Worked example

Amount of losses that can be utilised – transferred tax losses utilised before group tax losses

Description

This example shows:

- how to determine the limits for utilisation of losses transferred to a head company, and
- in a situation where there are both group tax losses and transferred tax losses, how these losses are applied in calculating a group's actual taxable income.

Note

For more information about:

- loss bundles and calculating the available fraction → 'Treatment of losses', C3-1; 'Consolidation loss provisions', C3-2-110 (high-level worked example)

Commentary

The available fraction for a loss bundle is applied to each category of group income or gains as reduced by any relevant deductions, including group losses (that is, losses generated by the consolidated group as opposed to transferred losses). The results are taken to be the head company's only income or gains of each type. Based on that assumption, the head company works out the maximum amount of losses of each sort it can use from the loss bundle.

In working out the group's taxable income, the 'earliest losses first' rule (→ subsection 36-15(5), *Income Tax Assessment Act 1997*) applies if there is a choice between using transferred tax losses and group tax losses.

Note

'Transferred tax losses'

This worked example refers to transferred tax losses whose utilisation is subject to the available fraction method. Transferred losses utilised under the concessional method in section 707-350 of the *Income Tax (Transitional Provisions) Act 1997* must be utilised each income year only after utilisation of group losses of the same sort.

Example

Facts

A group consolidates on 1 July 2002 and is working out its taxable income for the 2005 income year.

The group's income for the 2005 income year is shown in table 1.

Table 1: Group income 2005

Income	Amount ($)	
Capital gains	1,300	(current year capital losses of $200)
Other assessable income	2,000	(deductions of $1,700)

The group's losses (group losses) are shown in table 2.

Table 2: Group losses

Sort	Amount ($)	Year incurred
Net capital loss	100	2003
Tax loss (not film)	1,500	2004

The group's remaining transferred loss (in a loss bundle with an available fraction of 0.300) is a transferred tax loss (not film) of $250, which was transferred to the head company when the group consolidated in the 2003 income year.

The transferred tax loss is to be utilised using the available fraction method.

The head company satisfies the recoupment tests for utilisation of the transferred tax loss.

Calculation

A. Determine limit for utilisation of transferred tax loss

Step 1: Work out the categories of group income or gains – subsection 707-310(3)

Table 3: Categories of group income or gains (step 1)

Column 1 Income or gains	Gross amount ($)	*Less:* allowable deductions / reductions ($)	*Less:* group / concessional losses of that kind ($)	Column 2 Income / gains available for bundle ($)
Capital gains	1,300	200	100	1,000
Other assessable income	2,000	1,700	300	nil

Although the group tax loss is $1,500, only $300 needs to be deducted as this reduces the other assessable income category to nil.

Step 2: Calculate the fraction of the income/gains that is attributable to the bundle – subsection 707-310(3)

Table 4: Fraction of income/gains attributable to each bundle (step 2)

Column 1 Income or gains	Column 2 Income / gains available for bundle	Multiplied by: available fraction (AF)	AF amount for the bundle
Capital gains	$1,000	0.300	$300
Other assessable income	$0	0.300	$0

Step 3: Work out a notional taxable income for the bundle – subsection 707-310(2)

Table 5: Net capital gain (step 3)

Capital gains	$	Losses applied	$
Capital gain	300	Transferred net capital losses	0
Total	**300**	**Total**	**0**

The notional net capital gain is $300 ($300 – nil).

Table 6: Taxable income (step 3)

Assessable income	$	Deductions	$
Net capital gain	300	Transferred tax loss (not film)	250
Other assessable income	0		
Total	**300**	**Total**	**250**

The notional taxable income is $50 ($300 – $250).

Transferred losses ‘used’ in working out the notional taxable income for the bundle are:

- transferred tax loss (not film) $250

This is the limit for utilisation of this transferred tax loss when determining the actual taxable income for the group.

B. Determine group's actual taxable income

Table 7: Net capital gain

Capital gains	$	Losses applied	$
Capital gains	1,300	Current year net capital losses	200
		Group net capital loss	100
Total	**1,300**	**Total**	**300**

The group's net capital gain is $1,000 ($1,300 – $300)

Table 8: Taxable income

Assessable income	$	Deductions	$
Net capital gain	1,000	Deductions	1,700
Other assessable income	2,000	Transferred tax loss (not film)	250
		Group tax loss (not film)	1,050
Total	**3,000**	**Total**	**3,000**

As the transferred tax loss is treated as having been incurred in the 2003 income year, it is fully deducted before deducting any of the group tax loss incurred in the 2004 income year. There is no specific consolidation provision to override the 'earliest losses first' rule in this situation.

References

Income Tax Assessment Act 1997, subsection 36-15(5)

Income Tax Assessment Act 1997, section 707-310; as amended by *New Business Tax System (Consolidation) Act (No.1) 2002* (No. 68 of 2002), Schedule 1

Explanatory Memorandum to the New Business Tax System (Consolidation) Bill (No. 1) 2002, Chapter 8