made the distribution to one of its members.

8. That is, subsection 719-435(1) of the ITAA 1997:

- treats the recipients of the frankable distribution (that is, the members of the ET-1 company that actually made the distribution) as if they were members of the provisional head company; and
- ensures that the imputation provisions operate as if the provisional head company had made the distribution to them.

9. If two or more ET-1 companies of a top company make a choice to consolidate a potential MEC group under section 719-50 of the ITAA 1997 that choice starts to have effect on the day specified in the choice: section 719-55 of the ITAA 1997. Accordingly, the MEC group will come into existence on that day: subsection 719-5(1) of the ITAA 1997.

10. Consequently, from the day specified in the choice, subsection 719-435(1) of the ITAA 1997 will treat any frankable distribution made by an ET-1 company, other than the provisional head company, as having been made by the provisional head company. Therefore, from that day, the provisional head company of the MEC group will be responsible for imputation obligations arising in relation to frankable distributions made by the ET-1 company members of the group.

References

Previous draft:

TD 2005/D43

Subject references:

- choice to form
- consolidation – multiple entry consolidated group
- consolidation – franking
- eligible tier-1 company
- employee share holding
- foreign holding company
- non-share equity interest
- provisional head company
- potential MEC group
- subsidiary member of a MEC group
- top company
- transitional foreign-held indirect subsidiaries
- transitional foreign-held subsidiaries

Legislative references:

- TAA 1953
- ITAA 1997 Pt 3-6
- ITAA 1997 202-75
- ITAA 1997 719-5(1)
- ITAA 1997 719-50
- ITAA 1997 719-55
- ITAA 1997 719-435(1)

ATO references

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