



***TD 2004/64 - Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the Income Tax Assessment Act 1997 apply to amounts of a liability that accrue after the time that the entity with the liability became a subsidiary member of a consolidated group?***

 This cover sheet is provided for information only. It does not form part of *TD 2004/64 - Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the Income Tax Assessment Act 1997 apply to amounts of a liability that accrue after the time that the entity with the liability became a subsidiary member of a consolidated group?*

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



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## Taxation Determination

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Income tax: consolidation: capital gains: does section 104-530 (CGT event L7) of the *Income Tax Assessment Act 1997* apply to amounts of a liability that accrue after the time that the entity with the liability became a subsidiary member of a consolidated group?

### **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 an amount of a liability that accrues after the time the relevant entity became a subsidiary member of a consolidated group.
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. One of the conditions for CGT event L7 to happen is that the amount of a liability was taken into account in working out the ACA for an entity that becomes a subsidiary member of a consolidated group (see subsection 104-530(3)(a)). It is only the amount of a liability that accrued up to the time (the joining time) when the entity became a member of the group that can be taken into account in working out the ACA. Amounts of a liability that accrue after the joining time cannot be taken into account in the ACA calculation. Nor can CGT event L7 apply to such amounts.
4. Whether or not an amount of a liability accrued after the joining time or was taken into account in working out the ACA for a subsidiary member are questions of fact the outcomes of which depend on the circumstances of each case.

**TD 2004/64****Example 1**

5. Subco has a liability of \$50,000 for the provision of long service leave in respect of employee A at the joining time. This amount is taken into account in working out the ACA for Subco. One year later the liability is discharged by Headco for \$55,000. The additional \$5,000 was due to extra employment services undertaken by employee A during that year.

6. As the additional \$5,000 is an amount that accrued after the joining time, as a consequence of additional employment service that was undertaken after that point in time, CGT event L7 does not apply.

**Date of Effect**

7. 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

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| <i>Previous draft:</i><br>TD 2004/D26                                 | - CGT event L7<br>- consolidation<br>- consolidation – capital gains tax<br>- discharge of liabilities<br>- liabilities |
| <i>Related Rulings/Determinations:</i><br>TR 92/20                    |   |
| <i>Subject references:</i><br>- accounting liabilities<br>- CGT event | <i>Legislative references:</i><br>- TAA 1953 Pt IVAAA<br>- ITAA 1997 104-530<br>- ITAA 1997 104-530(3)(a)               |

## ATO references

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