


TD 2006/59A1 - Addendum - Income tax: consolidation: subsidiary in liquidation: are unsatisfied debts of a subsidiary at the time of deregistration, being debts owed to creditors outside of the consolidated group, accounting liabilities for the purposes of subsection 711-45(1) of the Income Tax Assessment Act 1997?

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Addendum

Taxation Determination

Income tax: consolidation: subsidiary in liquidation: are unsatisfied debts of a subsidiary at the time of deregistration, being debts owed to creditors outside of the consolidated group, accounting liabilities for the purposes of subsection 711-45(1) of the *Income Tax Assessment Act 1997*?

This Addendum amends Taxation Determination TD 2006/59 to reflect the amendments introduced by Schedule 5 to the *Tax Laws Amendment (2010 Measures No. 1) Act 2010*.

TD 2006/59 is amended as follows:

1. Paragraph 1

Omit the paragraph; substitute:

1. Yes. The unsatisfied debts of a subsidiary at the time of deregistration are recognised as accounting liabilities in accordance with accounting standards. Therefore they are accounting liabilities of the subsidiary just before the leaving time for the purposes of subsection 711-45(1) of the *Income Tax Assessment Act 1997* (ITAA 1997) in accordance with the leaving entity's accounting principles for tax cost setting.

2. Paragraph 6

(a) Omit 'at'; substitute 'just before'.

(b) At the end of the paragraph; insert the footnote:

^{1A} For how the law in relation to step 4 of the table in subsection 711-20(1) of the ITAA 1997 applies to an entity that left a consolidated group before 10 February 2010, refer to the Full Federal Court decision in *Handbury Holdings Pty Ltd v. Federal Commissioner of Taxation* (2009) 179 FCR 569; [2009] FCAFC 141.

TD 2006/59

3. Paragraphs 7 and 8

Omit the paragraphs; substitute

7. Subsection 711-45(1) of the ITAA 1997 states:

For the purposes of step 4 in the table in subsection 711-20(1), the step 4 amount is worked out by adding up the amounts of each thing (an **accounting liability**) that, in accordance with the leaving entity's *accounting principles for tax cost setting, is a liability of the leaving entity just before the leaving time.

7A. Subsection 711-45(1A) of the ITAA 1997 provides that the 'leaving entity's accounting principles for tax cost setting' are the accounting principles that the group would use if it were to prepare its financial statements just before the leaving time. Section 995-1 of the ITAA 1997 provides that a matter is in accordance with accounting principles if it is in accordance with accounting standards; or, if there are no applicable accounting standards - authoritative pronouncements of the Australian Accounting Standards Board that apply to the preparation of financial statements.

8. Taxation Rulings TR 2004/14¹ and TR 2006/6^{1B} consider, in the context of subsection 705-70(1) of the ITAA 1997, a number of concepts expressed in subsection 711-45(1) of the ITAA 1997. This Determination should be read in conjunction with interpretative views expressed in those Rulings.

4. Paragraph 9

Omit:

Subsection 711-45(1) refers to 'accounting standards' which

Substitute:

'Accounting standards'

5. Paragraph 20

(a) Omit 'balance sheet'; substitute '[balance sheet]'.

(b) Omit '[emphasis added]'.

6. Paragraph 28

(a) Omit 'at'; substitute 'just before'

(b) Omit 'that can or must be identified in the subsidiary's statement of financial position'; substitute 'in the subsidiary's financial statements,'.

¹ Income tax: consolidation: recognising and measuring the liabilities of a joining entity under subsection 705-70(1) of the ITAA 1997 where the entity becomes a subsidiary member of a consolidated group in a financial reporting period of the entity not beginning on or after 1 January 2005.

^{1B} Income tax: consolidation: recognising and measuring the liabilities of a joining entity under subsection 705-70(1) of the ITAA 1997 where the joining time occurs in a financial reporting period of the joining entity beginning on or after 1 January 2005.

7. Subject references

Insert:

- accounting principles
- leaving entity's accounting principles for tax cost setting

8. Legislative references

Insert:

- ITAA 1997 711-45(1A)

9. Case references

Insert:

- Handbury Holdings Pty Ltd v. Federal Commissioner of Taxation (2009) 179 FCR 569; [2009] FCAFC 141

This Addendum applies on and from 10 February 2010, the date of application of the amendments to the *Income Tax Assessment Act 1997* made by Division 1 of Part 7 and Part 8 of Schedule 5 to the *Tax Laws Amendment (2010 Measures No. 1) Act 2010*.

Commissioner of Taxation6 July 2011

ATO references

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Income Tax ~~ Consolidation ~~ liabilities