


TD 2005/D46W - Withdrawal - Income tax: consolidation: losses: can item 4 in the table in subsection 707-320(2) of the Income Tax Assessment Act 1997 apply to reduce or maintain the available fractions of bundles of losses of the ongoing head company where an application event is covered by one of the exceptions in section 719-300 of the Income Tax Assessment Act 1997?

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Notice of Withdrawal

Taxation Determination

Income tax: consolidation: losses: can item 4 in the table in subsection 707-320(2) of the *Income Tax Assessment Act 1997* apply to reduce or maintain the available fractions of bundles of losses of the ongoing head company where an application event is covered by one of the exceptions in section 719-300 of the *Income Tax Assessment Act 1997*?

Draft Taxation Determination TD 2005/D46 is withdrawn with effect from today.

1. Draft Taxation Determination TD 2005/D46 involves scenarios known as 'roll-up' cases where a new eligible tier-1 company of a MEC (multiple entry consolidated) group was previously either:
 - a lower tier subsidiary member of the MEC group; or
 - a subsidiary member of a consolidated group immediately before the happening of a special conversion event.
2. TD 2005/D46 stated that item 4 in the table in subsection 707-320(2) can apply to these roll-up cases to reduce or maintain available fractions for bundles of losses of the ongoing head company. Item 4 applies where the market value of a group has increased as a result of either of two events – an injection of capital or a non-arm's length transaction.
3. An example with a special conversion event was included in TD 2005/D46.
4. Item 4 applies to the head company of a continuing group. Subsequent to the release of TD 2005/D46, the Tax Office has formed the view that a special conversion event constitutes the cessation of a consolidated group and the coming into existence of a different group, namely a MEC group. Under that interpretative position, a special conversion event cannot fall within the ambit of item 4.
5. As a special conversion event comprises a substantial component of TD 2005/D46, it is being withdrawn from the date of this notice.

TD 2005/D46

Commissioner of Taxation

12 July 2006

ATO references

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