

TD 2004/65 - Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the Income Tax Assessment Act 1997 apply where:(a) an entity becomes a member of a consolidated group; (b) the entity owes a liability to another member of the group at that time; and (c) the liability is later discharged?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *22 June 2011*



Taxation Determination

Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* apply where:

- (a) an entity becomes a member of a consolidated group;
- (b) the entity owes a liability to another member of the group at that time; and
- (c) the liability is later discharged?

Preamble

*The number, subject heading, date of effect and paragraphs 1 to 4 of this document are a 'public ruling' for the purposes of Part IVA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner.*

[Note: *This is a consolidated version of this document. Refer to the ATO Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]*

1. No. Section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* (ITAA 1997) does not apply to the discharge of a liability that one member of a consolidated group owed, when it became a member of the group, to another member of that group (that is, an intra-group liability).
2. Under CGT event L7, if the amount of a liability taken into account in working out the allocable cost amount (ACA) for an entity that becomes a member of a consolidated group is later discharged for a different amount (the realised amount), the head company may make a capital loss. A capital loss will arise if the liability is discharged by the head company on or after 1 July 2002 and before 10 February 2010 and the ACA would have been greater had the realised amount been taken into account in working out the ACA.
3. In determining the income tax consequences of the discharge of an intra-group liability the single entity rule (the SER) in section 701-1 will apply. The effect of the SER is that an intra-group liability, the corresponding intra-group asset, and transactions or dealings between group members involving the liability or asset are not recognised for income tax purposes (see paragraphs 7 to 10 of TR 2004/11).

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4. Accordingly, from the head company's perspective, neither the intra-group liability nor its discharge, are recognised for income tax purposes. As a result, CGT event L7 will not apply to the discharge of the intra-group liability.

Date of Effect

5. This Determination applies to a capital loss under CGT event L7 that arises on or after 1 July 2002 and before 10 February 2010. 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/D27

Related Rulings/Determinations:

TR 92/20, TR 2004/11

Subject references:

- accounting liabilities
- CGT event L7
- CGT events

- consolidation
- consolidation - capital gains tax
- consolidation - liabilities
- discharge of liabilities

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1997 104-530
- ITAA 1997 701-1

ATO references

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