


***TD 2006/26 - 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 2006/26 - 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 ?*



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## Taxation Determination

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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 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 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).

### Example

2. *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.*

3. *For the purposes of section 719-50 of the Income Tax Assessment Act 1997 (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.*

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4. *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.*

5. *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**

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.

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**Commissioner of Taxation**

12 April 2006

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## **Appendix 1 – Explanation**

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**ⓘ** *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. Section 719-50 of the 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.

8. 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.

## References

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*Previous draft:*

TD 2005/D39

*Subject references:*

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

*Legislative references:*

- TAA 1953
  - 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
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ATO references

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