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Volume 1:	sections 1-1 to 36-55
Volume 2:	sections 40-1 to 67-30
Volume 3:	sections 70-1 to 121-35
Volume 4:	sections 122-1 to 197-85
Volume 5:	sections 200-1 to 253-15
Volume 6:	sections 275-1 to 313-85
Volume 7:	sections 315-1 to 420-70
Volume 8:	**sections 615-1 to 721-40**
Volume 9:	sections 723-1 to 880-205
Volume 10:	sections 900-1 to 995-1
Volume 11:	Endnotes 1 to 3
Volume 12:	Endnote 4

Each volume has its own contents

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About this compilation

This compilation

This is a compilation of the *Income Tax Assessment Act 1997* that shows the text of the law as amended and in force on 14 October 2022 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Chapter 3—Specialist liability rules 1

Part 3-80—Roll-overs applying to assets generally 1

Division 615—Roll-overs for business restructures 1

Guide to Division 615 1

615-1 What this Division is about 1

Subdivision 615-A—Choosing to obtain roll-overs 1

615-5 Disposing of interests in one entity for shares in a company 1

615-10 Redeeming or cancelling interests in one entity for shares in a company 2

Subdivision 615-B—Further requirements for choosing to obtain roll-overs 3

615-15 Interposed company must own all the original interests 4

615-20 Requirements relating to your interests in the original entity 4

615-25 Requirements relating to the interposed company 5

615-30 Interposed company must make a particular choice 6

615-35 ADI restructures—disregard certain preference shares 6

Subdivision 615-C—Consequences of roll-overs 7

615-40 CGT consequences 7

615-45 Additional consequences—deferral of profit or loss 8

615-50 Trading stock 8

615-55 Revenue assets 9

615-60 Disregard CGT exemption for trading stock 10

Subdivision 615-D—Consequences for the interposed company 10

615-65 Consequences for the interposed company 10

Division 620—Assets of wound-up corporation passing to corporation with not significantly different ownership 12

Subdivision 620-A—Corporations covered by Subdivision 124-I 12

Authorised Version C2022C00307 registered 22/10/2022

Guide to Subdivision 620-A 12
620-5 What this Subdivision is about ... 12
Application and object of this Subdivision 13
620-10 Application ... 13
620-15 Object ... 13
CGT consequences 13
620-20 Disregard body's capital gains and losses from CGT assets ... 13
620-25 Cost base and pre-CGT status of CGT asset for company ... 14
Consequences for depreciating assets 14
620-30 Roll-over relief for balancing adjustment events ... 14
Consequences for trading stock 15
620-40 Body taken to have sold trading stock to company ... 15
Consequences for revenue assets 15
620-50 Body taken to have sold revenue assets to company ... 15
Part 3-90—Consolidated groups 17
Division 700—Guide and objects 17
Guide 17
700-1 What this Part is about ... 17
700-5 Overview of this Part ... 18
Objects 19
700-10 Objects of this Part ... 19
Division 701—Core rules 20
Common rule 21
701-1 Single entity rule ... 21
Head company rules 22
701-5 Entry history rule ... 22
701-10 Cost to head company of assets of joining entity ... 23
701-15 Cost to head company of membership interests in entity that leaves group ... 24
701-20 Cost to head company of assets consisting of certain liabilities owed by entity that leaves group ... 25
701-25 Tax-neutral consequence for head company of ceasing to hold assets when entity leaves group ... 26

Authorised Version C2022C00307 registered 22/10/2022

Entity rules 28
701-30 Where entity not subsidiary member for whole of income year ... 28
701-35 Tax-neutral consequence for entity of ceasing to hold assets when it joins group ... 31
701-40 Exit history rule ... 32
701-45 Cost of assets consisting of liabilities owed to entity by members of the group ... 33
701-50 Cost of certain membership interests of which entity becomes holder on leaving group ... 34
Supporting provisions 35
701-55 Setting the tax cost of an asset ... 35
701-56 Application of subsection 701-55(6) ... 39
701-58 Effect of setting the tax cost of an asset that the head company does not hold under the single entity rule ... 40
701-60 Tax cost setting amount ... 40
701-60A Tax cost setting amount for asset emerging when entity leaves group ... 41
701-61 Assets in relation to Division 230 financial arrangement—head company's assessable income or deduction ... 43
701-63 *Right to future income* and *WIP amount asset* ... 43
701-65 Net income and losses for trusts and partnerships ... 44
701-67 Assets in this Part are CGT assets, etc. ... 45
Exceptions 45
701-70 Adjustments to taxable income where identities of parties to arrangement merge on joining group ... 45
701-75 Adjustments to taxable income where identities of parties to arrangement re-emerge on leaving group ... 49
701-80 Accelerated depreciation ... 51
701-85 Other exceptions etc. to the rules ... 52
Division 703—Consolidated groups and their members 54
Guide to Division 703 54
703-1 What this Division is about ... 54
Basic concepts 55
703-5 What is a *consolidated group*? ... 55
703-10 What is a *consolidatable group*? ... 56
703-15 *Members* of a consolidated group or consolidatable group ... 56

Authorised Version C2022C00307 registered 22/10/2022

703-20 Certain entities that *cannot* be members of a consolidated group or consolidatable group 59
703-25 Australian residence requirements for trusts 60
703-30 When is one entity a *wholly-owned subsidiary* of another? 61
703-33 Transfer time for sale of shares in company 62
703-35 Treating entities as wholly-owned subsidiaries by disregarding employee shares 63
703-37 Disregarding certain preference shares following an ADI restructure 64
703-40 Treating entities held through non-fixed trusts as wholly-owned subsidiaries 65
703-45 Subsidiary members or nominees interposed between the head company and a subsidiary member of a consolidated group or a consolidatable group 66

Choice to consolidate a consolidatable group 66
703-50 Choice to consolidate a consolidatable group 66

Consolidated group created when MEC group ceases to exist 68
703-55 Creating consolidated groups from certain MEC groups 68

Notice of events affecting consolidated group 68
703-58 Notice of choice to consolidate 68
703-60 Notice of events affecting consolidated group 69

Effects of choice to continue group after shelf company becomes new head company 71
703-65 Application 71
703-70 Consolidated group continues in existence with interposed company as head company and original entity as a subsidiary member 72
703-75 Interposed company treated as substituted for original entity at all times before the completion time 72
703-80 Effects on the original entity's tax position 74

Division 705—Tax cost setting amount for assets where entities become subsidiary members of consolidated groups 75

Guide to Division 705 75
705-1 What this Division is about 75

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 705-A—Basic case: a single entity joining an existing consolidated group 75

Guide to Subdivision 705-A 75

705-5 What this Subdivision is about ... 75

Application and object 77

705-10 Application and object of this Subdivision ... 77

705-15 Cases where this Subdivision does not have effect ... 78

Tax cost setting amount for assets that joining entity brings into joined group 79

705-20 Tax cost setting amount worked out under this Subdivision ... 79

705-25 Tax cost setting amount for retained cost base assets ... 79

705-27 Reduction in tax cost setting amount that exceeds market value of certain retained cost base assets ... 81

705-30 What is the joining entity's *terminating value* for an asset? ... 83

705-35 Tax cost setting amount for reset cost base assets ... 85

705-40 Tax cost setting amount for reset cost base assets held on revenue account etc. ... 86

705-45 Reduction in tax cost setting amount for accelerated depreciation assets ... 87

705-47 Reduction in tax cost setting amount for some privatised assets ... 88

705-55 Order of application of sections 705-40, 705-45 and 705-47 ... 91

705-56 Modification for tax cost setting in relation to leases ... 91

705-57 Adjustment to tax cost setting amount where loss of pre-CGT status of membership interests in joining entity ... 93

705-58 Assets and liabilities not set off against each other ... 96

705-59 Exception: treatment of linked assets and liabilities ... 96

How to work out the allocable cost amount 101

705-60 What is the joined group's *allocable cost amount* for the joining entity? ... 101

705-62 No double counting of amounts in allocable cost amount ... 104

705-65 Cost of membership interests in the joining entity—step 1 in working out allocable cost amount ... 105

Authorised Version C2022C00307 registered 22/10/2022

705-70 Liabilities of the joining entity—step 2 in working out allocable cost amount 109
705-75 Liabilities of the joining entity—reductions for purposes of step 2 in working out allocable cost amount 111
705-76 Liability arising from transfer or assignment of securitised assets 113
705-80 Liabilities of the joining entity—reductions/increases for purposes of step 2 in working out allocable cost amount 114
705-85 Liabilities of the joining entity—increases for purposes of step 2 in working out allocable cost amount 115
705-90 Undistributed, taxed profits accruing to joined group before joining time—step 3 in working out allocable cost amount 117
705-93 If pre-joining time roll-over from foreign resident company or head company—step 3A in working out allocable cost amount 121
705-95 Pre-joining time distributions out of certain profits—step 4 in working out allocable cost amount 122
705-100 Losses accruing to joined group before joining time—step 5 in working out allocable cost amount 123
705-105 Continuity of holding membership interests—steps 3 to 5 in working out allocable cost amount 123
705-110 If joining entity transfers a loss to the head company—step 6 in working out allocable cost amount 124
705-115 If head company becomes entitled to certain deductions—step 7 in working out allocable cost amount 124

How to work out a pre-CGT factor for assets of joining entity 125
705-125 Pre-CGT proportion for joining entity 125

Subdivision 705-B—Case of group formation 127

Guide to Subdivision 705-B 127
705-130 What this Subdivision is about 127

Application and object 128
705-135 Application and object of this Subdivision 128

Modified application of Subdivision 705-A 128
705-140 Subdivision 705-A has effect with modifications 128

Authorised Version C2022C00307 registered 22/10/2022

705-145 Order in which tax cost setting amounts are to be worked out where subsidiary members have membership interests in other subsidiary members 129
705-147 Adjustment in working out step 3A of allocable cost amount to take account of membership interests held by subsidiary members in other such members 130
705-155 Adjustments to restrict step 4 reduction of allocable cost amount to effective distributions to head company in respect of direct membership interests 132
705-160 Adjustment to allocation of allocable cost amount to take account of owned profits or losses of certain entities that become subsidiary members..... 135
705-163 Modified application of section 705-57..... 137

Subdivision 705-C—Case where a consolidated group is acquired by another 140

Guide to Subdivision 705-C 140
705-170 What this Subdivision is about..... 140

Application and object 141
705-175 Application and object of this Subdivision..... 141

Modified application of Division 701 in relation to acquired group etc. 142
705-180 Modifications of Division 701..... 142

Modified application of Subdivision 705-A in relation to acquiring group 143
705-185 Subdivision 705-A has effect with modifications..... 143

Modifications of Subdivision 705-A for the purposes of this Subdivision 144
705-195 Modified application of subsection 705-65(6)..... 144
705-200 Modified application of section 705-85..... 145

Subdivision 705-D—Where multiple entities are linked by membership interests 146

Guide to Subdivision 705-D 146
705-210 What this Subdivision is about..... 146

Application and object 147
705-215 Application and object of this Subdivision..... 147

Modified application of Subdivision 705-A 147
705-220 Subdivision 705-A has effect with modifications..... 147

Authorised Version C2022C00307 registered 22/10/2022

705-225 Order in which tax cost setting amounts are to be worked out where linked entities have membership interests in other linked entities 148
705-227 Adjustment in working out step 3A of allocable cost amount to take account of membership interests held by linked entities in other linked entities 149
705-230 Adjustments to restrict step 4 reduction of allocable cost amount to effective distributions to head company in respect of direct membership interests 151
705-235 Adjustment to allocation of allocable cost amount to take account of owned profits or losses of certain linked entities 152
705-240 Modified application of section 705-57 154

Subdivision 705-E—Adjustments for errors etc. 156

Guide to Subdivision 705-E 156
705-300 What this Subdivision is about 156

Operative provisions 157
705-305 Object of this Subdivision 157
705-310 Operation of Part IVA of the *Income Tax Assessment Act 1936* 157
705-315 Errors that attract special adjustment action 157
705-320 Tax cost setting amounts taken to be correct 159

Division 707—Losses for head companies when entities become members etc. 160

Subdivision 707-A—Transfer of losses to head company 160

Guide to Subdivision 707-A 160
707-100 What this Subdivision is about 160
707-105 Who can utilise the loss? 161

Objects 162
707-110 Objects of this Subdivision 162

Application 162
707-115 What losses this Subdivision applies to 162

Transfer of loss from joining entity to head company 163
707-120 Transfer of loss from joining entity to head company 163
707-125 Modified business continuity test for companies' post-1999 losses 164

Authorised Version C2022C00307 registered 22/10/2022

707-130 Modified pattern of distributions test 166
707-135 Transferring loss transferred to joining entity because business continuity test was satisfied 168

Effect of transfer of loss 168
707-140 Effect of transfer of loss 168

Cancelling the transfer of the loss 169
707-145 Cancelling the transfer of the loss 169

What happens if the loss is not transferred? 170
707-150 Loss cannot be utilised for income year ending after the joining time 170

Subdivision 707-B—Can a transferred loss be utilised? 170

Guide to Subdivision 707-B 170
707-200 What this Subdivision is about 170

Operative provisions 170
707-205 Modified period for test for maintaining same ownership 170
707-210 Utilisation of certain losses transferred from a company depends on company that made the losses earlier 171

Subdivision 707-C—Amount of transferred losses that can be utilised 174

Guide to Subdivision 707-C 174
707-300 What this Subdivision is about 174

Object 175
707-305 Object of this Subdivision 175

How much of a transferred loss can be utilised? 176
707-310 How much of a transferred loss can be utilised? 176
707-315 What is a *bundle* of losses? 179
707-320 What is the *available fraction* for a bundle of losses? 180
707-325 *Modified market value* of an entity becoming a member of a consolidated group 183
707-330 Losses transferred from former head company 185
707-335 Limit on utilising transferred losses if circumstances change during income year 186
707-340 Utilising transferred losses while exempt income remains 187
707-345 Other provisions are subject to this Subdivision 188

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 707-D—Special rules about losses 188
707-400 Head company's business before and after consolidation not compared ... 188
707-410 Exit history rule does not treat entity as having made a loss ... 189
707-415 Application of losses with nil available fraction for certain purposes ... 189

Division 709—Other rules applying when entities become subsidiary members etc. 193

Subdivision 709-A—Franking accounts 193

Guide to Subdivision 709-A 193
709-50 What this Subdivision is about ... 193

Object 194
709-55 Object of this Subdivision ... 194

Treatment of franking accounts at joining time 195
709-60 Nil balance franking account for joining entity ... 195

Treatment of subsidiary member's franking account 195
709-65 Subsidiary member's franking account does not operate ... 195

Treatment of head company's franking account 196
709-70 Credits arising in head company's franking account ... 196
709-75 Debits arising in head company's franking account ... 196

Franking distributions by subsidiary member 197
709-80 Subsidiary member's distributions on employee shares and certain preference shares taken to be distributions by the head company ... 197
709-85 Non-share distributions by subsidiary members taken to be distributions by head company ... 198
709-90 Subsidiary member's distributions to foreign resident taken to be distributions by head company ... 198

Payment of group liability by former subsidiary member 198
709-95 Payment of group liability by former subsidiary member ... 198
709-100 Refund of income tax to former subsidiary member ... 199

Subdivision 709-B—Imputation issues 200

Authorised Version C2022C00307 registered 22/10/2022

Guide to Subdivision 709-B 200
709-150 What this Subdivision is about 200
Operative provisions 200
709-155 Testing consolidated groups 200
709-160 Subsidiary member is exempting entity 201
709-165 Subsidiary member is former exempting entity 202
709-170 Head company and subsidiary are exempting entities 203
709-175 Head company is former exempting entity 204
Subdivision 709-C—Treatment of excess franking deficit tax offsets when entity becomes a subsidiary member of a consolidated group 206
Guide to Subdivision 709-C 206
709-180 What this Subdivision is about 206
709-185 Joining entity's excess franking deficit tax offsets transferred to head company 207
709-190 Exit history rule not to treat leaving entity as having a franking deficit tax offset excess 208
Subdivision 709-D—Deducting bad debts 208
Guide to Subdivision 709-D 208
709-200 What this Subdivision is about 208
Application and object 209
709-205 Application of this Subdivision 209
709-210 Object of this Subdivision 210
Limit on deduction of bad debt 211
709-215 Limit on deduction of bad debt 211
Extension of Subdivision to debt/equity swap loss 217
709-220 Limit on deduction of swap loss 217
Division 711—Tax cost setting amount for membership interests where entities cease to be subsidiary members of consolidated groups 218
Guide to Division 711 218
711-1 What this Division is about 218
Application and object of this Division 219
711-5 Application and object of this Division 219

Authorised Version C2022C00307 registered 22/10/2022

Tax cost setting amount for membership interests etc. 220
711-10 Tax cost setting amount worked out under this Division 220
711-15 Tax cost setting amount where no multiple exit 220
711-20 What is the old group's *allocable cost amount* for the leaving entity? 221
711-25 Terminating values of the leaving entity's assets—step 1 in working out allocable cost amount 223
711-30 What is the head company's *terminating value* for an asset? 224
711-35 If head company becomes entitled to certain deductions—step 2 in working out allocable cost amount 225
711-40 Liabilities owed to the leaving entity by members of the old group—step 3 in working out allocable cost amount 225
711-45 Liabilities etc. owed by the leaving entity—step 4 in working out allocable cost amount 226
711-46 Liability arising from transfer or assignment of securitised assets 231
711-55 Tax cost setting amount for membership interests where multiple exit 232
711-65 Membership interests treated as having been acquired before 20 September 1985 234
711-70 Additional integrity rule if membership interests treated as having been acquired before 20 September 1985 under section 711-65—application of Division 149 to head company 235
711-75 Additional integrity rule if membership interests treated as having been acquired before 20 September 1985 under section 711-65—application of CGT event K6 237

Division 713—Rules for particular kinds of entities 239

Subdivision 713-A—Trusts 239

Working out a joined group's allocable cost amount for a joining trust 239
713-20 Increasing the step 1 amount for settled capital that could be distributed tax free in respect of discretionary interests 239

Authorised Version C2022C00307 registered 22/10/2022

713-25 Undistributed, realised profits that accrue to joined group before joining time and could be distributed tax free—step 3 in working out allocable cost amount....243

Determining destination of distribution by non-fixed trust 244
713-50 Factors to consider....244

Subdivision 713-C—Some unit trusts treated like head companies of consolidated groups 245

Guide to Subdivision 713-C 245
713-120 What this Subdivision is about....245

Object of this Subdivision 245
713-125 Object of this Subdivision....245

Choice to form a consolidated group 246
713-130 Choosing to form a consolidated group....246

Effects of choice 247
713-135 Effects of choice....247
713-140 Modifications of the applied law....248

Subdivision 713-E—Partnerships 250

Guide to Subdivision 713-E 250
713-200 What this Subdivision is about....250

Objects 251
713-205 Objects of this Subdivision....251

Partnership cost setting interests etc. 253
713-210 Partnership cost setting interests....253
713-215 Terminating value for partnership cost setting interest....253

Setting tax cost of partnership cost setting interests 254
713-220 Set tax cost of partnership cost setting interests if partner joins consolidated group....254
713-225 Tax cost setting amount for partnership cost setting interest....255

Special rules where partnership joins consolidated group 257
713-235 Partnership joins group—set tax cost of partnership assets....257
713-240 Partnership joins group—tax cost setting amount for partnership asset....258

Authorised Version C2022C00307 registered 22/10/2022

Special rules where partnership leaves consolidated group 259
713-250 Partnership leaves group—standard provisions modified 259
713-255 Partnership leaves group—tax cost setting amount for partnership cost setting interests 260
713-260 Partnership leaves group—tax cost setting amount for assets consisting of being owed certain liabilities 261
713-265 Partnership leaves group—adjustments to allocable cost amount of partner who also leaves group 262
Subdivision 713-L—Life insurance companies 263
Guide to Subdivision 713-L 263
713-500 What this Subdivision is about 263
General modifications for life insurance companies 265
713-505 Head company treated as a life insurance company 265
713-510 Certain subsidiaries of life insurance companies cannot be members of consolidated group 265
713-510A Disregard single entity rule in working out certain amounts in respect of life insurance company 266
Life insurance companies' liabilities on joining consolidated group 267
713-511 Treatment of certain liabilities for income year when life insurance company joins consolidated group 267
Tax cost setting rules for life insurance companies joining consolidated group 268
713-515 Certain assets taken to be retained cost base assets where life insurance company joins group 268
713-520 Valuing certain liabilities where life insurance company joins group 269
713-525 Obligation to value certain assets and liabilities at joining time 270
Losses of life insurance companies joining consolidated group 271
713-530 Treatment of certain losses of life insurance company 271
Losses of life insurance companies' subsidiaries joining consolidated group 272
713-535 Losses of entities whose membership interests are complying superannuation assets of life insurance company 272

Authorised Version C2022C00307 registered 22/10/2022

713-540 Losses of entities whose membership interests are segregated exempt assets of life insurance company 273

Imputation rules for life insurance companies joining consolidated group 273

713-545 Treatment of franking surplus in franking account of life insurance subsidiary joining group 273

713-550 Treatment of head company's franking account after joining 275

Liabilities for life insurance companies leaving consolidated group 276

713-565 Treatment of certain liabilities for income year when life insurance company leaves consolidated group 276

Losses for life insurance companies leaving consolidated group 277

713-570 Certain losses transferred to leaving company 277

Tax cost setting rules for life insurance companies leaving consolidated group 278

713-575 Terminating value of certain assets where life insurance company leaves group 278

713-580 Valuing certain liabilities where life insurance company leaves group 279

713-585 Obligation to value certain assets and liabilities at leaving time 280

Subdivision 713-M—General insurance companies 280

Guide to Subdivision 713-M 280

713-700 What this Subdivision is about 280

Tax cost setting rules for general insurance companies joining consolidated group 281

713-705 Certain assets taken to be retained cost base assets where general insurance company joins group 281

Liabilities and reserves of general insurance companies joining and leaving consolidated groups 281

713-710 Treatment of liabilities and reserves for income year when general insurance company joins or leaves group 281

713-715 If general insurance company joins consolidated group 282

713-720 If general insurance company leaves consolidated group 283

Authorised Version C2022C00307 registered 22/10/2022

713-725 Treatment of certain assets and liabilities of general insurance companies 284

Division 715—Interactions between this Part and other areas of the income tax law 285

Subdivision 715-A—Treatment of unrealised losses existing when ownership or control of a company changes before or during consolidation 286

Object 287

715-15 Object of this Subdivision 287

Effect on Subdivision 165-CC of a company becoming a member of a consolidated group 289

715-25 Subdivision 165-CC stops applying to earlier changeover time 289

715-30 Meaning of *165-CC tagged asset* 289

715-35 Meaning of *final RUNL* 290

165-CC tagged assets that affect tax cost setting amounts 290

715-50 Step 1 amount is reduced if membership interest in subsidiary member is 165-CC tagged asset and business continuity test is failed 290

715-55 Step 2 amount is affected if liability of subsidiary member is 165-CC tagged asset of another group member and business continuity test is failed 292

165-CC tagged assets that form loss denial pools of head company when consolidated group is formed 293

715-60 Assets that the head company already owns 293

715-70 Assets of subsidiary member that become those of head company 294

How Subdivision 165-CC applies to consolidated groups 296

715-75 Extension of single entity rule and entry history rule 296

Effect on Subdivision 165-CC of entity leaving consolidated group 297

715-80 Application of sections 715-85 to 715-110 297

715-85 First changeover time for leaving company at or after leaving time 297

715-90 How business continuity test applies if leaving time is changeover time for leaving company 297

715-95 If ownership and control of leaving entity have *not* changed since head company's last changeover time 298

Authorised Version C2022C00307 registered 22/10/2022

715-100 First choice: adjustable values of leaving assets reduced to nil 299
715-105 Second choice: head company's final RUNL applied in reducing adjustable values of leaving assets that are loss assets 299
715-110 Third choice: loss denial pool of leaving entity created 300

Effect of assets in loss denial pool of head company becoming assets of leaving entity 301
715-120 What happens 301
715-125 First choice: adjustable values of leaving assets reduced to nil 302
715-130 Second choice: pool's loss denial balance applied in reducing adjustable values of leaving assets that are loss assets 302
715-135 Third choice: loss denial pool of leaving entity created 303

Effect of first and second choices on various kinds of assets 304
715-145 Effect of choice on adjustable value of leaving asset 304

General provisions about loss denial pools 305
715-155 When asset leaves pool 305
715-160 How loss denial balance is applied to losses realised on assets in pool 305
715-165 When pool ceases to exist 306

Choices under this Subdivision 306
715-175 When choice must be made 306
715-180 Head company to notify leaving entity of choice 307
715-185 Leaving entity may choose to cancel loss denial pool by reducing adjustable values of assets in the pool 307

Subdivision 715-B—How Subdivision 165-CD applies to consolidated groups and leaving entities 308

How Subdivision 165-CD applies to consolidated groups 308
715-215 Extension of single entity rule and entry history rule 308
715-225 Working out adjusted unrealised loss using individual asset method 309

Authorised Version C2022C00307 registered 22/10/2022

715-230 No reductions or other consequences for interests subject to loss cancellation under Subdivision 715-H....310

How Subdivision 165-CD applies to leaving entity that is a company 310

715-240 Application of sections 715-245 to 715-260....310

715-245 If ownership or control of leaving entity has altered since head company's last alteration time or formation of group....311

715-250 If head company has had an alteration time but ownership and control of leaving entity have not altered since....312

715-255 Consequences if leaving entity is a loss company at the leaving time....313

715-260 If neither of sections 715-245 and 715-250 applies....314

715-265 Head company does not have relevant equity or debt interest in a loss company if widely held top company does not have such an interest....315

How Subdivision 165-CD applies to leaving entity that is a trust 316

715-270 Subdivision 165-CD applies....316

Subdivision 715-C—Common rules for the purposes of Subdivisions 715-A and 715-B 318

715-290 Additional assumptions to be made when using reference time....318

Subdivision 715-D—Treatment of company's deferred losses under Subdivision 170-D on joining a consolidated group 318

Key terminology 319

715-310 What is a *170-D deferred loss*, and when it *revives*....319

Deferred loss on 165-CC tagged asset 319

715-355 Head company's own deferred losses at formation time....319

715-360 Deferred losses brought in by subsidiary member....320

715-365 How loss denial balance is applied when 170-D deferred loss revives....322

Subdivision 715-E—Interactions with Division 775 (Foreign currency gains and losses) 322

715-370 Cost setting—reference time for determining currency exchange rate effect....322

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 715-F—Interactions with Division 230 (financial arrangements) 323
715-375 Cost setting on joining—amount of liability that is Division 230 financial arrangement....324
715-378 Cost setting on joining—head company's right to receive or obligation to provide payment....325
715-379 Cost setting on leaving—amount of intragroup liability that is Division 230 financial arrangement....325
715-379A Cost setting on leaving—head company's or leaving entity's right to receive or obligation to provide payment....327
715-380 Exit history rule not to affect certain matters related to Division 230 financial arrangements....328
715-385 Exit history rule and elective methods applying to Division 230 financial arrangements....329
Subdivision 715-G—How value shifting rules apply to a consolidated group 330
715-410 Extension of single entity rule and entry history rule....330
715-450 No reductions or other consequences for interests subject to loss cancellation under Subdivision 715-H....331
Subdivision 715-H—Cancelling loss on realisation event for direct or indirect interest in a member of a consolidated group 331
715-610 Cancellation of loss....331
715-615 Exception for interests in entity leaving consolidated group....333
715-620 Exception if loss attributable to certain matters....334
Subdivision 715-J—Entry history rule and choices 334
Head company's choice overriding entry history rule 335
715-660 Head company's choice overriding entry history rule....335
Choices head company can make ignoring entry history rule to override inconsistencies 338
715-665 Head company's choice to override inconsistency....338
Choices with ongoing effect 342
715-670 Ongoing effect of choices made by entities before joining group....342

Authorised Version C2022C00307 registered 22/10/2022

715-675 Head company adopting choice with ongoing effect....343

Subdivision 715-K—Exit history rule and choices 344

Choices leaving entity can make ignoring exit history rule 344

715-700 Choices leaving entity can make ignoring exit history rule 344

Choices leaving entity can make ignoring exit history rule to overcome inconsistencies 346

715-705 Choices leaving entity can make ignoring exit history rule to overcome inconsistencies....346

Subdivision 715-U—Effect on conduit foreign income 349

715-875 Extension of single entity rule and entry history rule 349

715-880 No CFI for leaving entity 349

Subdivision 715-V—Entity ceasing to be exempt from income tax on becoming subsidiary member of consolidated group 350

715-900 Transition time taken to be just before joining time 350

Subdivision 715-W—Effect on arrangements where CGT roll-overs are obtained 350

715-910 Effect on restructures—original entity becomes a subsidiary member 351

715-915 Effect on restructures—original entity is a head company 352

715-920 Effect on restructures—original entity is a head company that becomes a subsidiary member of another group 352

715-925 Effect on restructures—original entity ceases being a subsidiary member 354

Division 716—Miscellaneous special rules 355

Subdivision 716-A—Assessable income and deductions spread over several membership or non-membership periods 355

Guide to Subdivision 716-A 355

716-1 What this Division is about 355

Operative provisions 356

716-15 Assessable income spread over 2 or more income years 356

716-25 Deductions spread over 2 or more income years 358

Authorised Version C2022C00307 registered 22/10/2022

716-70 Capital expenditure that is fully deductible in one income year 361

Assessable income and deductions arising from share of net income of a partnership or trust, or from share of partnership loss 363

716-75 Application 363
716-80 Head company's assessable income and deductions 363
716-85 Entity's assessable income and deductions for a non-membership period 365
716-90 Entity's share of assessable income or deductions of partnership or trust 366
716-95 Special rule if not all partnership or trust's assessable income or deductions taken into account in working out amount 366
716-100 Spreading period 367

Subdivision 716-E—Tax cost setting for exploration and prospecting assets 367

716-300 Prime cost method of working out decline in value 367

Subdivision 716-G—Low-value and software development pools 368

Assets in joining entity's low-value pool 369

716-330 Head company's deductions for decline in value of assets in joining entity's low-value pool 369

Entity leaving group with asset allocated to head company's low-value pool 372

716-335 Entity leaving group with asset allocated to head company's low-value pool 372

Depreciating assets arising from expenditure in joining entity's software development pool 374

716-340 Depreciating assets arising from expenditure in joining entity's software development pool 374

Software development pools if entity leaves consolidated group 377

716-345 Head company taken not to have incurred expenditure 377

Subdivision 716-S—Miscellaneous consequences of tax cost setting 377

716-400 Tax cost setting and bad debts 378
716-440 Membership interests in joining entity not subject to CGT under Division 855—foreign entity ceasing to hold interests 379

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 716-V—Research and Development 381
716-500 Head company bound by agreements binding on subsidiary members 381
716-505 History for entitlement to tax offset: joining entity 381
716-510 History for entitlement to tax offset: leaving entity 382
Subdivision 716-Z—Other 382
716-800 Allocating amounts to periods if head company and subsidiary member have different income years 383
716-850 Grossing up threshold amounts for periods of less than 365 days 383
716-855 Working out the cost base or reduced cost base of a pre-CGT asset after certain roll-overs 384
716-860 CGT event straddling joining or leaving time 385
Division 717—International tax rules 387
Subdivision 717-A—Foreign income tax offsets 387
717-1 What this Subdivision is about 387
Object 388
717-5 Object of this Subdivision 388
Foreign income tax on amounts in head company's assessable income 388
717-10 Head company taken to be liable for subsidiary member's foreign income tax 388
Subdivision 717-D—Transfer of certain surpluses under CFC provisions and former FIF and FLP provisions: entry rules 389
Guide to Subdivision 717-D 389
717-200 What this Subdivision is about 389
Object 389
717-205 Object of this Subdivision 389
Transfers 390
717-210 Attribution surpluses 390
717-220 FIF surpluses 390
717-227 Deferred attribution credits 392

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 717-E—Transfer of certain surpluses under CFC provisions and former FIF and FLP provisions: exit rules 392

Guide to Subdivision 717-E 392

717-235 What this Subdivision is about 392

Object 393

717-240 Object of this Subdivision 393

Transfers 393

717-245 Attribution surpluses 393

717-255 FIF surpluses 394

717-262 Deferred attribution credits 396

Subdivision 717-O—Offshore banking units 397

Guide to Subdivision 717-O 397

717-700 What this Subdivision is about 397

717-705 Object of this Subdivision 398

717-710 Head company treated as OBU 398

Division 719—MEC groups 399

Subdivision 719-A—Modified application of Part 3-90 to MEC groups 399

719-2 Modified application of Part 3-90 to MEC groups 399

Subdivision 719-B—MEC groups and their members 399

719-4 What this Subdivision is about 399

Basic concepts 401

719-5 What is a *MEC group*? 401

719-10 What is a potential MEC group? 404

719-15 What is an *eligible tier-1 company*? 407

719-20 What is a *top company* and a *tier-1 company*? 408

719-25 Head company, subsidiary members and members of a MEC group 410

719-30 Treating entities as wholly-owned subsidiaries by disregarding employee shares 410

719-35 Treating entities held through non-fixed trusts as wholly-owned subsidiaries 411

719-40 Special conversion event—potential MEC group 411

719-45 Application of sections 703-20 and 703-25 413

Authorised Version C2022C00307 registered 22/10/2022

Choice to consolidate a potential MEC group 413
719-50 Eligible tier-1 companies may choose to consolidate a potential MEC group 413
719-55 When choice starts to have effect 415
Provisional head company 415
719-60 Appointment of provisional head company 415
719-65 Qualifications for the provisional head company of a MEC group 417
719-70 Income year of new provisional head company to be the same as that of former provisional head company 418
Head company 419
719-75 Head company 419
Notice of events affecting group 420
719-76 Notice of choice to consolidate 420
719-77 Notice in relation to new eligible tier-1 members etc. 421
719-78 Notice of special conversion event 422
719-79 Notice of appointment of provisional head company after formation of group 423
719-80 Notice of events affecting MEC group 423
Effects of change of head company 425
719-85 Application 425
719-90 New head company treated as substituted for old head company at all times before the transition time 425
719-95 No consequences of old head company becoming, and new head company ceasing to be, subsidiary member of the group 426
Subdivision 719-BA—Group conversions involving MEC groups 427
719-120 Application 427
719-125 Head company of new group retains history of head company of old group 428
719-130 Provisions of this Part not to apply to conversion 429
719-135 Provisions of this Part applying to conversion despite section 719-130 430
719-140 Other provisions of this Part not applying to conversion 430
Subdivision 719-C—MEC group cost setting rules: joining cases 431

Authorised Version C2022C00307 registered 22/10/2022

Guide to Subdivision 719-C 431
719-150 What this Subdivision is about 431
Application and object 432
719-155 Object of this Subdivision 432
Modified application of tax cost setting rules for joining 432
719-160 Tax cost setting rules for joining have effect with modifications 432
719-165 Trading stock value and registered emissions unit value not set for assets of eligible tier-1 companies 433
719-170 Modified effect of subsections 705-175(1) and 705-185(1) 433
Subdivision 719-F—Losses 435
Guide to Subdivision 719-F 435
719-250 What this Subdivision is about 435
Maintaining the same ownership to be able to utilise loss 436
719-255 Special rules 436
719-260 Special test for utilising a loss because a company maintains the same owners 437
719-265 What is the test company? 438
719-270 Assumptions about the test company having made the loss for an income year 442
719-275 Assumptions about nothing happening to affect direct and indirect ownership of the test company 445
719-280 Assumptions about the test company failing to meet the conditions in section 165-12 447
Business continuity test and change of head company 448
719-285 Business continuity test and change of head company 448
Bundles of losses and their available fractions 448
719-300 Application 448
719-305 Subdivision 707-C affects utilisation of losses made by ongoing head company while it was head company 449
719-310 Adjustment of available fractions for bundles of losses previously transferred to ongoing head company 451
719-315 Further adjustment of available fractions for all bundles 451
719-320 Limit on utilising losses other than the prior group losses 452

Authorised Version C2022C00307 registered 22/10/2022

719-325 Cancellation of all losses in a bundle 453

Subdivision 719-H—Imputation issues 454

719-425 Guide to Subdivision 719-H 454

Operative provisions 454

719-430 Transfer of franking account balance on cessation event 454

719-435 Distributions by subsidiary members of MEC group taken to be distributions by head company 455

Subdivision 719-I—Bad debts 456

Guide to Subdivision 719-I 456

719-450 What this Subdivision is about 456

Maintaining the same ownership to be able to deduct bad debt 456

719-455 Special test for deducting a bad debt because a company maintains the same owners 456

719-460 Assumptions about nothing happening to affect direct and indirect ownership of the test company 458

719-465 Assumptions about the test company failing to meet the conditions in section 165-123 459

Subdivision 719-J—MEC group cost setting rules: leaving cases 460

Guide to Subdivision 719-J 460

719-500 What this Subdivision is about 460

719-505 Application and object of this Subdivision 460

719-510 Modified operation of paragraphs 711-15(1)(b) and (c) 461

Subdivision 719-K—MEC group cost setting rules: pooling cases 461

Guide to Subdivision 719-K 461

719-550 What this Subdivision is about 461

719-555 Application and object of this Subdivision 462

719-560 Pooled interests 462

719-565 Setting cost of reset interests 463

719-570 Cost setting amount 464

Subdivision 719-T—Interactions between this Part and other areas of the income tax law: special rules for MEC groups 465

How Subdivision 165-CC applies to MEC groups 466

719-700 Changeover times under section 165-115C or 165-115D 466

Authorised Version C2022C00307 registered 22/10/2022

719-705 Additional changeover times for head company of MEC group 467

How Subdivision 165-CD applies to MEC groups 467

719-720 Alteration times under section 165-115L or 165-115M 467

719-725 Additional alteration times for head company of MEC group 468

719-730 Some alteration times only affect interests in top company 469

719-735 Some alteration times affect only pooled interests 470

719-740 Head company does not have relevant equity or debt interest in a loss company if widely held top company does not have such an interest 471

How indirect value shifting rules apply to a MEC group 471

719-755 Effect on MEC group cost setting rules if head company is losing entity or gaining entity for indirect value shift 471

Cancelling loss on realisation event for direct or indirect interest in a subsidiary member of a MEC group 472

719-775 Cancellation of loss 472

719-780 Exception for pooled interests in eligible tier-1 companies 474

719-785 Exception for interests in top company 474

719-790 Exception for interests in entity leaving MEC group 474

719-795 Exception if loss attributable to certain matters 475

Division 721—Liability for payment of tax where head company fails to pay on time 476

Guide to Division 721 476

721-1 What this Division is about 476

Object 477

721-5 Object of this Division 477

When this Division operates 477

721-10 When this Division operates 477

Joint and several liability of contributing member 481

721-15 Head company and contributing members jointly and severally liable to pay group liability 481

721-17 Notice of joint and several liability for general interest charge 483

Authorised Version C2022C00307 registered 22/10/2022

721-20 Limit on liability where group first comes into existence 483

Tax sharing agreements 483

721-25 When a group liability is covered by a tax sharing agreement 483

721-30 TSA contributing members liable for contribution amounts 485

721-32 Notice of general interest charge liability under TSA 486

721-35 When a TSA contributing member has left the group clear of the group liability 487

721-40 TSA liability and group liability are linked 487

Authorised Version C2022C00307 registered 22/10/2022

Chapter 3—Specialist liability rules

Part 3-80—Roll-overs applying to assets generally

Division 615—Roll-overs for business restructures

Table of Subdivisions

615-A Choosing to obtain roll-overs
615-B Further requirements for choosing to obtain roll-overs
615-C Consequences of roll-overs
615-D Consequences for the interposed company

Guide to Division 615

615-1 What this Division is about

You can choose for transactions under a scheme to restructure a company's or unit trust's business to be tax neutral if, under the scheme:

(a) you cease to own shares in the company or units in the trust; and

(b) in exchange, you become the owner of new shares in another company.

Subdivision 615-A—Choosing to obtain roll-overs

Table of sections

615-5 Disposing of interests in one entity for shares in a company
615-10 Redeeming or cancelling interests in one entity for shares in a company

615-5 Disposing of interests in one entity for shares in a company

(1) You can choose to obtain a roll-over if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) you are a *member of a company or a unit trust (the ***original entity***); and

(b) you and at least one other entity (the ***exchanging members***) own all the *shares or units in it; and

(c) under a *scheme for reorganising its affairs, the exchanging members *dispose of all their shares or units in it to a company (the ***interposed company***) in exchange for shares in the interposed company (and nothing else); and

(d) the requirements in Subdivision 615-B are satisfied.

Note 1: For paragraph (c), see section 124-20 if an exchanging member uses a share sale facility.

Note 2: After the completion of the scheme, later dealings between the interposed company and the original entity may be subject to the rules for consolidated groups (see Part 3-90).

(2) You are taken to have chosen to obtain the roll-over if:

(a) immediately before the completion time (see section 615-15), the original entity is the *head company of a *consolidated group; and

(b) immediately after the completion time, the interposed company is the head company of the group.

Note: The consolidated group continues in existence because of section 703-70.

615-10 Redeeming or cancelling interests in one entity for shares in a company

(1) You can choose to obtain a roll-over if you are a *member of a company or a unit trust (the ***original entity***), and under a *scheme for reorganising its affairs:

(a) a company (the ***interposed company***) *acquires one or more, but not all, of the *shares or units in the original entity; and

(b) these are the first shares or units that the interposed company acquires in the original entity; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) you and at least one other entity (the ***exchanging members***) own all the remaining shares or units in the original entity; and

(d) those remaining shares or units are redeemed or cancelled; and

(e) each exchanging member receives shares (and nothing else) in the interposed company in return for their shares or units in the original entity being redeemed or cancelled;

and the requirements in Subdivision 615-B are satisfied.

Note: For paragraph (e), see section 124-20 if an exchanging member uses a share sale facility.

(2) You are taken to have chosen to obtain the roll-over if:

(a) immediately before the completion time (see section 615-15), the original entity is the *head company of a *consolidated group; and

(b) immediately after the completion time, the interposed company is the head company of the group.

Note: The consolidated group continues in existence because of section 703-70.

(3) The original entity, or its trustee if it is a unit trust, can issue other *shares or units to the interposed company as part of the *scheme.

Note: Some of the interposed company's shares or units in the original entity may be taken to be acquired before 20 September 1985: see section 615-65.

Subdivision 615-B—Further requirements for choosing to obtain roll-overs

Table of sections

615-15 Interposed company must own all the original interests
615-20 Requirements relating to your interests in the original entity
615-25 Requirements relating to the interposed company
615-30 Interposed company must make a particular choice
615-35 ADI restructures—disregard certain preference shares

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

615-15 Interposed company must own all the original interests

The interposed company must own all the *shares or units in the original entity immediately after the time (the ***completion time***) all the exchanging members have had their shares or units in the original entity disposed of, redeemed or cancelled under the *scheme.

615-20 Requirements relating to your interests in the original entity

(1) Immediately after the completion time, each exchanging member must own:

(a) a whole number of *shares in the interposed company; and

(b) a percentage of the shares in the interposed company that were issued to all the exchanging members that is equal to the percentage of the shares or units in the original entity that were:

(i) owned by the member; and

(ii) disposed of, redeemed or cancelled under the *scheme.

(2) The following ratios must be equal:

(a) the ratio of:

(i) the *market value of each exchanging member's *shares in the interposed company; to

(ii) the market value of the shares in the interposed company issued to all the exchanging members (worked out immediately after the completion time);

(b) the ratio of:

(i) the market value of that member's shares or units in the original entity that were disposed of, redeemed or cancelled under the *scheme; to

(ii) the market value of all the shares or units in the original entity that were disposed of, redeemed or cancelled under the scheme (worked out immediately before the first disposal, redemption or cancellation).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Example 1: There are 100 shares in A Pty Ltd (the original entity), all having the same rights. B Pty Ltd (the interposed company) acquires all the shares in A by issuing each shareholder in A 10 shares in itself for each share they have in A. All shares in B have the same rights. Bill owned 15 shares in A and received 150 shares in B in exchange.

Example 2: There are 1,000 units in the A unit trust (the original entity), all having the same rights. 2 new units in A are issued to B Pty Ltd (the interposed company), and all other units in A are cancelled. Each unitholder in A is issued 10 shares in B for each 100 units they have in A. All shares in B have the same rights. Alison owned 200 units in A and received 20 shares in B in exchange.

(3) Either:

(a) you are an Australian resident at the time your *shares or units in the original entity are disposed of, redeemed or cancelled under the *scheme; or

(b) if you are a foreign resident at that time:

(i) your shares or units in the original entity were *taxable Australian property immediately before that time; and

(ii) your shares in the interposed company are taxable Australian property immediately after the completion time.

615-25 Requirements relating to the interposed company

(1) The *shares issued in the interposed company must not be *redeemable shares.

(2) Each exchanging member who is issued *shares in the interposed company must own the shares from the time they are issued until at least the completion time.

(3) Immediately after the completion time:

(a) the exchanging members must own all the *shares in the interposed company; or

(b) entities other than those members must own no more than 5 shares in the interposed company, and the *market value of those shares expressed as a percentage of the market value of all the shares in the interposed company must be such that it

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

is reasonable to treat the exchanging members as owning all the shares.

615-30 Interposed company must make a particular choice

(1) Unless subsection (2) applies, the interposed company must choose that section 615-65 applies.

(2) The interposed company must choose that a *consolidated group continues in existence at and after the completion time with the interposed company as its *head company, if:

(a) immediately before the completion time, the consolidated group consisted of the original entity as head company and one or more other members (the ***other group members***); and

(b) immediately after the completion time, the interposed company is the head company of a *consolidatable group consisting only of itself and the other group members.

Note: Sections 703-65 to 703-80 deal with the effects of the choice for the consolidated group.

(3) A choice under subsection (1) or (2) must be made:

(a) within 2 months after the completion time, if the choice is under subsection (1); or

(b) within 28 days after the completion time, if the choice is under subsection (2); or

(c) within such further time as the Commissioner allows.

The choice cannot be revoked.

(4) The way the interposed company prepares its *income tax returns is sufficient evidence of the making of the choice.

615-35 ADI restructures—disregard certain preference shares

For the purposes of this Division, disregard any *shares in the original entity that can be disregarded under subsection 703-37(4) if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the interposed company is a non-operating holding company within the meaning of the *Financial Sector (Transfer and Restructure) Act 1999*; and

(b) a restructure instrument under Part 4A of that Act is in force in relation to the interposed company; and

(c) because of the restructure to which the instrument relates, an *ADI becomes a subsidiary (within the meaning of that Act) of the interposed company; and

(d) the original entity is:

(i) the ADI; or

(ii) part of an extended licensed entity (within the meaning of the *prudential standards) that includes the ADI.

Subdivision 615-C—Consequences of roll-overs

Table of sections

615-40 CGT consequences
615-45 Additional consequences—deferral of profit or loss
615-50 Trading stock
615-55 Revenue assets
615-60 Disregard CGT exemption for trading stock

615-40 CGT consequences

The consequences set out in Subdivision 124-A also apply to a roll-over under this Division as if that roll-over were a roll-over covered by Division 124 (about replacement-asset roll-overs).

Note: Those consequences generally involve:

(a) disregarding a capital gain or capital loss you make from the disposal, redemption or cancellation of your shares or units in the original entity; and

(b) working out the first element of the cost base of each of your new shares in the interposed entity by reference to the cost bases of your shares or units in the original entity.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

615-45 Additional consequences—deferral of profit or loss

The additional consequences in sections 615-50 and 615-55 apply if:

(a) under this Division:
  (i) you are taken to have chosen to obtain the roll-over; or
  (ii) you otherwise choose to obtain the roll-over; and

(b) if subparagraph (a)(ii) applies to you, you choose for these additional consequences to apply; and

(c) some or all of your *shares or units in the original entity at the time immediately before they were:
  (i) disposed of as described in paragraph 615-5(1)(c); or
  (ii) redeemed or cancelled as described in paragraph 615-10(1)(d);

had the character of being your *trading stock or *revenue assets; and

(d) the shares in the interposed company that you acquired in return for those shares or units have the same character.

Note 1: Apply this section separately for assets of each character.

Note 2: The CGT exemption for trading stock does not prevent you obtaining the roll-over (see section 615-60).

615-50 Trading stock

(1) The amount included in your assessable income because of the disposal, redemption or cancellation of each of your *shares or units described in paragraph 615-45(c) that was your *trading stock at the time mentioned in that paragraph is equal to:

(a) if the share or unit had been your trading stock ever since the start of the income year that included that time—the total of:
  (i) its *value as trading stock at the start of the income year; and
  (ii) the amount (if any) by which its cost had increased since the start of the income year; or

(b) otherwise—its cost at that time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) For each of the *shares that you acquired as described in paragraph 615-45(d) that is your *trading stock, you are taken to have paid:

$$\frac{\text{Total included in your assessable income under subsection (1) for your corresponding *shares or units in the original entity}}{\text{Number of your shares acquired as described in paragraph 615–45(d) that are your *trading stock}}$$

(3) For the purposes of Division 70 (about trading stock), you, the original entity and the interposed company are taken to have dealt with each other in the ordinary course of *business and at *arm's length for each of the transactions referred to in paragraph 615-5(1)(c) or 615-10(1)(d) or (e).

615-55 Revenue assets

(1) For each of your *shares or units that:

(a) is described in paragraph 615-45(c); and

(b) was a *revenue asset immediately before its disposal, redemption or cancellation;

your gross proceeds for that disposal, redemption or cancellation are taken to be the amount you would have needed to have received in order to have a nil profit and nil loss for that disposal, redemption or cancellation.

(2) For the purpose of calculating any profit or loss on a future disposal, cessation of ownership, or other realisation of a *share that:

(a) you acquired as described in paragraph 615-45(d); and

(b) is a *revenue asset;

you are taken to have paid the following for your acquisition of that share:

$$\frac{\text{Total worked out under subsection (1) for your corresponding *shares or units in the original entity}}{\text{Number of your shares acquired as described in paragraph 615–45(d) that are *revenue assets}}$$

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

615-60 Disregard CGT exemption for trading stock

For the purposes of this Division, disregard section 118-25 (which gives a CGT exemption for trading stock).

Subdivision 615-D—Consequences for the interposed company

Table of sections

615-65 Consequences for the interposed company

615-65 Consequences for the interposed company

(1) This section applies if the interposed company so chooses under subsection 615-30(1).

(2) A number of the *shares or units that the interposed company owns in the original entity (immediately after the completion time) are taken to have been *acquired before 20 September 1985 if any of the original entity's assets as at the completion time were acquired by it before that day.

Note: Generally, a capital gain or capital loss you make from a CGT asset that you acquired before 20 September 1985 can be disregarded: see Division 104.

(3) That number (worked out as at the completion time) is the greatest possible whole number that (when expressed as a percentage of all the *shares or units) does not exceed:

(a) the *market value of the original entity's assets that it *acquired before 20 September 1985; less

(b) its liabilities (if any) in respect of those assets;

expressed as a percentage of the market value of all the original entity's assets less all of its liabilities.

(4) The first element of the *cost base of the interposed company's *shares or units in the original entity that are not taken to have been *acquired before 20 September 1985 is:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the total of the cost bases (as at the completion time) of the original entity's assets that it acquired on or after that day; less

(b) its liabilities (if any) in respect of those assets.

The first element of the *reduced cost base of those shares or units is worked out similarly.

(5) A liability of the original entity that is not a liability in respect of a specific asset or assets of the original entity is taken to be a liability in respect of all the assets of the original entity.

Note: An example is a bank overdraft.

(6) If a liability is in respect of 2 or more assets, the proportion of the liability that is in respect of any one of those assets is equal to:

$$\frac{\text{The *market value of the asset}}{\text{Total market value of all the assets that the liability is in respect of}}$$

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 620—Assets of wound-up corporation passing to corporation with not significantly different ownership

Table of Subdivisions

620-A Corporations covered by Subdivision 124-I

Subdivision 620-A—Corporations covered by Subdivision 124-I

Guide to Subdivision 620-A

620-5 What this Subdivision is about

There are tax-neutral consequences of a body, that is incorporated under one law and ceases to exist, disposing of an asset to a company incorporated under another law, if the ownership of the company is not significantly different from the ownership of the body.

Table of sections

Application and object of this Subdivision

620-10 Application
620-15 Object

CGT consequences

620-20 Disregard body's capital gains and losses from CGT assets
620-25 Cost base and pre-CGT status of CGT asset for company

Consequences for depreciating assets

620-30 Roll-over relief for balancing adjustment events

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Consequences for trading stock

620-40 Body taken to have sold trading stock to company

Consequences for revenue assets

620-50 Body taken to have sold revenue assets to company

Application and object of this Subdivision

620-10 Application

This Subdivision applies to a body that is incorporated under one law and ceases to exist, and to a company incorporated under another law, if section 124-525 applies in relation to the body and the company.

Note: That section applies if the ownership of the company is not significantly different from the ownership of the body and rights relating to the body.

620-15 Object

The object of this Subdivision is to ensure tax-neutral consequences when the body ceases to hold an asset and also if the asset becomes held by the company.

CGT consequences

620-20 Disregard body's capital gains and losses from CGT assets

(1) This section applies if:

(a) the body *disposes of a *CGT asset to the company because the body ceases to exist; or

(b) another *CGT event happens to a CGT asset of the body because the body ceases to exist.

(2) A *capital gain or a *capital loss the body makes from the *CGT asset is disregarded.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

620-25 Cost base and pre-CGT status of CGT asset for company

(1) This section applies to a *CGT asset if the body *disposes of it to the company because the body ceases to exist.

(2) The first element of the *CGT asset's *cost base for the company is equal to the asset's cost base for the body in connection with the *disposal.

(3) The first element of the *CGT asset's *reduced cost base for the company is worked out similarly.

(4) If the body *acquired the *CGT asset before 20 September 1985, the company is taken to have acquired the CGT asset before that day.

Consequences for depreciating assets

620-30 Roll-over relief for balancing adjustment events

(1) This section applies if:
  (a) there is a *balancing adjustment event because the body disposes of a *depreciating asset in an income year to the company because the body ceases to exist; and
  (b) the disposal involves a *CGT event.

(2) This Act applies as if:
  (a) there were roll-over relief under subsection 40-340(1) for the *balancing adjustment event; and
  (b) the body were the transferor mentioned in that subsection and subsection 328-243(1A); and
  (c) the company were the transferee mentioned in that subsection and subsection 328-243(1A).

Note: Some effects of this are as follows:
  (a) the balancing adjustment event does not affect the body's assessable income or deductions (see subsection 40-345(1));
  (b) the company can deduct for the decline in value of the asset on the same basis as the body did (see subsection 40-345(2));

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Authorised Version C2022C00307 registered 22/10/2022

(c) Division 45 (Disposal of leases and leased plant) applies to the company as if it had done the things the body did (see subsection 40-350(1)).

(3) Disregard paragraph 328-243(1A)(c) in determining whether subsection 328-243(1A) applies.

Consequences for trading stock

620-40 Body taken to have sold trading stock to company

(1) This subsection applies to each item of *trading stock that the body disposes of to the company because the body ceases to exist.

(2) The body is taken to have sold, and the company is taken to have bought, the item (in the ordinary course of *business and dealing with each other at *arm's length), at the time of the disposal (or just before that time if the disposal occurred when the body ceased to exist), for:

(a) the *cost of the item for the body; or

(b) if the body held the item as *trading stock at the start of the income year, the *value of the item for the body then.

(3) The company is taken to have held the item as *trading stock when it bought the item.

Consequences for revenue assets

620-50 Body taken to have sold revenue assets to company

Disposal

(1) Subsections (2) and (3) apply to a *CGT asset:

(a) that the body *disposes of to the company because the body ceases to exist; and

(b) that is a *revenue asset of the body just before the disposal.

Note: Trading stock and depreciating assets are not revenue assets. See section 977-50.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 620-50

(2) The body is taken to have disposed of the *revenue asset to the company for an amount such that the body would not make a profit or a loss on the disposal.

(3) For the purpose of calculating any profit or loss on a future disposal of, cessation of owning, or other realisation of, the *revenue asset, the company is taken to have paid the body that amount for the disposal of the revenue asset to the company.

Ceasing to own or other realising

(4) Subsection (5) applies to a *CGT asset:

(a) that the body ceases to own, or otherwise realises, because the body ceases to exist; and

(b) that is a *revenue asset of the body just before the cessation or realisation.

Note: Trading stock and depreciating assets are not revenue assets. See section 977-50.

(5) The body is taken to have disposed of the *revenue asset for an amount such that the body would not make a profit or a loss on the disposal.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Part 3-90—Consolidated groups

Division 700—Guide and objects

Table of sections

Guide

700-1 What this Part is about
700-5 Overview of this Part

Objects

700-10 Objects of this Part

Guide

700-1 What this Part is about

This Part allows certain groups of entities to be treated as single entities for income tax purposes.

Following a choice to consolidate, subsidiary members are treated as part of the head company of the group rather than as separate income tax identities. The head company inherits their income tax history when they become subsidiary members of the group. On ceasing to be subsidiary members, they take with them an income tax history that recognises that they are different from when they became subsidiary members.

This is supported by rules that:

(a) set the cost for income tax purposes of assets that subsidiary members bring into the group; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) determine the income tax history that is taken into account when entities become, or cease to be, subsidiary members of the group; and

(c) deal with the transfer of tax attributes such as losses and franking credits to the head company when entities become subsidiary members of the group.

700-5 Overview of this Part

(1) The single entity rule determines how the income tax liability of a consolidated group will be ascertained. The basic principle is contained in the Core Rules in Division 701.

(2) Essentially, a consolidated group consists of an Australian resident head company and all of its Australian resident wholly-owned subsidiaries (which may be companies, trusts or partnerships). Special rules apply to foreign-owned groups with no single Australian resident head company.

(3) An eligible wholly-owned group becomes a consolidated group after notice of a choice to consolidate is given to the Commissioner.

(4) This Part also contains rules which set the cost for income tax purposes of assets of entities when they become subsidiary members of a consolidated group and of membership interests in those entities when they cease to be subsidiary members of the group.

(5) Certain tax attributes (such as losses and franking credits) of entities that become subsidiary members of a consolidated group are transferred under this Part to the head company of the group. These tax attributes remain with the group after an entity ceases to be a subsidiary member.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Objects

700-10 Objects of this Part

The objects of this Part are:

(a) to prevent double taxation of the same economic gain realised by a consolidated group; and

(b) to prevent a double tax benefit being obtained from an economic loss realised by a consolidated group; and

(c) to provide a systematic solution to the prevention of such double taxation and double tax benefits that will:

(i) reduce the cost of complying with this Act; and

(ii) improve business efficiency by removing complexities and promoting simplicity in the taxation of wholly-owned groups.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 701—Core rules

Table of sections

Common rule

701-1 Single entity rule

Head company rules

701-5 Entry history rule
701-10 Cost to head company of assets of joining entity
701-15 Cost to head company of membership interests in entity that leaves group
701-20 Cost to head company of assets consisting of certain liabilities owed by entity that leaves group
701-25 Tax-neutral consequence for head company of ceasing to hold assets when entity leaves group

Entity rules

701-30 Where entity not subsidiary member for whole of income year
701-35 Tax-neutral consequence for entity of ceasing to hold assets when it joins group
701-40 Exit history rule
701-45 Cost of assets consisting of liabilities owed to entity by members of the group
701-50 Cost of certain membership interests of which entity becomes holder on leaving group

Supporting provisions

701-55 Setting the tax cost of an asset
701-56 Application of subsection 701-55(6)
701-58 Effect of setting the tax cost of an asset that the head company does not hold under the single entity rule
701-60 Tax cost setting amount
701-60A Tax cost setting amount for asset emerging when entity leaves group
701-61 Assets in relation to Division 230 financial arrangement—head company's assessable income or deduction
701-63 ***Right to future income*** and ***WIP amount asset***
701-65 Net income and losses for trusts and partnerships

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

701-67 Assets in this Part are CGT assets, etc.

Exceptions

701-70 Adjustments to taxable income where identities of parties to arrangement merge on joining group
701-75 Adjustments to taxable income where identities of parties to arrangement re-emerge on leaving group
701-80 Accelerated depreciation
701-85 Other exceptions etc. to the rules

Common rule

701-1 Single entity rule

(1) If an entity is a *subsidiary member of a *consolidated group for any period, it and any other subsidiary member of the group are taken for the purposes covered by subsections (2) and (3) to be parts of the *head company of the group, rather than separate entities, during that period.

Head company core purposes

(2) The purposes covered by this subsection (the ***head company core purposes***) are:

(a) working out the amount of the *head company's liability (if any) for income tax calculated by reference to any income year in which any of the period occurs or any later income year; and

(b) working out the amount of the head company's loss (if any) of a particular *sort for any such income year.

Note: The single entity rule would affect the head company's income tax liability calculated by reference to income years after the entity ceased to be a member of the group if, for example, assets that the entity held when it became a subsidiary member remained with the head company after the entity ceased to be a subsidiary member.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Entity core purposes

(3) The purposes covered by this subsection (the ***entity core purposes***) are:

(a) working out the amount of the entity's liability (if any) for income tax calculated by reference to any income year in which any of the period occurs or any later income year; and

(b) working out the amount of the entity's loss (if any) of a particular *sort for any such income year.

Note: An assessment of the entity's liability calculated by reference to income tax for a period when it was *not* a subsidiary member of the group may be made, and that tax recovered from it, even while it is a subsidiary member.

*What is a **sort** of loss?*

(4) Each of these paragraphs identifies a ***sort*** of loss:

(a) *tax loss;

(b) *film loss;

(c) *net capital loss.

This subsection lists all the ***sorts*** of loss.

Head company rules

701-5 Entry history rule

For the head company core purposes in relation to the period after the entity becomes a *subsidiary member of the group, everything that happened in relation to it before it became a subsidiary member is taken to have happened in relation to the *head company.

Note 1: Other provisions of this Part may affect the tax history that is inherited (e.g. asset cost base history is affected by section 701-10 and tax loss history is affected by Division 707).

Note 3: Section 165-212E overrides this rule for the purposes of the business continuity test.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

701-10 Cost to head company of assets of joining entity

(1) This section has effect for the head company core purposes when the entity becomes a *subsidiary member of the group.

Assets to which section applies

(2) This section applies in relation to each asset that would be an asset of the entity at the time it becomes a *subsidiary member of the group, assuming that subsection 701-1(1) (the single entity rule) did not apply.

Note: See subsection 705-35(3) for the treatment of a goodwill asset resulting from the head company's ownership and control of the joining entity.

Object

(3) The object of this section (and Division 705 which relates to it) is to recognise the cost to the *head company of such assets as an amount reflecting the group's cost of acquiring the entity.

Setting tax cost of assets

(4) Each asset's *tax cost is set at the time the entity becomes a *subsidiary member of the group at the asset's *tax cost setting amount.

Multiple setting of tax cost for same trading stock or registered emissions unit

(5) However, if:

(a) the asset is *trading stock or a *registered emissions unit; and

(b) the asset's *tax cost is set by this section at more than one time (each of which is a ***setting time***) for the same income year;

then, except where subsection (6) applies, only the amount at which the tax cost is set at the last of the setting times is to be taken into account.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(6) If:

(a) the *head company's *terminating value for the asset; or

(b) the *value of the asset at the start of the income year;

is required to be worked out for one or more occasions when an entity (whether or not the same entity) ceases to be a *subsidiary member of the group in the income year, then the amount at which the asset's *tax cost is set by this section at a particular setting time is only taken into account in working out the head company's terminating value for a particular occasion if:

(c) the setting time occurs before the occasion; and

(d) there is no intervening setting time or occasion.

701-15 Cost to head company of membership interests in entity that leaves group

(1) If the entity ceases to be a *subsidiary member of the group, this section has effect for the head company core purposes, so far as they relate to the income year in which the entity ceases to be a subsidiary member or any later income year.

Note: This section could have effect, for example, if an entity ceases to be a subsidiary member of the group because:

(a) it ceases to satisfy the requirements to be a subsidiary member; or

(b) the head company ceases to satisfy the requirements to be a head company (thereby bringing the group to an end).

Object

(2) The object of this section is to preserve the alignment of the *head company's costs for *membership interests in each entity and its assets by recognising, when an entity ceases to be a *subsidiary member of the group, the cost of those interests as an amount equal to the cost of the entity's assets at that time reduced by the amount of its liabilities.

Note: The head company's costs for membership interests in entities was aligned with the costs of their assets when the entities became subsidiary members of the group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Setting tax cost of membership interests

(3) For each *membership interest that the *head company of the group holds in an entity that ceases to be a *subsidiary member, the interest's *tax cost is set just before the entity ceases to be a subsidiary member at the interest's *tax cost setting amount.

Note 1: The membership interests would include those that are actually held by subsidiary members of the group, but which are treated as those of the head company under the single entity rule.

Note 2: If the entity is a partnership, Subdivision 713-E sets the tax cost of interests in partnership assets, rather than membership interests in the partnership.

701-20 Cost to head company of assets consisting of certain liabilities owed by entity that leaves group

(1) If the entity ceases to be a *subsidiary member of the group, this section has effect for the head company core purposes, so far as they relate to the income year in which the entity ceases to be a subsidiary member or any later income year.

Assets to which section applies

(2) This section applies in relation to each asset, consisting of a liability owed by the entity, that becomes an asset of the *head company because subsection 701-1(1) (the single entity rule) ceases to apply to the entity when it ceases to be a *subsidiary member. This is a liability that, ignoring that subsection, is owed to a *member of the group.

Object

(3) The object of this section is to set a cost for the asset to enable income tax consequences for the *head company in respect of the asset to be determined.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Setting tax cost of assets

(4) The asset's *tax cost is set at the time the entity ceases to be a *subsidiary member of the group at the asset's *tax cost setting amount.

Note: If the entity is a partnership, Subdivision 713-E sets the tax cost of assets consisting of a partner's share of a liability owed by the partnership to a member of the group.

701-25 Tax-neutral consequence for head company of ceasing to hold assets when entity leaves group

(1) If the entity ceases to be a *subsidiary member of the group, this section has effect for the head company core purposes, so far as they relate to the income year in which the entity ceases to be a subsidiary member or any later income year.

Assets to which section applies

(2) This section applies in relation to an asset if:

(a) either:

(i) the asset is *trading stock of the *head company; or

(ii) the asset is a *registered emissions unit and an asset of the head company; and

(b) the asset becomes an asset of the entity because subsection 701-1(1) (the single entity rule) ceases to apply to the entity when it ceases to be a *subsidiary member of the group; and

(c) the asset is not again an asset of the head company at or before the end of the income year.

Object

(3) The object of this section is to ensure that there is no income tax consequence for the *head company in respect of the asset.

Note: In the case of assets other than trading stock or registered emissions units, the fact that the head company ceases to hold them when the single entity rules ceases to apply to them would not constitute a

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

disposal or other event having tax consequences for the head company.

Setting value of trading stock at tax-neutral amount

(4) If subparagraph (2)(a)(i) applies, the asset is taken to be *trading stock of the *head company at the end of the income year (but not at the start of the next income year) and its *value at that time is taken to be equal to:

(a) if the asset was trading stock of the head company at the start of the income year (including as a result of its *tax cost being set)—the asset's value at that time; or

(b) if paragraph (a) does not apply and the asset is *live stock that was acquired by natural increase—the *cost of the asset; or

(c) in any other case—the amount of the outgoing incurred by the head company in connection with the acquisition of the asset;

increased by the amount of any outgoing forming part of the cost of the asset that was incurred by the head company during its current holding of the asset.

Note: As a consequence of fixing the trading stock's value at the end of the income year under this subsection, no election would be available under section 70-45 to value the trading stock at that time.

Setting value of registered emissions unit at tax-neutral amount

(5) If subparagraph (2)(a)(ii) applies, the asset is taken to be an asset of the *head company at the end of the income year (but not at the start of the next income year) and the head company's *value for the asset at that time is taken to be equal to:

(a) if the asset was *held by the head company at the start of the income year—the value of the asset at the start of the income year; or

(b) otherwise—the expenditure incurred by the head company in becoming the holder of the asset.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Entity rules

701-30 Where entity not subsidiary member for whole of income year

Object

(1) The object of this section is to provide for a method of working out how the entity core rules apply to the entity for periods in the income year when the entity is not part of the group. The method involves treating each period separately with no netting off between them.

When section has effect

(2) This section has effect for the entity core purposes if:
  (a) the entity is a *subsidiary member of the group for some but not all of an income year; and
  (b) there are one or more periods in the income year (each of which is a ***non-membership period***) during which the entity is not a subsidiary member of any *consolidated group.

Tax position of each non-membership period to be worked out

(3) For every non-membership period, work out the entity's taxable income (if any) for the period, the income tax (if any) payable on that taxable income and the entity's loss (if any) (a ***non-membership period loss***) of each *sort for the period. Work them out:
  (a) as if the start and end of the period were the start and end of the income year; and
  (b) ignoring the operation of this section in relation to each other non-membership period (if any); and
  (c) so that each relevant item is either:
    (i) allocated to only one of the non-membership periods or to a period that is all or part of the rest of the income year; or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(ii) apportioned among such periods (for example, by Subdivision 716-A (see note to this subsection)).

Note: Other provisions of this Part are to be applied in working out the taxable income or loss, for example:

- section 701-40 (Exit history rule); and
- Subdivision 716-A (about assessable income and deductions spread over several membership or non-membership periods); and
- section 716-850 (about grossing up threshold amounts for periods of less than 365 days).

Subdivision 716 also affects the tax position of the head company of a group of which the entity has been a subsidiary member for some but not all of the income year.

(3A) For the purposes of working out the entity's taxable income (if any) for the non-membership period, determine:

(a) whether the entity can *utilise a loss of any *sort transferred to the entity in the period; and

(b) if the period started at the start of the income year—whether the entity can utilise a loss of any sort:

(i) made by the entity, without a transfer, for an earlier income year; or

(ii) transferred to the entity in an earlier income year;

as if the time just after the end of the period were the end of the income year and the entity carried on at that time the same business that it carried on just before that time. Paragraph (3)(a) has effect subject to this subsection.

Note: This means that things that happen in relation to the entity at the time it becomes a subsidiary member of the group are taken into account in determining whether the entity can utilise such a loss to affect its taxable income for the non-membership period.

Income tax for the financial year

(4) The entity's income tax (if any) for the *financial year concerned is the total of every amount of income tax worked out for the entity under subsection (3).

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Taxable income for the income year

(5) The entity's taxable income for the income year is the total of every amount of taxable income worked out for the entity under subsection (3).

(6) The entity's income tax worked out under subsection (4) is taken to be payable on the entity's taxable income for the income year worked out under subsection (5), even if the amount of the tax differs from the amount that would be worked out by reference to that taxable income apart from subsection (5).

Loss for the income year

(7) The entity has a loss of a particular *sort for the income year if and only if it has a non-membership period loss of that sort for the non-membership period (if any) ending at the end of the income year. The amount of the loss for the income year is the amount of the non-membership period loss.

Utilisation and transfer of non-membership period loss

(8) However, the provisions of this Act relating to transfer or *utilisation of a loss of any *sort have effect in relation to a non-membership period loss of that sort for any non-membership period as if the non-membership period loss were the entity's loss for an income year that:

(a) started at the start of the period; and

(b) ended at the end of the period.

(9) Subsection (8) has effect not only for the entity core purposes, but also (despite subsection (2)) for other purposes.

Excess franking deficit tax offset for the income year

(10) For the purposes of applying section 205-70 in relation to an income year after the income year (the ***current income year***) to which this section applies, the entity has an excess mentioned in paragraph 205-70(1)(c) (about excess franking deficit tax offsets)

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

for the current income year only if it has such an excess for the non-membership period (if any) ending at the end of the current income year. The amount of the excess for the current income year is the amount of the excess for the non-membership period.

701-35 Tax-neutral consequence for entity of ceasing to hold assets when it joins group

(1) When the entity becomes a *subsidiary member of the group, this section has effect for the entity core purposes.

Assets to which section applies

(2) This section applies in relation to an asset if:

(a) the asset is *trading stock of the entity just before it becomes a *subsidiary member of the group; or

(b) the asset is:

(i) a *registered emissions unit; and

(ii) an asset of the entity;

just before it becomes a subsidiary member of the group.

Object

(3) The object of this section is to ensure that there is no income tax consequence for the entity in respect of the asset.

Note: In the case of assets other than trading stock or registered emissions units, the fact that the entity ceases to hold them when the single entity rule begins to apply to them would not constitute a disposal or other event having tax consequences for the entity.

Setting value of trading stock at tax-neutral amount

(4) If paragraph (2)(a) applies, the *value of the *trading stock at the end of the income year that ends, or, if section 701-30 applies, of the income year that is taken by subsection (3) of that section to end, when the entity becomes a *subsidiary member is taken to be equal to:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) if the asset was trading stock of the entity at the start of the income year—the asset's value at that time; or

(b) if paragraph (a) does not apply and the asset is *live stock that was acquired by natural increase—the *cost of the asset; or

(c) in any other case—the amount of the outgoing incurred by the entity in connection with the acquisition of the asset;

increased by the amount of any outgoing forming part of the cost of the asset that was incurred by the entity during its current holding of the asset.

Note: As a consequence of fixing the trading stock's value at the end of the income year under this subsection, no election would be available under section 70-45 to value the trading stock at that time.

Setting value of registered emissions unit at tax-neutral amount

(5) If paragraph (2)(b) applies, the *value of the *registered emissions unit at the end of the income year that ends, or, if section 701-30 applies, of the income year that is taken by subsection (3) of that section to end, when the entity becomes a *subsidiary member is taken to be equal to:

(a) if the unit was *held by the joining entity at the start of the income year—the value of the unit at the start of the income year; or

(b) otherwise—the expenditure incurred by the joining entity in becoming the holder of the unit.

Note: See also section 701A-7 of the *Income Tax (Transitional Provisions) Act 1997*.

701-40 Exit history rule

(1) If the entity ceases to be a *subsidiary member of the group, this section has effect for the entity core purposes, so far as they relate to any thing covered by subsection (2) (an ***eligible asset etc.***) after it becomes that of the entity because subsection 701-1(1) (the single entity rule) ceases to apply to the entity.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

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Assets, liabilities and businesses covered

(2) This subsection covers the following:

(a) any asset;

(b) any liability or other thing that, in accordance with *accounting principles, is a liability;

(c) any business;

that becomes that of the entity because subsection 701-1(1) (the single entity rule) ceases to apply to the entity when it ceases to be a *subsidiary member of the group.

Head company history inherited

(3) Everything that happened in relation to any eligible asset etc. while it was that of the *head company, including because of any application of section 701-5 (the entry history rule), is taken to have happened in relation to it as if it had been an eligible asset etc. of the entity.

Note 1: If the eligible asset etc. was brought into the group when an entity became a subsidiary member, section 701-5 (the entry history rule) would have had the effect that things happening to the eligible asset etc. while it was that of the entity would be taken to have happened as if it was that of the head company. Such things will in turn be taken by this subsection to have happened in relation to the eligible asset etc. as if it were that of the entity that takes the asset out of the group.

Note 2: Other provisions of this Part may affect the tax history that is inherited (e.g. asset cost base history is affected by section 701-45).

701-45 Cost of assets consisting of liabilities owed to entity by members of the group

(1) If the entity ceases to be a *subsidiary member of the group, this section has effect for the entity core purposes, so far as they relate to the income year in which the entity ceases to be a subsidiary member or any later income year.

Assets to which section applies

(2) This section applies in relation to an asset if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) it becomes an asset of the entity because subsection 701-1(1) (the single entity rule) ceases to apply to the entity when it ceases to be a *subsidiary member of the group; and

(b) the asset consists of a liability owed to the entity by a *member of the group.

Object

(3) The object of this section is to set the cost of the asset to enable income tax consequences for the entity in respect of the asset to be determined.

Note: In the case of other assets, the fact that the entity inherits their history under section 701-40 when the entity ceases to be a subsidiary member of the group means that the assets would be treated as having the same cost as they would for the head company at that time. However, assets consisting of liabilities do not have such a history because they are only recognised when the entity ceases to be a subsidiary member and the single entity rule ceases to apply.

Setting the asset's tax cost

(4) The asset's *tax cost is set at the time the entity ceases to be a *subsidiary member of the group at the asset's *tax cost setting amount.

Note 1: If section 701-30 (Where entity not subsidiary member for whole of income year) applies, the time the entity ceases to be a subsidiary member will be treated as the start of an income year.

Note 2: If the entity is a partnership, Subdivision 713-E sets the tax cost of a partner's interest in an asset consisting of a liability that a member of the group owes to the partnership.

701-50 Cost of certain membership interests of which entity becomes holder on leaving group

(1) If:

(a) the entity and one or more other entities cease to be *subsidiary members of the group at the same time because of an event happening in relation to one of them; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) when the entity ceases to be a subsidiary member, it holds an asset consisting of a *membership interest in any of the other entities;

this section has effect for the entity core purposes.

Object

(2) The cost of any *membership interest that one of the entities holds in another is to be treated in the same way as membership interests held by the *head company. In both cases the object is to preserve the alignment of costs for membership interests and assets (that was established when each entity became a *subsidiary member) by recognising the cost of those interests, when it ceases to be a subsidiary member, as an amount equal to the cost of the entity's assets at that time reduced by the amount of its liabilities.

Setting tax cost of membership interests

(3) The asset's *tax cost is set just before the entity ceases to be a *subsidiary member of the group at the asset's *tax cost setting amount.

Note: If the asset consists of a membership interest in a partnership, Subdivision 713-E sets the tax cost of interests in partnership assets, rather than membership interests in the partnership.

Supporting provisions

701-55 Setting the tax cost of an asset

(1) This section states the meaning of the expression an asset's ***tax cost is set*** at a particular time at the asset's *tax cost setting amount.

Depreciating asset provisions

(2) If any of Subdivisions 40-A to 40-D, sections 40-425 to 40-445 and Subdivisions 328-D and 355-E is to apply in relation to the asset, the expression means that the provisions apply as if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the asset were *acquired at the particular time for a payment equal to its *tax cost setting amount; and

(b) at that time the same method of working out the decline in value were chosen for the asset as applied to it just before that time; and

(c) where just before that time the prime cost method applied for working out the asset's decline in value and the asset's tax cost setting amount does not exceed the joining entity's *terminating value for the asset—at that time an *effective life were chosen for the asset equal to the remainder of the effective life of the asset just before that time; and

(d) where just before that time the prime cost method applied for working out the asset's decline in value and the asset's *tax cost setting amount exceeds the joining entity's terminating value for the asset—either:

(i) the *head company were required to choose at that time an effective life for the asset in accordance with subsections 40-95(1) and (3), and any choice of an effective life determined by the Commissioner were limited to one in force at that time; or

(ii) an effective life for the asset were worked out under subsection 40-95(7), (8), (9) or (10) at that time; and

(e) where neither paragraph (c) nor (d) applies—at that time an effective life were chosen for the asset equal to the asset's effective life just before that time.

Trading stock provisions

(3) If Division 70 (other than Subdivision 70-E) is to apply in relation to the asset, the expression means that the Division applies as if the asset were *trading stock at the start of the income year in which the particular time occurs and its *value at that time were equal to its *tax cost setting amount.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Registered emissions unit provisions

(3A) If Division 420 is to apply in relation to the asset, the expression means that the Division applies as if the asset were a *registered emissions unit at the start of the income year in which the particular time occurs, and its *value at that time were equal to the asset's *tax cost setting amount.

Qualifying security provisions

(4) If Division 16E of Part III of the *Income Tax Assessment Act 1936* is to apply in relation to the asset, the expression means that the Division applies as if the asset were acquired at the particular time for a payment equal to the asset's *tax cost setting amount.

Capital gain and loss provisions

(5) If Part 3-1 or 3-3 is to apply in relation to the asset, the expression means that the Part applies as if the asset's *cost base or *reduced cost base were increased or reduced so that the cost base or reduced cost base at the particular time equals the asset's *tax cost setting amount.

Division 230 (financial arrangements)

(5A) If Division 230 is to apply in relation to the asset, the expression means that the Division applies as if the asset were acquired at the particular time for a payment equal to:

(a) unless paragraph (b) applies—the asset's *tax cost setting amount; or

(b) if the asset's tax cost is set because an entity becomes a *subsidiary member of a *consolidated group, and Subdivision 230-C (fair value method), Subdivision 230-D (foreign exchange retranslation method) or Subdivision 230-F (reliance on financial reports method) is to apply in relation to the asset—the asset's *Division 230 starting value at the particular time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(5B) To avoid doubt, for the purposes of paragraph (5A)(b), determine the asset's *Division 230 starting value by reference to the relevant standards (as mentioned in section 230-230, 230-280 or 230-420) that apply in relation to the *head company's financial report for the income year in which the entity becomes a subsidiary member of the group.

WIP amount assets

(5C) If:

(a) the asset's tax cost is set because an entity becomes a *subsidiary member of a *consolidated group at the particular time; and

(b) the asset is a *WIP amount asset;

the expression means that section 25-95 applies as if the *head company had paid a *work in progress amount for the income year in which the particular time occurs equal to the *tax cost setting amount of the asset.

Consumable stores

(5D) If:

(a) the asset's tax cost is set because an entity becomes a *subsidiary member of a *consolidated group at the particular time; and

(b) the asset is consumable stores;

the expression means that, for the purposes of section 8-1, the *head company of the group is taken to have incurred an outgoing at the particular time in acquiring the asset equal to the asset's *tax cost setting amount.

Other provisions

(6) If any provision of this Act that is not mentioned above is to apply in relation to the asset by including an amount in assessable income, or by allowing an amount as a deduction, in a way that brings into account (directly or indirectly) any of the following amounts:

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the cost of the asset;
(b) outgoings incurred, or amounts paid, in respect of the asset;
(c) expenditure in respect of the asset;
(d) an amount of a similar kind in respect of the asset;

the expression means that the provision applies, for the purpose of determining the amount included in assessable income or the amount of the deduction, as if the cost, outgoing, expenditure or other amount had been incurred or paid to acquire the asset at the particular time for an amount equal to its *tax cost setting amount.

Note 2: For specific clarifications of the operation of this subsection in relation to bad debts, see Subdivision 716-S.

701-56 Application of subsection 701-55(6)

(1) Subsection (2) applies in relation to each asset that would be an asset of an entity at the time (the ***joining time***) it becomes a *subsidiary member of a *consolidated group, assuming that subsection 701-1(1) (the single entity rule) did not apply.

(1A) Subsection (2) applies only to the extent necessary for the purposes of subsection 701-55(6) to determine whether a provision of this Act is to apply in relation to each of those assets on and after the joining time.

(1B) Subsection (2) applies despite section 701-5 (the entry history rule).

(2) Treat the *head company as having acquired each of those assets at the joining time as part of acquiring the business of the joining entity as a going concern.

Certain depreciating assets etc.

(3) Subsection 701-55(6) does not apply in relation to an asset if any of the following provisions are to apply in relation to the asset:
(a) Subdivision 40-F (Primary production depreciating assets);
(b) Subdivision 40-G (Capital expenditure of primary producers and other landholders);

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) Subdivision 40-H (Capital expenditure that is immediately deductible);
(d) Subdivision 40-I (Capital expenditure that is deductible over time);
(e) Subdivision 40-J (Capital expenditure for the establishment of trees in carbon sink forests);
(f) Division 41 (Additional deduction for certain new business investment);
(g) Division 43 (Deductions for capital works).

701-58 Effect of setting the tax cost of an asset that the head company does not hold under the single entity rule

(1) This section applies if:
(a) the *tax cost of an asset was set at the time (the ***joining time***) an entity became a *subsidiary member of a *consolidated group, at the asset's *tax cost setting amount; and
(b) ignoring the operation of subsection 701-1(1) (the single entity rule), the entity held the asset at the joining time; and
(c) taking into account the operation of subsection 701-1(1) (the single entity rule), the *head company of the group did *not* hold the asset at the joining time.

Example: A debt owed by a member of the group to the joining entity at the joining time.

(2) To avoid doubt, the asset's *tax cost setting amount mentioned in paragraph (1)(a) is not to be taken into account in applying the provisions mentioned in subsections 701-55(2), (3) (3A),, (4), (5), (5A), (5C), (5D) and (6) in relation to the asset at and after the joining time.

701-60 Tax cost setting amount

The asset's ***tax cost setting amount*** is worked out using this table.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Tax cost setting amount		
Item	**If the asset's tax cost is set by:**	**The asset's tax cost setting amount is:**
1	section 701-10 (Cost to head company of assets of joining entity)	the amount worked out in accordance with Division 705
2	section 701-15 (Cost to head company of membership interests in entity that leaves group)	the amount worked out in accordance with section 711-15 or 711-55
3	section 701-20 (Cost to head company of assets consisting of certain liabilities owed by entity that leaves group)	the *market value of the asset
3A	section 701-45 (Cost of assets consisting of liabilities owed to entity by members of the group)	the amount worked out in accordance with section 701-60A
4	section 701-50 (Cost of certain membership interests of which entity becomes holder on leaving group)	the amount worked out in accordance with section 711-55

Note 1: The tax cost setting amount of certain interests in partnership assets is worked out under Subdivision 713-E.

Note 2: The tax cost setting amount of certain assets of a life insurance company is worked out under Subdivision 713-L.

701-60A Tax cost setting amount for asset emerging when entity leaves group

(1) This section applies for the purpose of working out the *tax cost setting amount of an asset if:

(a) an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group (the ***old group***) at a time (the ***leaving time***); and

(b) the asset's tax cost is set under section 701-45 because it consists of a liability (the ***corresponding liability***) owed to the leaving entity.

(2) The *tax cost setting amount is:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) unless subsection (3) or (4) applies—the *market value of the asset at the leaving time; or

(b) if subsection (3) applies—nil; or

(c) if subsection (4) applies—the least of the following amounts:

(i) the tax cost setting amount mentioned in paragraph (4)(c);

(ii) if the *head company of the old group was entitled to a deduction in respect of the asset for an income year ending on or before the leaving time—the tax cost setting amount mentioned in paragraph (4)(c) reduced by the amount of the deduction;

(iii) the market value of the asset at the leaving time.

(3) This subsection applies if:

(a) the corresponding liability is *not* a debt; and

(b) either:

(i) at the time the corresponding liability arose, the entity to whom the corresponding liability was owed and the entity owing the corresponding liability were both *members of the old group; or

(ii) if subparagraph (i) does not apply—after the time the corresponding liability arose, a member of the old group *acquired the asset or started to have the corresponding liability.

(4) This subsection applies if:

(a) the corresponding liability is *not* a debt; and

(b) at the time the corresponding liability arose, the entity to whom the corresponding liability was owed and the entity owing the corresponding liability were *not* both members of the old group; and

(c) the *tax cost of the asset was set under section 701-10 at the time an entity became a *subsidiary member of the old group, at the asset's *tax cost setting amount (whether or not section 701-58 applied in relation to the setting of that tax cost).

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

701-61 Assets in relation to Division 230 financial arrangement—head company's assessable income or deduction

(1) This section applies if:

(a) an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group; and

(b) paragraph 701-55(5A)(b) applies in relation to one or more assets of the joining entity.

(2) Work out if the total of the *Division 230 starting values for those assets exceeds or falls short of the total of their *tax cost setting amounts.

(3) If there is an excess, an amount equal to 25% of that excess is included in the *head company's assessable income for:

(a) the income year in which the particular time mentioned in subsection 701-55(5A) occurs; and

(b) each of the 3 subsequent income years.

(4) If there is a shortfall, the *head company is entitled to a deduction equal to 25% of that shortfall for:

(a) the income year in which the particular time mentioned in subsection 701-55(5A) occurs; and

(b) each of the 3 subsequent income years.

701-63 *Right to future income* and *WIP amount asset*

(5) A ***right to future income*** is a valuable right (including a contingent right) to receive an amount if:

(a) the valuable right forms part of a contract or agreement; and

(b) the *market value of the valuable right (taking into account all the obligations and conditions relating to the right) is greater than nil; and

(c) the valuable right is neither a *Division 230 financial arrangement nor a part of a Division 230 financial arrangement; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(d) it is reasonable to expect that an amount attributable to the right will be included in the assessable income of any entity at a later time.

(6) ***WIP amount asset*** means an asset that is in respect of work (but not goods) that has been partially performed by a recipient mentioned in paragraph 25-95(3)(b) for a third entity but not yet completed to the stage where a recoverable debt has arisen in respect of the completion or partial completion of the work.

701-65 Net income and losses for trusts and partnerships

Net income of partnerships and trusts

(1) If:

(a) another provision of this Division applies for the purpose of:

(i) working out the amount of the entity's liability (if any) for income tax calculated by reference to an income year; or

(ii) working out the amount of the entity's taxable income for an income year; and

(b) the entity is a trust or partnership;

the provision instead applies in a corresponding way for the purpose of working out the amount of the entity's net income, as defined in the *Income Tax Assessment Act 1936*, (if any) for the income year.

Note: Subsection 701-30(3) requires non-membership periods mentioned in that subsection to be treated as the start and end of an income year. This section would therefore also apply to those periods.

Partnership losses

(2) If:

(a) another provision of this Division applies for the purpose of working out the amount of the entity's loss (if any) of a particular *sort for an income year; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the entity is a partnership;

the provision instead applies in a corresponding way for the purpose of working out the amount of an entity's partnership loss, as defined in section 90 of the *Income Tax Assessment Act 1936*, (if any) for the income year.

Note: The provision applies normally to a trust, as it can have a loss of any sort worked out in the same way as a loss of the same sort for an entity of another kind.

701-67 Assets in this Part are CGT assets, etc.

This Part applies to an asset only if the asset is one or more of the following:

(a) a *CGT asset;
(b) a *revenue asset;
(c) a *depreciating asset;
(d) *trading stock;
(e) a thing that is or is part of a *Division 230 financial arrangement.

Exceptions

701-70 Adjustments to taxable income where identities of parties to arrangement merge on joining group

Section applies to certain arrangements

(1) This section applies for the head company core purposes and the entity core purposes if, just before the time (the ***joining time***) when the entity becomes a *subsidiary member of the group, an *arrangement is in force under which:

(a) expenditure is to be, or has been, incurred in return for the doing of some thing; and
(b) the persons incurring the expenditure and *deriving the corresponding amount (each of which is a ***combining entity***) are the entity and either:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) another entity that became a subsidiary member at the same time; or

(ii) the *head company.

Note 1: If expenditure incurred under an arrangement consists of a payment of loan interest or a payment of a similar kind, the expenditure would be incurred in return for the making available or continued making available of the loan principal, or other amount of a similar kind, under the arrangement.

Note 2: If expenditure incurred under an arrangement consists of a payment of rent, a lease payment or a payment of a similar kind, the expenditure would be incurred in return for the making available or continued making available of the thing rented or leased, or other thing of a similar kind, under the arrangement.

Note 3: If expenditure incurred under an arrangement consists of a payment of an insurance premium or a payment of a similar kind, the expenditure would be incurred in return for the provision or continued provision of insurance against the risk concerned, or of a thing of a similar kind, under the arrangement.

Object

(2) The object of this section is to align the income tax position of the combining entities at the joining time, because after that time they lose their separate tax identities under the single entity rule in subsection 701-1(1) and this would preserve any imbalance.

Adjustment for disproportionate deductibility

(3) If the total of a combining entity's deductions that are allowable for:

(a) the following income year (the ***joining adjustment year***):

(i) if the combining entity is the *head company and the joining time occurs at the start of an income year—the income year before that income year;

(ii) if the combining entity is the head company and subparagraph (i) does not apply—the income year in which the joining time occurs;

(iii) in any other case—the income year that ends, or, if section 701-30 applies, the income year that is taken by

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Authorised Version C2022C00307 registered 22/10/2022

subsection (3) of that section to end, at the joining time; and

(b) all earlier income years;

is not equal to the amount worked out under subsection (4), then:

(c) if the total is less—the entity is entitled to deduct the difference for the joining adjustment year; and

(d) if it is more—the entity's assessable income for the joining adjustment year includes the difference.

Pre-joining time proportion of total arrangement deductions

(4) The amount is worked out using the formula:

$$\text{Pre-joining time services proportion} \times \text{Total arrangement deductions}$$

where:

pre-joining time services proportion means the proportion of all things to be done under the arrangement in return for the incurring of the expenditure represented by those things that were done before the joining time.

total arrangement deductions means the total of the deductions that, ignoring this Part (other than subsection (7) of this section), would be allowable for expenditure incurred by the combining entity under the arrangement for all income years.

Adjustment for disproportionate assessability

(5) If the total of the amounts included in a combining entity's assessable income in respect of amounts *derived under the arrangement for the joining adjustment year and all earlier income years is not equal to the amount worked out under subsection (6):

(a) if the total is less—the entity's assessable income for the joining adjustment year includes the difference; and

(b) if it is more—the entity is entitled to deduct the difference for the joining adjustment year.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Pre-joining time proportion of total arrangement assessable income

(6) The amount is worked out using the formula:

$$\text{Pre-joining time services proportion} \times \text{Total arrangement assessable income}$$

where:

pre-joining time services proportion has the same meaning as in subsection (4).

total arrangement assessable income means the total of the amounts that, ignoring this Part (other than subsection (7) of this section), would be included in the combining entity's assessable income for amounts *derived by it under the arrangement for all income years.

Modified application of section if combining entities previously members of same group

(7) If the combining entities were *members of the same *consolidated group (whether or not the group to which this section applies) on one or more previous occasions, this section applies in relation to the entities as if:

(a) the only things to be done under the arrangement in return for the incurring of the expenditure were those things to be done after the entities ceased to be members of the same group on the previous occasion or the last of the previous occasions; and

(b) the only deductions allowable to an entity for expenditure incurred by it under the arrangement, and the only amounts included in an entity's assessable income in respect of amounts *derived under the arrangement, were:

(i) if the entity was the *head company of the consolidated group of which the combining entities were members on the previous occasion or last of the previous occasions—those for the income year, in which the previous occasion or the last of the previous occasions

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

occurred, that are attributable to the period after that occasion and those for all later income years; and

(ii) in any other case—those for the income year that started, or, if section 701-30 applies, the income year that is taken by subsection (3) of that section to have started, when the entity ceased to be a *subsidiary member of the group on the previous occasion or the last of the previous occasions and those for all later income years.

701-75 Adjustments to taxable income where identities of parties to arrangement re-emerge on leaving group

Section applies to certain arrangements

(1) This section applies for the head company core purposes and the entity core purposes if the entity ceases to be a *subsidiary member of the group and, just before the time (the ***leaving time***) when it does so, an *arrangement is in force under which:

(a) expenditure is to be, or has been, incurred in return for the doing of some thing; and

(b) the persons incurring the expenditure and *deriving the corresponding amount (each of which is a ***separating entity***) are the entity and either:

(i) another entity that ceases to be a subsidiary member at the same time; or

(ii) the *head company.

Note: The notes to subsection 701-70(1) on the application of that subsection to expenditure under certain kinds of arrangements are equally applicable for the purposes of this subsection.

Object

(2) The object of this section is to align the income tax position of the separating entities at the leaving time, because from that time they have separate tax identities as a result of the single entity rule in

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

subsection 701-1(1) ceasing to apply, and this may create an imbalance.

Adjustment for disproportionate deductibility

(3) If the total of the deductions that are or will be allowable for expenditure incurred by the separating entity under the arrangement for:

(a) the following income year (the ***leaving adjustment year***):

(i) if the separating entity is the *head company—the income year in which the leaving time occurs;

(ii) in any other case—the income year that starts, or, if section 701-30 applies, the income year that is taken by subsection (3) of that section to start, at the leaving time; and

(b) all later income years;

is not equal to the amount worked out under subsection (4), the deductions are adjusted so that they do equal the amount.

Post-leaving time proportion of total arrangement deductions

(4) The amount is worked out using the formula:

$$\text{Post-leaving time services proportion} \times \text{Total arrangement deductions}$$

where:

post-leaving time services proportion means the proportion of all things to be done under the arrangement in return for the incurring of the expenditure represented by those things that are to be done after the leaving time.

total arrangement deductions means the total of the deductions that, ignoring this Part, would be allowable for expenditure incurred by the separating entity under the arrangement for all income years.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Adjustment for disproportionate assessability

(5) If the total of the amounts that are or will be included in its assessable income in respect of amounts *derived under the arrangement for the leaving adjustment year and all later income years is not equal to the amount worked out under subsection (6), the amounts that are or will be included in its assessable income are adjusted so that they do equal the amount worked out under subsection (6).

Post-leaving time proportion of total arrangement assessable income

(6) The amount is worked out using the formula:

$$\text{Post-leaving time services proportion} \times \text{Total arrangement assessable income}$$

where:

post-leaving time services proportion has the same meaning as in subsection (4).

total arrangement assessable income means the total of the amounts that, ignoring this Part, would be included in the separating entity's assessable income for amounts *derived by it under the arrangement for all income years.

701-80 Accelerated depreciation

(1) This section has effect for the head company core purposes when the entity becomes a *subsidiary member of the group.

Object

(2) The object of this section is to preserve any entitlement to accelerated depreciation for assets that become those of the *head company because subsection 701-1(1) (the single entity rule) applies when the entity becomes a *subsidiary member of the group. This is only to apply where the asset's *tax cost setting

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

amount is not more than the entity's *terminating value for the asset.

Section applies to certain depreciating assets

(3) This section applies if:

(a) a *depreciating asset to which Division 40 applies becomes that of the *head company because subsection 701-1(1) (the single entity rule) applies when the entity becomes a *subsidiary member of the group; and

(b) just before the entity became a subsidiary member, subsection 40-10(3) or 40-12(3) of the *Income Tax (Transitional Provisions) Act 1997* applied for the purpose of the entity working out the asset's decline in value under Division 40; and

Note: The effect of those subsections was to preserve an entitlement to accelerated depreciation.

(c) the *tax cost setting amount that applies in relation to the asset for the purposes of section 701-10 when it becomes an asset of the head company is not more than the entity's *terminating value for the asset.

Preservation of accelerated depreciation

(4) While the asset is held by the *head company under subsection 701-1(1) (the single entity rule), the decline in its value under Division 40 is worked out by replacing the component in the formula in subsection 40-70(1) or 40-75(1) that includes the asset's *effective life with the rate that would apply under subsection 42-160(1) or 42-165(1) of this Act if it had not been amended by the *New Business Tax System (Capital Allowances) Act 2001*.

701-85 Other exceptions etc. to the rules

The operation of each provision of this Division is subject to any provision of this Act that so requires, either expressly or impliedly.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: An example of such a provision is Division 707 (about the transfer of certain losses to the head company of a consolidated group). That Division modifies the effect that the inheritance of history rule in section 701-5 would otherwise have.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 703—Consolidated groups and their members

Guide to Division 703

703-1 What this Division is about

A consolidated group and a consolidatable group each consists of a head company and all the companies, trusts and partnerships that:

(a) are resident in Australia; and

(b) are wholly-owned subsidiaries of the head company (either directly or through other companies, trusts and partnerships).

A consolidatable group becomes consolidated at a time chosen by the company that was the head company at the time.

Table of sections

Basic concepts

703-5 What is a ***consolidated group***?
703-10 What is a ***consolidatable group***?
703-15 ***Members*** of a consolidated group or consolidatable group
703-20 Certain entities that *cannot* be members of a consolidated group or consolidatable group
703-25 Australian residence requirements for trusts
703-30 When is one entity a wholly-owned subsidiary of another?
703-33 Transfer time for sale of shares in company
703-35 Treating entities as wholly-owned subsidiaries by disregarding employee shares
703-37 Disregarding certain preference shares following an ADI restructure
703-40 Treating entities held through non-fixed trusts as wholly-owned subsidiaries
703-45 Subsidiary members or nominees interposed between the head company and a subsidiary member of a consolidated group or a consolidatable group

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Choice to consolidate a consolidatable group

703-50 Choice to consolidate a consolidatable group

Consolidated group created when MEC group ceases to exist

703-55 Creating consolidated groups from certain MEC groups

Notice of events affecting consolidated group

703-58 Notice of choice to consolidate
703-60 Notice of events affecting consolidated group

Effects of choice to continue group after shelf company becomes new head company

703-65 Application
703-70 Consolidated group continues in existence with interposed company as head company and original entity as a subsidiary member
703-75 Interposed company treated as substituted for original entity at all times before the completion time
703-80 Effects on the original entity's tax position

Basic concepts

703-5 What is a *consolidated group*?

(1) A ***consolidated group*** comes into existence:

(a) on the day specified in a choice by a company under section 703-50 as the day on and after which a *consolidatable group is taken to be consolidated; or

(b) as described in section 703-55 (about creating a consolidated group from a *MEC group).

Note: The day specified in a choice under section 703-50 as the day on and after which a consolidatable group is taken to be consolidated may be a day before the choice is made.

(2) The ***consolidated group*** continues to exist until the *head company of the group:

(a) ceases to be a head company; or

(b) becomes a member of a *MEC group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

The consolidated group ceases to exist when one of those events happens to the head company.

Note: The group does not cease to exist in some cases where a shelf company is interposed between the head company and its former members: see subsection 615-30(2) and section 703-70.

(3) At any time while it is in existence, the ***consolidated group*** consists of the *head company and all of the *subsidiary members (if any) of the group at the time.

Note: A consolidated group continues to exist despite one or more entities ceasing to be subsidiary members of the group or becoming subsidiaries of the group, as long as the events described in subsection (2) do not happen to the head company. Thus a consolidated group may come to consist of a head company alone at various times.

703-10 What is a *consolidatable group*?

(1) A ***consolidatable group*** consists of:
  (a) a single *head company; and
  (b) all the *subsidiary members of the group.

(2) To avoid doubt, a ***consolidatable group*** cannot consist of a *head company alone.

703-15 *Members* of a consolidated group or consolidatable group

(1) An entity is a ***member*** of a *consolidated group or *consolidatable group while the entity is:
  (a) the *head company of the group; or
  (b) a *subsidiary member of the group.

(2) At a particular time in an income year, an entity is:
  (a) a ***head company*** if all the requirements in item 1 of the table are met in relation to the entity; or
  (b) a ***subsidiary member*** of a *consolidated group or *consolidatable group if all the requirements in item 2 of the table are met in relation to the entity:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Head companies and subsidiary members of groups			
Column 1 **Entity's role in relation to group**	**Column 2** **Income tax treatment requirements**	**Column 3** **Australian residence requirements**	**Column 4** **Ownership requirements**
1 Head company	The entity must be a company (but not one covered by section 703-20) that has all or some of its taxable income (if any) taxed at a rate that is or equals the *corporate tax rate	The entity must be an Australian resident (but not a *prescribed dual resident)	The entity must *not* be a *wholly-owned subsidiary of another entity that meets the requirements in columns 2 and 3 of this item or, if it is, it must *not* be a subsidiary member of a *consolidatable group or *consolidated group

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Head companies and subsidiary members of groups			
Column 1 **Entity's role in relation to group**	**Column 2** **Income tax treatment requirements**	**Column 3** **Australian residence requirements**	**Column 4** **Ownership requirements**
2 Subsidiary member	The requirements are that: (a) the entity must be a company, trust or partnership (but not one covered by section 703-20); and (b) if the entity is a company—all or some of its taxable income (if any) must be taxable apart from this Part at a rate that is or equals the *corporate tax rate; and (c) the entity must *not* be a non-profit company (as defined in the *Income Tax Rates Act 1986*)	The entity must: (a) be an Australian resident (but not a *prescribed dual resident), if it is a company; or (b) comply with section 703-25, if it is a trust; or (c) be a partnership	The entity must be a *wholly-owned subsidiary of the head company of the group and, if there are interposed between them any entities, the set of requirements in section 703-45, section 701C-10 of the *Income Tax (Transitional Provisions) Act 1997* or section 701C-15 of that Act must be met

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

703-20 Certain entities that *cannot* be members of a consolidated group or consolidatable group

(1) The object of this section is to specify certain entities that *cannot* be *members of a *consolidated group because of the way their income is treated for income tax purposes.

(2) An entity of a kind specified in an item of the table cannot be a *member of a *consolidated group or a *consolidatable group at a time in an income year if the conditions specified in the item exist:

Certain entities that cannot be members of a consolidated or consolidatable group

Item	An entity of this kind:	Cannot be a member of a consolidated group or consolidatable group if:
1	An entity of any kind	At the time, the total *ordinary income and *statutory income of the entity is exempt from income tax under Division 50
2	A company	The company is a recognised medium credit union (as defined in section 6H of the *Income Tax Assessment Act 1936*) for the income year
3	A company	The company: (a) is an approved credit union for the income year for the purposes of section 23G of the *Income Tax Assessment Act 1936*; and (b) is *not* a recognised medium credit union (as defined in section 6H of that Act) or a recognised large credit union (as defined in that section) for the income year
4	A company	The company is a *CCIV at any time during the income year
5	A company	The company is a *PDF at the end of the income year

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Certain entities that cannot be members of a consolidated or consolidatable group

Item	An entity of this kind:	Cannot be a member of a consolidated group or consolidatable group if:
7	A trust	The trust is: (a) a *complying superannuation entity for the income year; or (b) a *non-complying approved deposit fund or a *non-complying superannuation fund for the income year
8	A trust	The trust is a *CCIV sub-fund trust

Note: A subsidiary of a life insurance company cannot be a member of a consolidated group or consolidatable group in certain circumstances: see section 713-510.

(3) Item 8 of the table in subsection (2) of this section has effect despite section 713-130 (which enables a public trading trust to form a consolidated group).

703-25 Australian residence requirements for trusts

A trust described in an item of the table must meet the requirements specified in the item to be able to be a *subsidiary member of a *consolidated group or a *consolidatable group at a time in an income year:

Australian residence requirements for trusts

Item	A trust of this kind:	Can be a member of a consolidated group or consolidatable group only if these requirements are met:
1	A trust (except a unit trust)	The trust must be a resident trust estate for the income year for the purposes of Division 6 of Part III of the *Income Tax Assessment Act 1936*

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Australian residence requirements for trusts		
Item	**A trust of this kind:**	**Can be a member of a consolidated group or consolidatable group only if these requirements are met:**
2	A unit trust (except a *public trading trust for the income year)	The trust must be: (a) a resident trust estate for the income year for the purposes of Division 6 of Part III of the *Income Tax Assessment Act 1936*; and (b) a *resident trust for CGT purposes for the income year
3	A *public trading trust for the income year	The trust must be a *resident unit trust for the income year

703-30 When is one entity a *wholly-owned subsidiary* of another?

(1) One entity (the ***subsidiary entity***) is a ***wholly-owned subsidiary*** of another entity (the ***holding entity***) if all the *membership interests in the subsidiary entity are beneficially owned by:

(a) the holding entity; or

(b) one or more wholly-owned subsidiaries of the holding entity; or

(c) the holding entity and one or more wholly-owned subsidiaries of the holding entity.

(2) An entity (other than the subsidiary entity) is a ***wholly-owned subsidiary*** of the holding entity if, and only if:

(a) it is a wholly-owned subsidiary of the holding entity; or

(b) it is a wholly-owned subsidiary of a wholly-owned subsidiary of the holding entity;

because of any other application or applications of this section.

Note: This Part also operates in some cases as if an entity were a wholly-owned subsidiary of another entity, even though the entity is not covered by the definition in this section because of:

(a) ownership of shares under certain arrangements for employee shareholding (see section 703-35); or

(aa) ownership of certain preference shares following an ADI restructure (see section 703-37); or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) interposed trusts that are not fixed trusts (see section 703-40).

(3) For the purposes of this section, one entity is not prevented from being the beneficial owner of a *membership interest in another entity merely because the first entity is or becomes:

(a) a Chapter 5 body corporate within the meaning of the *Corporations Act 2001*; or

(b) an entity with a status under a *foreign law similar to the status of a Chapter 5 body corporate under the *Corporations Act 2001*.

703-33 Transfer time for sale of shares in company

(1) This section applies if:

(a) under a contract:

(i) a person (the ***seller***) stops being entitled to be registered as the holder of a *share in a company at a time (the ***transfer time***); and

(ii) another person (the ***buyer***) becomes entitled to be registered as the holder of the share in the company at the transfer time; and

(b) as a result of the contract, the seller stops being the beneficial owner of the share, and the buyer becomes the beneficial owner of the share; and

(c) the seller and the buyer dealt with each other at *arm's length in relation to the contract; and

(d) the seller and the buyer were not *associates of one another at any time during the period:

(i) starting when the contract was entered into; and

(ii) ending at the transfer time.

(2) For the purposes of subsection 703-30(1):

(a) the seller is taken to have stopped being the beneficial owner of the share at the transfer time; and

(b) the buyer is taken to have become the beneficial owner of the share at the transfer time.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

703-35 Treating entities as wholly-owned subsidiaries by disregarding employee shares

(1) The object of this section is to ensure that an entity (the ***first entity***) is not prevented from being a *subsidiary member of a *consolidated group or *consolidatable group just because there are minor holdings of *membership interests in an entity (the ***employee share scheme entity***) issued under *arrangements for employee shareholdings. (It does not matter whether the employee share scheme entity is the first entity or is interposed between the first entity and a *member of the group.)

Note: A company that is prevented from being a subsidiary member of a consolidated group may be a head company (so there could be 2 consolidated or consolidatable groups, instead of the one that this section ensures exists).

(2) This Part (except Division 719) operates as if an entity that meets the requirement of subsection (3) at a particular time were a *wholly-owned subsidiary of an entity (the ***holding entity***) at the time.

(3) The entity must be one that would be a *wholly-owned subsidiary of the holding entity at the time if the *membership interests in the entity that are to be disregarded under subsection (4) did not exist.

(4) Disregard:

(a) each of the *shares described in subsection (5) if the total number of those shares is not more than 1% of the number of ordinary shares in the company; and

(b) each of the *membership interests in an entity described in subsection (5) if the total number of those membership interests is not more than 1% of the number of membership interests of that kind in the entity.

(5) A *share or *membership interest in a company may be disregarded under subsection (4) if:

(a) the entity who holds the beneficial interest in the share or membership interest acquired that beneficial interest:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) under an *employee share scheme; or

(ii) by exercising a right, a beneficial interest in which was acquired under an employee share scheme; and

(b) paragraphs 83A-105(1)(a) and (b) and subsection 83A-105(2) apply to the beneficial interest acquired under the scheme; and

(c) in the case of a membership interest—the interest is part of a stapled security.

703-37 Disregarding certain preference shares following an ADI restructure

(1) The object of this section is to ensure that, following an *ADI restructure to which Part 4A of the *Financial Sector (Transfer and Restructure) Act 1999* applies, a body corporate is not prevented from being a *subsidiary member of a *consolidated group or *consolidatable group just because the body (or another body corporate) has issued, or issues, certain preference *shares.

(2) This Part (except Division 719) operates as if a body corporate that meets the requirement of subsection (3) at a particular time were a *wholly-owned subsidiary of another body corporate (the ***holding body***) at the time.

(3) The body corporate (the ***preference-share issuing body***) must be one that would be a *wholly-owned subsidiary of the holding body at the time if the *shares in the preference share-issuing body that are to be disregarded under subsection (4) did not exist.

(4) Disregard a *share in the preference-share issuing body if:

(a) a restructure instrument under Part 4A of the *Financial Sector (Transfer and Restructure) Act 1999* is in force in relation to a non-operating holding company within the meaning of that Act; and

(b) because of the restructure to which the instrument relates, an *ADI becomes a subsidiary (within the meaning of that Act) of the non-operating holding company; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) the preference share-issuing body is:
(i) the ADI; or
(ii) part of an extended licensed entity (within the meaning of the *prudential standards) that includes the ADI; and
(d) the shares are covered by subsection (5).

(5) A *share is covered by this subsection if:
(a) the share is a preference share; and
(b) any *return on the share is fixed at the time of issue by reference to the amount subscribed; and
(c) the share is not a *voting share; and
(d) either:
(i) the share is Tier 1 capital (within the meaning of the *prudential standards); or
(ii) the share would be Tier 1 capital (within the meaning of the prudential standards) were it not for a limit, imposed by those standards, on the proportion of Tier 1 capital that can be made up of such shares.

(6) Paragraph (5)(a) covers a preference share if it is issued:
(a) by itself; or
(b) in combination with one or more *schemes that are *related schemes in relation to a scheme under which a preference share is issued.

(7) If subsection (5) has covered a *share, but would (apart from this subsection) stop covering the share from a particular time, then for a period of 180 days after that time the subsection is taken to continue to cover the share.

703-40 Treating entities held through non-fixed trusts as wholly-owned subsidiaries

(1) This section operates to ensure that an entity (the ***test entity***) is not prevented from being a *subsidiary member of a *consolidated group or *consolidatable group just because there is a trust that is

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

not a *fixed trust interposed between the test entity and the *head company of the group.

(2) This Part (except Division 719) operates as if the test entity were a *wholly-owned subsidiary of the *head company if the test entity would have been a wholly-owned subsidiary of the head company had the interposed trust been a *fixed trust and all its objects been beneficiaries.

703-45 Subsidiary members or nominees interposed between the head company and a subsidiary member of a consolidated group or a consolidatable group

(1) This section describes, for the purposes of item 2, column 4 of the table in subsection 703-15(2), a set of requirements that must be met for an entity (the ***test entity***) to be a *subsidiary member of a *consolidated group or a *consolidatable group at a particular time (the ***test time***).

(2) At the test time, each of the interposed entities must either:
(a) be a *subsidiary member of the group; or
(b) hold *membership interests in:
(i) the test entity; or
(ii) a subsidiary member of the group interposed between the *head company of the group and the test entity;
only as a nominee of one or more entities each of which is a *member of the group.

Choice to consolidate a consolidatable group

703-50 Choice to consolidate a consolidatable group

(1) A company may make a choice in writing that a *consolidatable group is taken to be consolidated on and after a day that is specified in the choice and is after 30 June 2002, if the company was the *head company of the group on the day specified.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: The head company of the group must give the Commissioner a notice in the approved form containing information about the group (see sections 703-58 and 703-60).

Choice is irrevocable

(2) The choice cannot be revoked, and the specification of the day cannot be amended, after the choice is made under subsection (1).

(3) The choice can be made no later than:

(a) if the company is required to give the Commissioner its *income tax return for the income year during which the specified day mentioned in subsection (1) occurs—the day on which the company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which the company would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

Choice has no effect after consolidated group ceases to exist

(4) The choice does not have effect after the *consolidated group that came into existence because of the choice ceases to exist. To avoid doubt, this subsection does not prevent the choice from:

(a) being made by the company at a time when it is not a head company; or

(b) having effect in relation to a time before the consolidated group ceased to exist, even if that time is before the choice is made.

Choice does not have effect if company is a member of a MEC group

(7) The choice does *not* have effect (and is taken not to have had effect) if, on the day specified, the company was a member of a *MEC group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Consolidated group created when MEC group ceases to exist

703-55 Creating consolidated groups from certain MEC groups

(1) A *consolidated group comes into existence at the time a *MEC group ceases to exist if:

(a) the MEC group included only one *eligible tier-1 company just before the time; and

(b) the MEC group ceases to exist only because the company ceases to be an eligible tier-1 company; and

(c) the company is a *head company as defined in section 703-15 at the time.

(2) To avoid doubt, the *consolidated group consists at the time of:

(a) the company (as the *head company of the consolidated group); and

(b) every entity (if any) that was a *subsidiary member of the *MEC group just before that time (as a subsidiary member of the consolidated group).

Notice of events affecting consolidated group

703-58 Notice of choice to consolidate

(1) If a *consolidated group comes into existence on the day specified in a choice under section 703-50, the *head company of the group must give the Commissioner a notice in the *approved form containing the following information:

(a) the identity of the head company;

(b) the day specified in the choice on which the *consolidatable group is taken to be consolidated;

(c) the identity of each *subsidiary member of the group on that day;

(d) the identity of each entity that was a subsidiary member of the group on that day but was *not* such a subsidiary member when the notice is given;

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(e) the identity of each entity that was *not* a subsidiary member of the group on that day but was such a subsidiary member when the notice is given;

(f) the identity of each entity that became a subsidiary member of the group after that day but was *not* such a subsidiary member when the notice is given.

(2) The notice must be given no later than:

(a) if the *head company is required to give the Commissioner its *income tax return for the income year during which that day occurs—the day on which the company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which the head company would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

703-60 Notice of events affecting consolidated group

(1) Within 28 days of an event described in an item of the table, the entity described in column 3 of the item must give the Commissioner notice in the *approved form of the event.

Notice of events

Column 1 Item	Column 2 If this event happens:	Column 3 Notice must be given by:
1	An entity becomes a *member of a *consolidated group	The *head company of the consolidated group
2	An entity ceases to be a *subsidiary member of a *consolidated group	The *head company of the group, or the person who was its public officer just before it ceased to exist if the former subsidiary member ceases to be a *member of the group because the head company ceases to exist

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Notice of events		
Column 1	**Column 2**	**Column 3**
Item	**If this event happens:**	**Notice must be given by:**
3	A *consolidated group ceases to exist	The company that was the *head company of the group, or the person who was its public officer just before it ceased to exist if it ceases to be the head company of the group because it ceases to exist

(2) Despite subsection (1), if:

(a) an event described in subsection (1) happens in relation to a *consolidated group that comes into existence on the day specified in a choice under section 703-50; and

(b) the event happens before the relevant notice is given to the Commissioner under section 703-58 (notice of choice to consolidate);

the *head company of the consolidated group must give the Commissioner notice in the *approved form of the event.

(2A) The notice must be given no later than:

(a) if the *head company is required to give the Commissioner its *income tax return for the income year during which that day occurs—the day on which the company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which the head company would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

(3) Despite subsection (1), if:

(a) an event described in subsection (1) happens in relation to a *consolidated group that comes into existence at a time under subsection 703-55(1) because a *MEC group ceased to exist at that time; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the *MEC group came into existence under paragraph 719-5(1)(a) because a choice under section 719-50 is made after that time; and

(c) the event happens before the relevant notice is given to the Commissioner under section 719-76 (notice of choice to consolidate);

the *head company of the consolidated group must give the Commissioner notice in the *approved form of the event.

(4) The notice must be given no later than:

(a) if the *head company is required to give the Commissioner its *income tax return for the income year during which that day occurs—the day on which the company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which the head company would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

Effects of choice to continue group after shelf company becomes new head company

703-65 Application

Sections 703-70 to 703-80 set out the effects if a company (the ***interposed company***) chooses under subsection 615-30(2) that a *consolidated group is to continue in existence at and after the time referred to in that subsection as the completion time.

Note: The choice is one of the conditions for a compulsory roll-over under Division 615 on an exchange of shares in the head company of a consolidated group for shares in the interposed company.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

703-70 Consolidated group continues in existence with interposed company as head company and original entity as a subsidiary member

(1) The *consolidated group is taken *not* to have ceased to exist under subsection 703-5(2) because the company referred to in subsection 615-30(2) as the original entity ceases to be the *head company of the group.

(2) To avoid doubt, the interposed company is taken to have become the *head company of the *consolidated group at the completion time, and the original entity is taken to have ceased to be the head company at that time.

Note: A further result is that the original entity is taken to have become a subsidiary member of the group at that time. Section 703-80 deals with the original entity's tax position for the income year that includes the completion time.

(3) A provision of this Part that applies on an entity becoming a *subsidiary member of a *consolidated group does *not* apply to an entity being taken to have become such a member as a result of this section, unless the provision is expressed to apply despite this subsection.

Note: An example of the effect of this subsection is that there is no resetting under section 701-10 of the tax cost of assets of the original entity that become assets of the interposed company because of subsection 701-1(1) (the single entity rule).

(4) To avoid doubt, subsection (3) does not affect the application of subsection 701-1(1) (the single entity rule).

703-75 Interposed company treated as substituted for original entity at all times before the completion time

(1) Everything that happened in relation to the original entity before the completion time:

(a) is taken to have happened in relation to the interposed company instead of in relation to the original entity; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) is taken to have happened in relation to the interposed company instead of what would (apart from this section) be taken to have happened in relation to the interposed company before that time;

just as if, at all times before the completion time:

(c) the interposed company had been the original entity; and

(d) the original entity had been the interposed company.

Note: This section treats the original entity and the interposed company as having in effect exchanged identities throughout the period before the completion time, but without affecting any of the original entity's other attributes.

(2) To avoid doubt, subsection (1) also covers everything that, immediately before the completion time, was taken, because of:

(a) section 701-1 (Single entity rule); or

(b) section 701-5 (Entry history rule); or

(c) one or more previous applications of this section; or

(d) section 719-90 (about the effects of a change of head company of a MEC group); or

(e) section 719-125 (about the effects of a group conversion involving a MEC group);

to have happened in relation to the original entity.

(3) Subsections (1) and (2) have effect:

(a) for the head company core purposes in relation to an income year ending after the completion time; and

(b) for the entity core purposes in relation to an income year ending after the completion time; and

(c) for the purposes of determining the respective balances of the *franking accounts of the original entity and the interposed company at and after the completion time.

(4) Subsections (1) and (2) have effect subject to:

(a) section 701-40 (Exit history rule); and

(b) a provision of this Act to which section 701-40 is subject because of section 701-85 (about exceptions to the core rules in Division 701).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: An example of provisions covered by paragraph (b) of this subsection is Subdivision 717-E (about transferring to a company leaving a consolidated group various surpluses under the CFC rules in Part X of the *Income Tax Assessment Act 1936*).

703-80 Effects on the original entity's tax position

In applying section 701-30 to the original entity for the income year that includes the completion time, disregard a non-membership period that starts before the completion time.

Note 1: Section 701-30 is about working out an entity's tax position for a period when it is not a subsidiary member of any consolidated group. Its application can also affect the entity's tax position in later income years.

Note 2: Under section 703-75 the interposed company inherits the original entity's tax position for the part of the income year that ends before the completion time, with the consequence that the original entity's taxable income, income tax payable, and losses of any sort, for that part are each nil.

Because of section 703-75 and this section, the only tax payable by the original entity for the income year arises because of the application of section 701-30 to non-membership periods in the income year after the completion time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 705—Tax cost setting amount for assets where entities become subsidiary members of consolidated groups

Guide to Division 705

705-1 What this Division is about

When an entity becomes a subsidiary member of a consolidated group, the tax cost of its assets is set at a tax cost setting amount that is worked out in accordance with this Division.

Table of Subdivisions

705-A Basic case: a single entity joining an existing consolidated group
705-B Case of group formation
705-C Case where a consolidated group is acquired by another
705-D Where multiple entities are linked by membership interests
705-E Adjustments for errors etc.

Subdivision 705-A—Basic case: a single entity joining an existing consolidated group

Guide to Subdivision 705-A

705-5 What this Subdivision is about

When an entity becomes a subsidiary member of an existing consolidated group, the tax cost setting amount for its assets reflects the cost to the group of acquiring the entity.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 705-5

Table of sections

Application and object

705-10 Application and object of this Subdivision
705-15 Cases where this Subdivision does not have effect

Tax cost setting amount for assets that joining entity brings into joined group

705-20 Tax cost setting amount worked out under this Subdivision
705-25 Tax cost setting amount for retained cost base assets
705-27 Reduction in tax cost setting amount that exceeds market value of certain retained cost base assets
705-30 What is the joining entity's terminating value for an asset?
705-35 Tax cost setting amount for reset cost base assets
705-40 Tax cost setting amount for reset cost base assets held on revenue account etc.
705-45 Reduction in tax cost setting amount for accelerated depreciation assets
705-47 Reduction in tax cost setting amount for some privatised assets
705-55 Order of application of sections 705-40, 705-45 and 705-47
705-56 Modification for tax cost setting in relation to leases
705-57 Adjustment to tax cost setting amount where loss of pre-CGT status of membership interests in joining entity
705-58 Assets and liabilities not set off against each other
705-59 Exception: treatment of linked assets and liabilities

How to work out the allocable cost amount

705-60 What is the joined group's ***allocable cost amount*** for the joining entity?
705-62 No double counting of amounts in allocable cost amount
705-65 Cost of membership interests in the joining entity—step 1 in working out allocable cost amount
705-70 Liabilities of the joining entity—step 2 in working out allocable cost amount
705-75 Liabilities of the joining entity—reductions for purposes of step 2 in working out allocable cost amount
705-76 Liability arising from transfer or assignment of securitised assets
705-80 Liabilities of the joining entity—reductions/increases for purposes of step 2 in working out allocable cost amount
705-85 Liabilities of the joining entity—increases for purposes of step 2 in working out allocable cost amount

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-90 Undistributed, taxed profits accruing to joined group before joining time—step 3 in working out allocable cost amount
705-93 If pre-joining time roll-over from foreign resident company or head company—step 3A in working out allocable cost amount
705-95 Pre-joining time distributions out of certain profits—step 4 in working out allocable cost amount
705-100 Losses accruing to joined group before joining time—step 5 in working out allocable cost amount
705-105 Continuity of holding membership interests—steps 3 to 5 in working out allocable cost amount
705-110 If joining entity transfers a loss to the head company—step 6 in working out allocable cost amount
705-115 If head company becomes entitled to certain deductions—step 7 in working out allocable cost amount

How to work out a pre-CGT factor for assets of joining entity

705-125 Pre-CGT proportion for joining entity

Application and object

705-10 Application and object of this Subdivision

Application

(1) This Subdivision has effect, subject to section 705-15, for the head company core purposes set out in subsection 701-1(2) if an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group (the ***joined group***) at a particular time (the ***joining time***).

Object

(2) The object of this Subdivision is to recognise the *head company's cost of becoming the holder of the joining entity's assets as an amount reflecting the group's cost of acquiring the entity. That amount consists of the cost of the group's *membership interests in the joining entity, increased by the joining entity's liabilities and adjusted to take account of the joining entity's retained profits, distributions of profits, deductions and losses.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) The reason for recognising the *head company's cost in this way is to align the costs of assets with the costs of *membership interests, and to allow for the preservation of this alignment until the entity ceases to be a *subsidiary member, in order to:

(a) prevent double taxation of gains and duplication of losses; and

(b) remove the need to adjust costs of membership interests in response to transactions that shift value between them, as the required adjustments occur automatically.

Note: Under Division 711, the alignment is preserved by recognising the head company's cost of membership interests in the entity if it ceases to be a subsidiary member of the group as the cost of its assets reduced by its liabilities.

705-15 Cases where this Subdivision does not have effect

This Subdivision does not have effect if any of the following exceptions applies:

(a) the first exception is where the joining entity becomes a *member of the joined group because it is a member of that group at the time it comes into existence as a *consolidated group;

Note: See Subdivision 705-B for rules about the treatment of assets if entities become members in circumstances covered by this exception.

(b) the second exception is where all of the members of another consolidated group become members of the joined group as a result of the *acquisition of *membership interests in the *head company of the joining group;

Note: See Subdivision 705-C for rules about the treatment of assets if entities become members in circumstances covered by this exception.

(c) the third exception is where:

(i) the joining entity and one or more other entities become members of the joined group at the same time as a result of an event that happens in relation to one of them; and

(ii) the case is not covered by the second exception;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: See Subdivision 705-D for rules about the treatment of assets if entities become members in circumstances covered by this exception.

Tax cost setting amount for assets that joining entity brings into joined group

705-20 Tax cost setting amount worked out under this Subdivision

If this Subdivision has effect, for the purposes of item 1 in the table in section 701-60 (Tax cost setting amount) the *tax cost setting amount for an asset whose *tax cost is set at the time the joining entity becomes a *subsidiary member of the joined group is worked out under this Subdivision.

705-25 Tax cost setting amount for retained cost base assets

(1) This section states what the *tax cost setting amount is for a *retained cost base asset.

Australian currency

(2) If the *retained cost base asset is covered by paragraph (a), (b) or (ba) of the definition of that expression and is not covered by another subsection of this section, its *tax cost setting amount is equal to the amount of the Australian currency concerned.

Qualifying securities

(3) If the *retained cost base asset is a qualifying security (within the meaning of Division 16E of Part III of the *Income Tax Assessment Act 1936*), the *tax cost setting amount for the qualifying security is instead equal to the joining entity's *terminating value for the asset.

Entitlements to pre-paid services etc.

(4) If the *retained cost base asset is covered by paragraph (c) of the definition of that expression, its *tax cost setting amount is equal to

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

the amount of the deductions to which the *head company is entitled under section 701-5 (the entry history rule) in respect of the expenditure that gave rise to the entitlement.

Note: If the total amount to be treated as tax cost setting amounts for retained cost base assets exceeds the joined group's allocable cost amount for the joining entity, the head company makes a capital gain equal to the excess: see CGT event L3.

Financial arrangements to which Subdivision 250-E applies

(4A) The *tax cost setting amount is instead equal to the joining entity's *terminating value for the *retained cost base asset if the asset is a *financial arrangement to which Subdivision 250-E applies immediately before the joining time.

Rights to payments in respect of uncompleted work etc.

(4B) If the *retained cost base asset is covered by paragraph (d) or (e) of the definition of that expression, its *tax cost setting amount is equal to the joining entity's *terminating value for the asset.

Retained cost base asset

(5) A ***retained cost base asset*** is:

(a) Australian currency, other than *trading stock or *collectables of the joining entity; or

(b) a right to receive a specified amount of such Australian currency, other than a right that is a marketable security within the meaning of section 70B of the *Income Tax Assessment Act 1936*; or

Example: A debt or a bank deposit.

(ba) a unit in a *cash management trust, if:

(i) the redemption value of the unit is expressed in Australian dollars; and

(ii) the redemption value of the unit cannot increase; or

(c) a right to have something done under an *arrangement under which:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) expenditure has been incurred in return for the doing of the thing; and

(ii) the thing is required or permitted to be done, or to cease being done, after the expenditure is incurred; or

(d) a *right to future income (other than a *WIP amount asset); or

(e) a *depreciating asset that the joining entity *holds as a result of a *balancing adjustment event mentioned in paragraph 417-30(2)(b).

Note 1: There are some additional retained cost base assets for a joining entity that is a life insurance company: see Subdivision 713-L. The tax cost setting amount for those assets is worked out under that Subdivision.

Note 2: The joining entity's right to receive lease payments under a lease is treated as a retained cost base asset in some circumstances (see paragraph 705-56(3)(b)).

705-27 Reduction in tax cost setting amount that exceeds market value of certain retained cost base assets

(1) If:

(a) a *retained cost base asset of the joining entity is a right to receive a specified amount of such Australian currency, covered by paragraph 705-25(5)(b); and

(b) the *market value of the asset is less than the *tax cost setting amount of the asset; and

(c) the head company makes a *capital gain under *CGT event L3 (disregarding this subsection) as a result of the joining entity becoming a *subsidiary member of the group;

reduce the tax cost setting amount of the asset by the amount of the gain (but not below zero).

Note: Reducing the tax cost setting amount of the asset will also reduce the amount of the capital gain (see paragraph 104-510(1)(b)). The amount of the capital gain might be reduced to nil.

(2) If:

(a) the requirements in subsection 701-58(1) (intra-group assets) are satisfied in relation to the asset; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the joining entity has been entitled to a deduction for an income year ending on or before the joining time because of the *market value of the asset being less than the specified amount mentioned in paragraph (1)(a); and

(c) the accounting liability that corresponds to the asset has *not* been reduced under subsection 705-75(2);

reduce the amount of the reduction under subsection (1) by the amount of the deduction (but not below zero).

(3) If the *tax cost setting amount of 2 or more of the joining entity's assets could be reduced in accordance with subsections (1) and (2):

(a) subsections (1) and (2) apply sequentially to each of those assets; and

(b) the *head company may choose the sequence of assets to which subsections (1) and (2) apply; and

(c) if the head company does not make such a choice—subsections (1) and (2) apply sequentially to each of those assets according to the time at which they were created, from earliest to latest.

Note: Once the amount of the capital gain is reduced to nil as a result of the application of subsections (1) and (2), no further reductions of tax cost setting amount can be made under those subsections.

(4) A choice the *head company can make under paragraph (3)(b) must be made:

(a) by the day the head company lodges its *income tax return for the income year in which the *CGT event happened; or

(b) within a further time allowed by the Commissioner.

(5) The way the *head company prepares its *income tax return is sufficient evidence of the making of the choice.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-30 What is the joining entity's *terminating value* for an asset?

Trading stock

(1) If an asset of the joining entity is *trading stock, the joining entity's ***terminating value*** for the asset is:

(a) if the asset was on hand at the start of the income year in which the joining time occurs (including because of the operation of Division 701)—its *value at that time; or

(b) if paragraph (a) does not apply and the asset is *live stock that was acquired by natural increase—the *cost of the asset; or

(c) in any other case—the amount of the outgoing incurred by the joining entity in connection with the acquisition of the asset;

increased by the amount of any outgoing forming part of the cost of the asset that is incurred by the joining entity during its current holding of the asset.

Registered emissions units

(1A) If an asset of the joining entity is a *registered emissions unit, the joining entity's ***terminating value*** for the unit is equal to:

(a) if the unit was *held by the joining entity at the start of the income year—the *value of the unit at the start of the income year; or

(b) otherwise—the expenditure incurred by the joining entity in becoming the holder of the unit.

Qualifying securities

(2) If an asset of the joining entity is a qualifying security (within the meaning of Division 16E of Part III of the *Income Tax Assessment Act 1936*) that is not *trading stock, the joining entity's ***terminating value*** for the asset is equal to the amount of consideration that the joining entity would need to receive, if it were to dispose of the asset just before the joining time, without an

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

amount being assessable income of, or deductible to, the joining entity under section 159GS of the *Income Tax Assessment Act 1936*.

Depreciating assets

(3) If an asset of the joining entity is a *depreciating asset to which Division 40 applies, the joining entity's ***terminating value*** for the asset is equal to the asset's *adjustable value just before the joining time.

Financial arrangements to which Subdivision 250-E applies

(3A) If an asset of the joining entity is a *financial arrangement to which Subdivision 250-E applies, the joining entity's ***terminating value*** for the asset is equal to the amount of consideration that the joining entity would need to receive, if it were to dispose of the asset just before the joining time, without an amount being assessable income of, or deductible to, the joining entity under Subdivision 250-E.

Division 230 financial arrangements

(3B) If an asset of the joining entity is or is part of a *Division 230 financial arrangement, the joining entity's terminating value for the asset is equal to the amount of consideration that the joining entity would need to receive, if it were to dispose of the asset just before the joining time, without an amount being assessable income of, or deductible to, the joining entity under Division 230.

Other CGT assets

(4) If an asset of the joining entity is a *CGT asset that is not covered by any of the above subsections, the joining entity's ***terminating value*** for the asset is equal to the asset's *cost base just before the joining time.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Other assets

(5) The joining entity's ***terminating value*** for any other asset that it holds is the amount that would be the asset's *cost base just before the joining time if it were an asset covered by subsection (4).

705-35 Tax cost setting amount for reset cost base assets

(1) For each asset of the joining entity (a ***reset cost base asset***) that is not a *retained cost base asset, the asset's *tax cost setting amount is worked out by:

(a) first working out the joined group's *allocable cost amount for the joining entity in accordance with section 705-60; and

(b) then reducing that amount by the total of the *tax cost setting amounts for each retained cost base asset (but not below zero); and

(c) finally, allocating the result to each of the joining entity's reset cost base assets in proportion to their *market values.

Note 1: For an asset consisting of an entitlement to receive an amount that will be included in assessable income, the market value of the asset would take into account the tax payable on the amount.

Note 1A: If a set of linked assets and liabilities includes one or more reset cost base assets, section 705-59 may affect how this section applies. In particular, that section may exclude the application of paragraph 705-35(1)(b) to retained cost base assets in the set; this in turn may affect the application of CGT event L3.

Note 2: If there are no reset cost base assets, the result is instead treated as a capital loss of the head company: see CGT event L4.

Goodwill resulting from ownership and control of the joining entity

(3) If, just after the joining time, the *head company has, because of its ownership and control of the joining entity, a goodwill asset associated with assets or businesses of the joined group:

(a) for the head company core purposes, the asset's *tax cost is set at the joining time at its *tax cost setting amount; and

(b) for the purpose of doing so:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) the asset is taken to be an asset of the joining entity that becomes an asset of the head company because subsection 701-1(1) (the single entity rule) applies; and

(ii) it is taken to have a *market value just before the joining time of an amount equal to its market value just after the joining time.

705-40 Tax cost setting amount for reset cost base assets held on revenue account etc.

(1) The *tax cost setting amount for a reset cost base asset that is *trading stock, a *depreciating asset, a *registered emissions unit or a *revenue asset must not exceed the greater of:

(a) the asset's *market value; and

(b) the joining entity's *terminating value for the asset.

(2) If subsection (1) *reduces* the asset's *tax cost setting amount, the amount of the reduction is allocated among the other reset cost base assets (including other *trading stock, *depreciating assets, *registered emissions units and *revenue assets), so as to *increase* their tax cost setting amounts, in accordance with the principles set out in subsection (3).

Note: If any of the amount of the reduction cannot be allocated, it is instead treated as a capital loss of the head company: see CGT event L8.

(3) These are the principles:

(a) the allocation is to be in proportion to the *market values of the assets;

(b) the amount allocated to an item of *trading stock, to a *depreciating asset, to a *registered emissions unit or to a *revenue asset must not cause its *tax cost setting amount to contravene subsection (1);

(c) any of the amount that cannot be allocated is to be reallocated, to the maximum extent possible, among the remaining reset cost base assets by applying this subsection a further one or more times.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-45 Reduction in tax cost setting amount for accelerated depreciation assets

(1) If:

(a) an asset of the joining entity is a *depreciating asset to which Division 40 applies; and

(aa) just before the entity became a subsidiary member, subsection 40-10(3) or 40-12(3) of the *Income Tax (Transitional Provisions) Act 1997* applied for the purposes of the joining entity working out the asset's decline in value under Division 40; and

Note: The effect of those subsections was to preserve an entitlement to accelerated depreciation.

(b) the asset's *tax cost setting amount would be greater than the joining entity's *terminating value for the asset; and

(c) the *head company chooses to apply this section to the asset;

the asset's tax cost setting amount is reduced so that it equals the terminating value.

Note 1: A consequence of the choice is that accelerated depreciation will apply to the asset: see section 701-80.

Note 2: Unlike the position with a reduction in tax cost setting amount under section 705-40, the amount of the reduction is not re-allocated among other assets.

(2) If:

(a) an asset of the joining entity is a *depreciating asset to which Division 40 applies; and

(b) any of the following has applied before the joining entity became a *subsidiary member for the purposes of working out the asset's decline in value under Division 40:

(i) section 40-82;

(ii) Subdivision 40-BA of the *Income Tax (Transitional Provisions) Act 1997*;

(iii) Subdivision 40-BB of that Act; and

(c) the asset's *tax cost setting amount would be greater than the joining entity's *terminating value for the asset;

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

the asset's tax cost setting amount is reduced so that it equals the terminating value.

Note 1: The provisions referred to in paragraph (b) provide for an accelerated decline in value of certain assets.

Note 2: Unlike the position with a reduction in tax cost setting amount under section 705-40, the amount of the reduction is not re-allocated among other assets.

705-47 Reduction in tax cost setting amount for some privatised assets

Object

(1) The object of this section is to limit appropriately the amount the *head company of the joined group can deduct for a *depreciating asset it starts to *hold because the joining entity becomes a *subsidiary member of the group, by reference to the direct or indirect effect of the following provisions on the amount the joining entity could deduct for the asset:

(a) former section 61A of the *Income Tax Assessment Act 1936* (about depreciation deductions for tax-exempt entities that become taxable);

(b) former Subdivision 57-I, and Subdivision 57-J, in Schedule 2D to the *Income Tax Assessment Act 1936* (about depreciation and capital allowance deductions);

(c) Division 58 of this Act (as that Division applies to a transition time or acquisition time mentioned in that Division before, on or after 1 July 2001).

Reduction of tax cost setting amount

(2) The *tax cost setting amount for a *depreciating asset is reduced to the joining entity's *terminating value for the asset if:

(a) at a time before the joining entity became a *subsidiary member of the joined group, the asset was *held by an entity (whether the joining entity or another entity) that, at that time, was:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) an *exempt Australian government agency; or

(ii) another entity whose *ordinary income and *statutory income were exempt from income tax; and

(b) any of the following provisions directly or indirectly affected the amount the joining entity could deduct for the asset:

(i) former section 61A of the *Income Tax Assessment Act 1936* (about depreciation deductions for tax-exempt entities that become taxable);

(ii) former Subdivision 57-I, and Subdivision 57-J, in Schedule 2D to the *Income Tax Assessment Act 1936* (about depreciation and *capital allowance deductions);

(iii) Division 58 of this Act (as that Division applies to a transition time or acquisition time mentioned in that Division before, on or after 1 July 2001); and

(c) apart from this section, the tax cost setting amount for the asset would *exceed* the joining entity's terminating value for the asset.

Note 1: Unlike the position with a reduction in tax cost setting amount under section 705-40, the amount of the reduction is not re-allocated among other assets.

Note 2: Former section 61A of, or former Subdivision 57-I or Subdivision 57-J in Schedule 2D to, the *Income Tax Assessment Act 1936* or Division 58 of this Act may, for example, have *indirectly* affected the amount the joining entity could deduct for the asset because:

(a) that section, Subdivision or Division affected the amount that could be deducted by an entity that held the asset before the joining entity and that effect extended to the joining entity because of a previous application of this subsection, roll-over relief or section 701-40 (the exit history rule); or

(b) this subsection affected the amount the joining entity could deduct for the asset (either directly or because of section 701-40).

Note 3: Subsection (2) has effect even if, just before the joining time, the joining entity was:

(a) an exempt Australian government agency; or

(b) another entity whose ordinary income and statutory income were exempt from income tax.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

This is because section 715-900 causes Division 58 to apply as if, just before the joining time, the joining entity's ordinary income or statutory income had become assessable income to some extent.

Exception to reduction of tax cost setting amount

(3) Subsection (2) does not apply if:

(a) just before the joining time, the joining entity was neither an *exempt Australian government agency nor another entity whose *ordinary income and *statutory income were exempt from income tax; and

(b) a condition in subsection (4) or (5) is met in relation to the period (the ***pre-joining taxable period***) between the last time for which the condition in paragraph (2)(a) is met and the joining time.

(4) One condition for subsection (2) not to apply is that an amount was included in an entity's assessable income, or an entity could deduct an amount, because of a *balancing adjustment event that occurred for the asset during the pre-joining taxable period.

(5) Another condition for subsection (2) not to apply is that:

(a) for at least some of the pre-joining taxable period, the asset was *held by the *head company of a *consolidated group (the ***earlier group***) for the period (the ***earlier group period***):

(i) starting when (and because) an entity that had previously held the asset became a *subsidiary member of the earlier group or when the asset started to be held by that company because of an asset sale situation described in subsection 58-5(4) involving a *member of the earlier group as the purchaser mentioned in that subsection; and

(ii) ending when (and because) an entity ceased to be a subsidiary member of the earlier group or when the earlier group ceased to exist; and

(b) the company that was the head company of the earlier group just before the end of the earlier group period was *not*:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) an *associate of the head company of the joined group just before the joining time; or

(ii) the same company as the head company of the joined group; and

(c) the earlier group period was at least 24 months.

705-55 Order of application of sections 705-40, 705-45 and 705-47

If more than one of sections 705-40, 705-45 and 705-47 apply:

(a) the *head company may choose the order in which the sections are to apply; and

(b) if it does not, the order is as follows:

(i) first, section 705-40;

(ii) second, section 705-45;

(iii) third, section 705-47.

705-56 Modification for tax cost setting in relation to leases

Application of this section

(1) This section applies if, just before the joining time, the joining entity is the lessor or lessee under a lease of a *depreciating asset (the ***underlying asset***) to which Division 40 applies.

Joining entity is lessor

(2) If the joining entity is the lessor under the lease and *holds the underlying asset just before the joining time, subsection (5) applies, in relation to the joining entity, to the asset that is the joining entity's right to receive lease payments.

Note: In this situation, the underlying asset will have its tax cost set at the joining time because it would be an asset of the joining entity at that time if the single entity rule did not apply (see section 701-10).

(3) If the joining entity is the lessor under the lease and does *not* *hold the underlying asset just before the joining time:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) subsection (5) applies to the underlying asset in relation to the joining entity; and

(b) for the purposes of this Division:

(i) the joining entity's right to receive lease payments is taken to be a *retained cost base asset; and

(ii) the *tax cost setting amount of that retained cost base asset is taken to be equal to its *market value just before the joining time.

Note: In this situation, the asset that is the joining entity's right to receive lease payments will have its tax cost set at the joining time because it would be an asset of the joining entity at that time if the single entity rule did not apply (see section 701-10).

Joining entity is lessee

(4) If the joining entity is the lessee under the lease and does *not* *hold the underlying asset just before the joining time:

(a) subsection (5) applies to the underlying asset in relation to the joining entity; and

(b) the liability that is the lessee's obligation to make lease payments is *not* taken into account under subsection 705-70(1).

Note: If the joining entity is the lessee under the lease and holds the underlying asset just before the joining time:

(a) the underlying asset will have its tax cost set at the joining time because it would be an asset of the joining entity at that time if the single entity rule did not apply (see section 701-10); and

(b) the liability that is the lessee's obligation to make lease payments is taken into account under subsection 705-70(1).

Tax cost of certain assets set at nil

(5) If this subsection applies to an asset, in relation to the joining entity:

(a) the asset is *not* taken into account under paragraph 705-35(1)(b) or (c); and

(b) the asset's *tax cost setting amount is taken to be nil.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-57 Adjustment to tax cost setting amount where loss of pre-CGT status of membership interests in joining entity

Object

(1) The object of this section is to ensure that provisions that cause *membership interests in the joining entity to stop being *pre-CGT assets, with a resultant increase in their *cost base and *reduced cost base, do not increase *tax cost setting amounts for *trading stock, *depreciating assets, *registered emissions units or *revenue assets of the joining entity, where those amounts are above the joining entity's *terminating values for the assets.

When section applies

(2) This section applies if:

(a) a *membership interest that a *member of the joined group holds in the joining entity at the joining time had previously stopped being a *pre-CGT asset in the circumstances covered by any of subsections (3) to (5); and

(b) the *cost base or *reduced cost base of the membership interest just after it stopped being a pre-CGT asset exceeded (the excess being the ***loss of pre-CGT status adjustment amount***) its cost base or reduced cost base just before it stopped being a pre-CGT asset; and

(c) an asset (a ***revenue etc. asset***) that is *trading stock, a *depreciating asset, a *registered emissions unit or a *revenue asset becomes that of the *head company of the joined group because subsection 701-1(1) (the single entity rule) applies when the joining entity becomes a *subsidiary member of the group; and

(d) the revenue etc. asset's *tax cost setting amount (after any application of section 705-40, 705-45 or 705-47) exceeds the joining entity's *terminating value for the asset.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Loss of pre-CGT status because Division 149 etc. applied while interest held by member

(3) The first circumstance for the purpose of paragraph (2)(a) is where Division 149 of this Act, former subsection 160ZZS(1) of the *Income Tax Assessment Act 1936* or Subdivision C of Division 20 of former Part IIIA of that Act applied to cause the *membership interest to stop being a *pre-CGT asset while the *member held the membership interest.

Loss of pre-CGT status because Division 149 etc. applied before current holding by member

(4) The second circumstance for the purpose of paragraph (2)(a) is where:

(a) either:

(i) the *member *acquired the *membership interest directly from another entity; or

(ii) the member acquired the membership interest indirectly from another entity or from itself as a result of 2 or more acquisitions; and

(b) Division 149 of this Act, former subsection 160ZZS(1) of the *Income Tax Assessment Act 1936* or Subdivision C of Division 20 of former Part IIIA of that Act applied to cause the membership interest to stop being a *pre-CGT asset while the other entity held the membership interest or while the member held the membership interest on the previous occasion; and

(c) if subparagraph (a)(i) applies—at the time of the acquisition, the member *controlled (for value shifting purposes) the other entity, or vice versa, or a third entity controlled (for value shifting purposes) the member and the other entity; and

(d) if subparagraph (a)(ii) applies—the same entity:

(i) was a party to each acquisition and at the time of the acquisition controlled (for value shifting purposes) the other party; or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(ii) was a party to each acquisition and at the time of the acquisition was controlled (for value shifting purposes) by the other party; or

(iii) was not a party to each acquisition but, at the time of the acquisition, controlled (for value shifting purposes) the parties to the acquisition;

or any combination of subparagraphs (i) to (iii) occurred in relation to different acquisitions.

Loss of pre-CGT status because of acquisition from another entity

(5) The third circumstance for the purpose of paragraph (2)(a) is where:

(a) either:

(i) the *member acquired the *membership interest after 16 May 2002 directly from another entity; or

(ii) the member acquired the membership interest indirectly from another entity or from itself as a result of 2 or more acquisitions, all of which took place after 16 May 2002; and

(b) the membership interest stopped being a *pre-CGT asset because of the acquisition from the other entity or from the member while the member held the membership interest on a previous occasion; and

(c) if subparagraph (a)(i) applies—at the time of the acquisition, the member *controlled (for value shifting purposes) the other entity, or vice versa, or a third entity controlled (for value shifting purposes) the member and the other entity; and

(d) if subparagraph (a)(ii) applies—the same entity:

(i) was a party to each acquisition and at the time of the acquisition controlled (for value shifting purposes) the other parties; or

(ii) was a party to each acquisition and at the time of the acquisition was controlled (for value shifting purposes) by the other party; or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(iii) was not a party to each acquisition but, at the time of the acquisition, controlled (for value shifting purposes) the parties to the acquisition;

or any combination of subparagraphs (i) to (iii) occurred in relation to different acquisitions.

Reduction in revenue etc. asset's tax cost setting amount

(6) The revenue etc. asset's *tax cost setting amount (after any application of section 705-40, 705-45 or 705-47) is instead the amount that would apply if, in working out the step 1 amount in the table in section 705-60, the *cost base and *reduced cost base of the *membership interest were reduced by the sum of the loss of pre-CGT status adjustment amounts for the membership interest and all other membership interests that have loss of pre-CGT status adjustment amounts.

Limit on reduction

(7) However, the reduction only takes place to the extent that it does not result in the asset's *tax cost setting amount being less than the joining entity's *terminating value for the asset.

Note: The reduction under this section is converted into a capital loss available over a period of 5 income years starting with the income year in which the joining time occurs: see CGT event L1.

705-58 Assets and liabilities not set off against each other

(1) This Part applies separately to each asset and liability even if, in accordance with *accounting principles, they are required to be set off against each other.

(2) This section has effect subject to section 705-59.

705-59 Exception: treatment of linked assets and liabilities

(1) This section applies to each set of *linked assets and liabilities that the joining entity has immediately before the joining time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) One or more assets, and one or more liabilities, that an entity has constitute a set of ***linked assets and liabilities*** of the entity if, and only if, in accordance with the entity's *accounting principles for tax cost setting:

(a) the total of the one or more assets is to be set off against the total of the one or more liabilities in preparing statements of the entity's financial position; and

(b) the net amount after the set-off is to be recognised in those statements.

(3) If the set consists only of one reset cost base asset for the purposes of section 705-35, and one or more liabilities:

(a) first, work out the total (the ***available amount***) that, apart from this section and the accounting requirement referred to in subsection (2) of this section, would be taken into account under subsection 705-70(1) (about step 2 in working out the allocable cost amount) for the one or more liabilities; and

(b) next, work out the consequences under this table.

Treatment of linked assets and liabilities: single reset cost base asset case

Item	If the asset's *market value at the joining time:	This is the result for the asset:	This is the result for the one or more liabilities:
1	is less than or equal to the available amount	its *tax cost setting amount is that market value (and the asset is *not* taken into account under paragraph 705-35(1)(c))	only the difference (if any) is taken into account under subsection 705-70(1) for the one or more liabilities

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Treatment of linked assets and liabilities: single reset cost base asset case			
Item	**If the asset's *market value at the joining time:**	**This is the result for the asset:**	**This is the result for the one or more liabilities:**
2	is greater than the available amount	its *tax cost setting amount is: (a) the available amount; plus (b) the amount worked out for the asset under section 705-35 on the basis that the asset's *market value is reduced by the available amount	the one or more liabilities are *not* taken into account under subsection 705-70(1)

Note: Paragraph 705-35(1)(c) allocates the allocable cost amount (as reduced by the tax cost setting amounts of retained cost base assets) among the joining entity's reset cost base assets.

(4) If the set consists only of one or more *retained cost base assets and one or more liabilities, this section does not affect their treatment.

Note: This is because the tax cost setting amount for a retained cost base asset is worked out without regard to the allocable cost amount.

(5) In any other case:

(a) first, work out the available amount under paragraph (3)(a); and

(b) next, work out the consequences under this table.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Treatment of linked assets and liabilities: all other cases			
Item	**In this case:**	**This is the result for the one or more assets in the set:**	**This is the result for the one or more liabilities in the set:**
1	there is no *retained cost base asset in the set, and the total of the respective *market values (at the joining time) of the assets in the set is less than or equal to the available amount	the *tax cost setting amount of each of the assets is that asset's market value at the joining time (and *none* of them is taken into account under paragraph 705-35(1)(c))	only the difference (if any) is taken into account under subsection 705-70(1)
2	there is no *retained cost base asset in the set, and the total of the respective *market values (at the joining time) of the assets in the set is greater than the available amount	the *tax cost setting amount of each of the assets is the sum of: (a) a share of the available amount that is proportionate to that asset's market value at the joining time; and (b) the amount worked out for the asset under section 705-35 on the basis that the asset's market value at the joining time is reduced by the share referred to in paragraph (a)	*none* is taken into account under subsection 705-70(1)

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 705-59

Treatment of linked assets and liabilities: all other cases

Item	In this case:	This is the result for the one or more assets in the set:	This is the result for the one or more liabilities in the set:
3	there are one or more *retained cost base assets in the set, and the total of their respective *tax cost setting amounts is greater than or equal to the available amount	this section does not affect the treatment of the one or more assets in the set	this section does not affect the treatment of the one or more liabilities in the set
4	there are one or more *retained cost base assets in the set, and the total (the ***retained cost base total***) of their respective *tax cost setting amounts is less than the available amount	the one or more retained cost base assets are *not* taken into account under paragraph 705-35(1)(b); the *tax cost setting amount of each remaining asset in the set is worked out by applying item 1 or 2, as appropriate, of this table on the basis that: (a) the available amount is reduced by the retained cost base total; and (b) the one or more retained cost base assets are otherwise ignored	the available amount is reduced by the retained cost base total

Note 1: Paragraph 705-35(1)(b) reduces the allocable cost amount by the tax cost setting amounts of retained cost base assets. Item 4 of the table in this subsection excludes the application of paragraph 705-35(1)(b) to retained cost base assets in the set; this in turn may affect the application of CGT event L3.

Note 2: Paragraph 705-35(1)(c) then allocates the reduced allocable cost amount among the joining entity's reset cost base assets.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(6) In applying subsections (3), (4) and (5) of this section, disregard an asset covered by subsection 705-35(2) (assets that do not have a tax cost setting amount).

(7) This section does not affect the application of sections 705-40, 705-45 and 705-47 (which adjust the tax cost setting amount for a reset cost base asset).

How to work out the allocable cost amount

705-60 What is the joined group's *allocable cost amount* for the joining entity?

Work out the joined group's ***allocable cost amount*** for the joining entity in this way:

Working out the joined group's allocable cost amount for the joining entity

Step	What the step requires	Purpose of the step
1	Start with the step 1 amount worked out under section 705-65, which is about the cost of *membership interests in the joining entity held by *members of the joined group	To ensure that the allocable cost amount includes the cost of *acquiring the membership interests
2	Add to the result of step 1 the step 2 amount worked out under section 705-70, which is about the value of the joining entity's liabilities	To ensure that the joining entity's liabilities at the joining time, which are part of the joined group's cost of acquiring the joining entity, are reflected in the allocable cost amount

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 705-60

Working out the joined group's allocable cost amount for the joining entity		
Step	**What the step requires**	**Purpose of the step**
3	Add to the result of step 2 the step 3 amount worked out under: (a) section 705-90, which is about undistributed, taxed profits accruing to the joined group before the joining time; or (b) if the joining entity is a trust (and not a *corporate tax entity)—section 713-25, which is about undistributed, realised profits accruing to the joined group before the joining time that could be distributed tax free	To increase the allocable cost amount: (a) to reflect the undistributed, taxed profits and so prevent double taxation; or (b) if the joining entity is a trust—to reflect the undistributed, realised profits that could be distributed tax free
3A	For each step 3A amount (if any) under section 705-93 (which is about pre-joining time roll-overs): (a) if the step 3A amount is a *deferred roll-over loss—add to the result of step 3 (as affected by any previous application of this step) the step 3A amount; or (b) if the step 3A amount is a *deferred roll-over gain—subtract from the result of step 3 (as affected by any previous application of this step) the step 3A amount	To adjust for certain roll-overs before the joining time affecting deferred gains and losses
4	Subtract from the result of step 3A the step 4 amount worked out under section 705-95, which is about pre-joining time distributions out of certain profits	To prevent the allocable cost amount reflecting return of part of the amount paid to *acquire the *membership interests in the joining entity

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Working out the joined group's allocable cost amount for the joining entity

Step	What the step requires	Purpose of the step
5	Subtract from the result of step 4 the step 5 amount worked out under section 705-100, which is about certain losses accruing to the joined group before the joining time	To prevent: (a) a double benefit arising from the losses; and (b) losses that cannot be transferred to the *head company, or are cancelled by the head company, under Subdivision 707-A being reinstated in an unrealised form or reducing unrealised gains.
6	Subtract from the result of step 5 the step 6 amount worked out under section 705-110, which is about losses that the joining entity transferred to the *head company under Subdivision 707-A	To stop the joined group getting benefits both through higher *tax cost setting amounts for the joining entity's assets and through losses transferred to the head company
7	Subtract from the result of step 6 the step 7 amount worked out under section 705-115, which is about certain deductions to which the *head company is entitled	To stop the joined group getting benefits both through the *tax cost of the joining entity's assets being set and through certain tax deductions of the joining entity being inherited by the head company
8	If the remaining amount is positive, it is the joined group's allocable cost amount. Otherwise the joined group's allocable cost amount is nil.	

Note: The head company may be taken to have made a capital gain, depending on the amount remaining after applying step 3A: see CGT event L2.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 705-62

705-62 No double counting of amounts in allocable cost amount

(1) The object of this section is to prevent a particular amount from being taken into account more than once in calculating the *allocable cost amount for the joining entity, in order to promote the object of this Subdivision set out in section 705-10.

(2) Subsection (3) applies if, apart from this section, 2 or more provisions of this Act operate with the result of altering:

(a) the *allocable cost amount for the joining entity; or

(b) the allocable cost amount for another entity that becomes a *subsidiary member of the group at the joining time;

because of a particular economic attribute of the joining entity (see subsection (6)).

(3) Only one of those alterations is to be made, as follows:

(a) if the *head company of the group makes a choice in accordance with subsections (4) and (5)—the alteration specified in the choice is to be made;

(b) otherwise—the alteration that is most appropriate (in the light of the object of this Subdivision) is to be made.

(4) A choice mentioned in paragraph (3)(a) must be made:

(a) by the day the *head company of the group lodges its *income tax return for the income year in which the joining time occurs; or

(b) within a further time allowed by the Commissioner.

(5) A choice mentioned in paragraph (3)(a) must be made in writing.

(6) The ***economic attributes*** of the joining entity mentioned in subsection (2) include the following:

(a) the joining entity's retained profits;

(b) the joining entity's distributions of profits to other entities;

(c) the joining entity's realised and unrealised losses;

(d) the joining entity's deductions;

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Authorised Version C2022C00307 registered 22/10/2022

(e) the joining entity's accounting liabilities (within the meaning of subsection 705-70(1));

(f) consideration received by the joining entity for issuing *membership interests in itself.

705-65 Cost of membership interests in the joining entity—step 1 in working out allocable cost amount

(1) For the purposes of step 1 in the table in section 705-60, the step 1 amount is the sum of the following amounts for each *membership interest that *members of the joined group hold in the joining entity at the joining time:

Note: If the joining entity is a trust, the step 1 amount may be increased by section 713-20 for settled capital that could be distributed tax free in respect of discretionary interests in the trust.

Working out the step 1 amount

Item	If the market value of the membership interest is...	The amount is...
1	equal to or greater than its *cost base	its cost base
2	less than its *cost base but greater than its *reduced cost base	its *market value
3	less than or equal to its *reduced cost base	its reduced cost base

Note: Under section 716-855, if membership interests are pre-CGT assets that have been subject to certain roll-overs, the cost base and reduced cost base are worked out in the same way as if they were post-CGT assets.

No indexation of cost base of pre-CGT membership interests

(2) If the *membership interest is a *pre-CGT asset, in working out its *cost base for the purposes of subsection (1) no element is indexed.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Adjustment if value shifting or loss transfer provision could apply

(3) If, on the assumption that a *CGT event had happened just before the joining time in relation to the *membership interest, the *cost base or the *reduced cost base of the membership interest would have been changed by a provision of this Act, then the cost base or reduced cost base of the membership interest that is to be used in subsection (1) of this section is instead:

(a) the cost base as it would have been so changed; or

(b) the reduced cost base, as it would have been so changed, but ignoring the amount of any reduction resulting from the application of former subsection 160ZK(5) of the *Income Tax Assessment Act 1936*.

Note: For example, a change in the cost base or reduced cost base may be required under provisions that apply where a loss transfer or value shift involving the joining entity has occurred.

(3AA) If, on the assumption that:

(a) the *members of the joined group had, just before the joining time, *disposed of their *membership interest in the joining entity; and

(b) the consideration received by the members for the disposal were equal to the *market value of the membership interest at that time;

they would have made a *capital loss that section 727-615 would have reduced (because of an indirect value shift), then the *reduced cost base of the membership interest that is to be used in subsection (1) of this section is reduced by the amount of that reduction.

Reduction if section 165-115ZD could apply

(3A) If, on the assumption that:

(a) the *members of the joined group had, just before the joining time, *disposed of their *membership interest in the joining entity; and

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Authorised Version C2022C00307 registered 22/10/2022

(b) the consideration received by the members for the disposal were equal to the *market value of the membership interest at that time;

the *reduced cost base of the membership interest would have been reduced as a result of the operation of section 165-115ZD of this Act or the *Income Tax (Transitional Provisions) Act 1997*, then the reduced cost base of the membership interest that is to be used in subsection (1) of this section is reduced by the amount of that reduction.

Certain provisions not to apply after joining time

(4) Also, if a provision mentioned in subsection (3), (3AA) or (3A) would, because of events that happened before the joining time, apply to a *CGT event or a *realisation event that happens after the joining time in relation to the *members' *membership interests in the joining entity, the provision does not so apply.

Reduction in cost base under subsection 110-55(7) to be added back

(5) If, in working out the *reduced cost base of the *membership interest for the purposes of subsection (1), a reduction has taken place under subsection 110-55(7) (about certain distributions of pre-acquisition profits), the reduced cost base is increased by the amount of that reduction.

Reduction in reduced cost base under subsection 165-115ZA(3) to be added back

(5A) If:

(a) in working out the *reduced cost base of the *membership interest for the purposes of subsection (1), a reduction has taken place under subsection 165-115ZA(3) (about alterations in ownership or control of loss companies); and

(b) the reduction is to some extent attributable to so much of an amount that was taken into account both in working out the amount of the reduction and in working out:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) the step 5 amount under section 705-100; or

(ii) the step 6 amount under section 705-110;

the reduced cost base is, to the extent mentioned in paragraph (b), increased by:

(c) if subparagraph (b)(i) applies—the amount of that reduction; or

(d) if subparagraph (b)(ii) applies—the amount of that reduction multiplied by the *corporate tax rate.

(5B) For the purposes of working out the *cost base or *reduced cost base of a *membership interest under subsection (1), if:

(a) either or both of the following things happen after the joining time:

(i) money is paid, or becomes required to be paid, in respect of *acquiring the membership interest;

(ii) property is given, or becomes required to be given, in respect of acquiring the membership interest; and

(b) because the thing happened after the joining time, it was not taken into account in working out the first element of the cost base or reduced cost base of the membership interest;

Note: This would be the case if the money was only to be paid etc. if a contingency happened after the joining time.

the thing is nevertheless so taken into account, and taken always to have been so taken into account.

Non-membership equity interests

(6) For the purposes of this section, if at the joining time a *member of the joined group holds a *non-membership equity interest in the joining entity, that non-membership equity interest is treated as if it were a *membership interest in the joining entity.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-70 Liabilities of the joining entity—step 2 in working out allocable cost amount

(1) For the purposes of step 2 in the table in section 705-60, the step 2 amount is worked out by adding up the amounts of each thing (an ***accounting liability***) that, in accordance with the joining entity's *accounting principles for tax cost setting, is a liability of the joining entity at the joining time.

Note: Certain liabilities of a life insurance company are worked out under Subdivision 713-L: see section 713-520.

Exclusion for deferred tax liability

(1B) An amount is not to be added for an accounting liability that is an amount recorded in a deferred tax liability account in accordance with the joining entity's *accounting principles for tax cost setting.

(1C) Subsection (1B) does not apply to an accounting liability that relates to an asset mentioned in paragraph 713-515(1)(a) or (b) (certain assets of life insurance company).

Exclusion for deductible liability

(1AA) Subsection (1AB) applies if:

(a) the accounting liability is covered by subsection (1AC); and

(b) assuming that the *head company had made a payment to discharge the accounting liability to the extent that it is covered under that subsection just after the joining time, that payment would result in an amount equal to all or part of the accounting liability being a deduction to the head company of the group.

(1AB) An amount is not to be added for the accounting liability under subsection (1) to the extent of that deduction.

(1AC) A liability is covered by this subsection except to the extent that:

(a) any of the following provisions apply in relation to the liability:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) section 713-520 (certain liabilities etc. of life insurance company that joins a consolidated group);

(ii) section 715-375 (accounting liabilities that are, or are part of, a Division 230 financial arrangement held by an entity that joins a consolidated group); or

(b) section 713-515 (certain assets taken to be retained cost base assets where life insurance company joins a consolidated group) applies in relation to an asset to which the liability relates; or

(c) the liability is any of the following:

(i) the outstanding claims liability of a *general insurance company, or a private health insurer (within the meaning of the *Private Health Insurance (Prudential Supervision) Act 2015*), under *general insurance policies;

(ii) the unearned premium liability of a general insurance company, or a private health insurer (within the meaning of that Act), under general insurance policies;

(iii) the unexpired risk liability of a general insurance company, or a private health insurer (within the meaning of that Act), under general insurance policies; or

(d) the liability arises under any of the following:

(i) a *retirement village residence contract;

(ii) a *retirement village services contract.

(1AD) To avoid doubt, for the purposes of paragraph (1AC)(c), section 713-710 (certain liabilities, reserves, costs etc. of general insurance company that joins or leaves a consolidated group) does not affect the amount of the liability.

Exclusion where transfer of accounting liability

(2) An amount is not to be added for an accounting liability that arises because of the joining entity's ownership of an asset if, on *disposal of the asset, the accounting liability will transfer to the new owner.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Example: A liability to rehabilitate a mine site, where, under legislation or a licence, the liability will be transferred to the new owner on disposal of the mine.

Note: Adjustments reducing or increasing the amount under this section are made by sections 705-75 to 705-85.

Joining entity's accounting principles for tax cost setting

(3) The joining entity's ***accounting principles for tax cost setting*** are the *accounting principles that the entity would use if it were to prepare its financial statements just before the joining time.

Exclusion of amounts for certain securitisation liabilities

(4) An amount is not to be added for an accounting liability of the joining entity under subsection (1) if the accounting liability is covered under section 705-76 (securitisation liabilities).

705-75 Liabilities of the joining entity—reductions for purposes of step 2 in working out allocable cost amount

Reduction for future deduction

(1A) Subsection (1) applies to an accounting liability to the extent that it is a liability of a kind described in:

(a) paragraph 705-70(1AC)(c); or

(b) paragraph 705-70(1AC)(d).

(1) If some or all of an accounting liability will result in a deduction to the *head company, the amount to be added for the accounting liability under subsection 705-70(1) is reduced by the following amount:

$$\left[\text{Deduction} \times {}^{*}\text{Corporate tax rate}\right] - \text{Double-counting adjustment}$$

where:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

double-counting adjustment means the amount of any reduction that has already occurred in the accounting liability under subsection 705-70(1) to take account of the future availability of the deduction.

Reduction for intra-group liabilities

(2) If the amount of an accounting liability of the joining entity that is owed to a *member of the joined group is more than the amount applicable under the following table, the amount to be added for the accounting liability under subsection 705-70(1) instead equals the amount applicable under the table.

Amount applicable

Item	If the market value of the member's asset constituted by the accounting liability is...	The amount applicable is...
1	equal to or greater than the asset's *cost base	the asset's cost base
2	less than the asset's *cost base but greater than its *reduced cost base	the asset's *market value
3	less than or equal to the asset's *reduced cost base	the asset's reduced cost base

Application of subsections 705-65(2), (3), (3AA) and (3A)

(3) Subsections 705-65(2), (3), (3AA) and (3A) apply in relation to references in subsection (2) of this section to an asset's *cost base or *reduced cost base in a corresponding way to that in which they apply in relation to references in the table in subsection 705-65(1) to a *membership interest's cost base or reduced cost base.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Application of subsection 705-65(4)

(4) Subsection 705-65(4) applies in relation to assets mentioned in subsection (2) of this section in a corresponding way to that in which it applies in relation to members' *membership interests.

Reduction in reduced cost base under subsection 165-115ZA(3) to be added back

(5) If:

(a) in working out the *reduced cost base of a *member's asset for the purposes of subsection (2), a reduction has taken place under subsection 165-115ZA(3) (about alterations in ownership or control of loss companies); and

(b) the reduction is to some extent attributable to so much of an amount that was taken into account both in working out the amount of the reduction and in working out:

(i) the step 5 amount under section 705-100; or

(ii) the step 6 amount under section 705-110;

the reduced cost base is, to the extent mentioned in paragraph (b), increased by:

(c) if subparagraph (b)(i) applies—the amount of that reduction; or

(d) if subparagraph (b)(ii) applies—the amount of that reduction multiplied by the *corporate tax rate.

705-76 Liability arising from transfer or assignment of securitised assets

This section covers an accounting liability (the ***securitisation liability***) if the following circumstances exist:

(b) in working out the step 2 amount mentioned in subsection 705-70(1) in relation to the joining entity, an amount would be added under that subsection for the securitisation liability (disregarding subsection 705-70(4));

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) the joining entity transferred or equitably assigned one or more assets (the ***underlying securitised assets***) to another entity before the joining time;

(d) the securitisation liability:

(i) arose from the transfer or equitable assignment of the underlying securitised assets; and

(ii) is a liability of the joining entity at the joining time (according to the joining entity's *accounting principles for tax cost setting);

(e) the other entity was established for the purpose of securitising assets;

(f) the underlying securitised assets were securitised in accordance with that purpose before the joining time;

(g) at the joining time the *market value of the joining entity's interest in the underlying securitised assets is nil, or is substantially less than the amount of the securitisation liability.

705-80 Liabilities of the joining entity—reductions/increases for purposes of step 2 in working out allocable cost amount

Application

(1A) This section applies to an accounting liability to the extent that it is a liability of a kind described in:

(a) paragraph 705-70(1AC)(c); or

(b) paragraph 705-70(1AC)(d).

Adjustment for unrealised gains and losses

(1) If:

(a) for income tax purposes, an accounting liability, or a change in the amount of an accounting liability, (other than one owed to a *member of the joined group) is taken into account at a later time than is the case in accordance with the joining entity's *accounting principles for tax cost setting; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) assuming that, for income tax purposes the accounting liability or change were taken into account at the same time as is the case in accordance with those standards or statements, the joined group's allocable cost amount would be different;

Note: The difference would arise because subsection 705-70(1) includes income tax liabilities and steps 3 and 5 of the table in section 705-60 are affected by the time at which changes in liabilities are taken into account for income tax purposes.

then the amount to be added under subsection 705-70(1) for the accounting liability is:

(c) if the difference is an increase—increased by the amount of the increase; and

(d) if the difference is a decrease—decreased by the amount of the decrease.

Use of reliable estimate

(2) In working out for the purposes of subsection (1) an amount at a particular time or in respect of a particular period, use the most reliable basis for estimation that is available.

Example: The amount of a change in liability for employee leave entitlements over a period.

705-85 Liabilities of the joining entity—increases for purposes of step 2 in working out allocable cost amount

Increase in step 2 amount for employee share interests

(1) If any *membership interest (an ***employee share interest***) in the joining entity needed to be disregarded under section 703-35 in order for the joining entity to be a *wholly-owned subsidiary of the *head company at the joining time, the step 2 amount worked out under section 705-70 is increased by the sum of the *market values of those interests, reduced in each case by the reduction amount (if any) worked out under subsection (2) of this section.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Reduction amount

(2) There is a ***reduction amount*** if the *market value of the employee share interest at the time it was *acquired by the employee is more than the consideration paid or given for its acquisition. The reduction amount is worked out by multiplying the market value of the employee share interest at that time by the factor worked out using the formula:

$$\frac{\text{Market value of head company's membership interests}}{\text{Market value of all membership interests}} \times \frac{\left[\text{*Market value of employee share interest at time of *acquisition}\right] - \left[\text{Consideration paid or given for acquisition of employee share interest}\right]}{\text{Market value of employee share interest at time of acquisition}}$$

where:

market value of all membership interests means the *market value of all *membership interests in the joining entity just before the employee share interest was *acquired.

market value of head company's membership interests means the *market value, just before the employee share interest was *acquired, of any *membership interests that the *head company held, directly or indirectly in the joining entity, continuously from that time until the joining time.

Increase to cover certain non-membership equity interests and certain equity interests

(3) The step 2 amount worked out under section 705-70 is increased by:

(a) the amount that would be the balance of the joining entity's *non-share capital account, assuming that:

(i) if the joining entity is not a company—the joining entity were a company; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(ii) each *non-membership equity interest (if any) in the joining entity held at the joining time by a person other than a *member of the joined group were a *non-share equity interest in the joining entity; and

(iii) the non-share equity interests (if any) mentioned in subparagraph (ii) were the only non-share equity interests in the joining entity; and

(b) the *market value of each thing that, in accordance with the joining entity's *accounting principles for tax cost setting, is equity in the joining entity at the joining time, where the thing is also a *debt interest.

Increase to cover ADI restructure preference share interests

(4) If any *share in the joining entity needed to be disregarded under section 703-37 in order for the joining entity to be a *wholly-owned subsidiary of the *head company at the joining time, the step 2 amount worked out under section 705-70 is increased by the sum of the *market values of those shares.

705-90 Undistributed, taxed profits accruing to joined group before joining time—step 3 in working out allocable cost amount

(1) For the purposes of step 3 in the table in section 705-60, the step 3 amount is worked out in accordance with this section unless the joining entity is a trust that is *not* a *corporate tax entity at the joining time.

Note: If the joining entity is such a trust, the step 3 amount is instead worked out in accordance with section 713-25.

Undistributed profits

(2) First work out the undistributed profits of the joining entity at the joining time. These are the amounts that, in accordance with the joining entity's *accounting principles for tax cost setting, are retained profits of the joining entity.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2A) However, if a loss that did not accrue to the joined group before the joining time (subsection (8) states what it means for a loss to accrue to the joined group before the joining time) would be taken into account in working out the undistributed profits, the loss is not so taken into account.

(2B) Also, if an amount is not added under subsection 705-70(1) for an accounting liability to an extent because of subsection 705-70(1AB), the accounting liability is not to be taken into account, to that extent, in working out the undistributed profits.

Extent to which tax paid on undistributed profits

(3) Then work out how much of the undistributed profits does not exceed the amount worked out using the following formula as at the joining time:

Balance of *franking account (worked out on assumptions in subsection (4)) × Applicable gross-up rate

where:

applicable gross-up rate means the joining entity's *corporate tax gross-up rate for the income year that ends, or, if section 701-30 applies, for the income year that is taken by subsection (3) of that section to end, at the joining time.

Assumptions for purposes of subsection (3)

(4) The assumptions are that the joining entity's franking account balance at the end of the income year that ends, or, if section 701-30 applies, of the income year that is taken by subsection (3) of that section to end, at the joining time had been adjusted to take account of franking credits or franking debits that would arise if the following were paid just before the joining time:

(a) the income tax, or refund of income tax, on the joining entity's taxable income for that income year; and

(b) any income tax, or refund of income tax, that has not yet been paid (regardless of whether it has become payable or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

due for payment) on the joining entity's taxable income for any earlier income year, other than one excluded by subsection (5).

Exclusion of certain income years where previous membership of a consolidated group

(5) If the joining entity was previously a *subsidiary member of a *consolidated group, any income year earlier than the one that started, or, if section 701-30 applies, the one that is taken by subsection (3) of that section to have started, when the joining entity ceased to be a subsidiary member of that group is excluded for the purposes of paragraph (4)(b) of this section.

Undistributed profits must have accrued to joined group

(6) Next, work out the extent to which the undistributed profits that satisfy the requirements of subsection (3) accrued to the joined group before the joining time (subsection (7) states what it means for a profit to accrue to the joined group before the joining time). The result is the step 3 amount.

Profit accruing to the joined group before the joining time

(7) A profit accrued to the joined group before the joining time if, on the following assumptions:

(a) that it was distributed to holders of *membership interests as it accrued; and

(b) that entities interposed between the *head company and the joining entity successively distributed any of it immediately after receiving it;

it would have been received by the entity that is the head company at the joining time, in respect of membership interests that it held continuously until that time either directly or indirectly through interposed entities.

Note: If an entity interposed between the head company and the joining entity is a non-fixed trust, this subsection may involve determining

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

how a power of appointment would have been exercised. Section 713-50 lists matters to have regard to in determining this.

Loss accruing to the joined group before the joining time

(8) A loss accrued to the joined group before the joining time if and to the extent that, assuming that as it arose it were instead a profit that was accruing, a distribution of that profit would have been a distribution made to the joined group out of profits that accrued to the joined group before the joining time.

Use of reliable estimates

(9) In working out:
   (a) for the purposes of subsection (4), the amount of income tax, or refund of income tax, on the joining entity's taxable income for a particular income year and the extent to which it has not yet been paid; or
   (b) for the purposes of subsection (7), the amount of a profit that accrued to the joined group during a particular period; or
   (c) for the purposes of subsection (8), the amount of a loss that accrued to the joined group during a particular period;

   use the most reliable basis for estimation that is available.

(10) Without limiting paragraph (9)(b), a way in which, for the purposes of subsection (7), the amount of a profit that accrued to the joined group during a particular period may be worked out is by:
   (a) assuming that profits of income years were distributed in order from the most recent to the earliest; and
   (b) assuming that, for any income year for which distributions were paid out of profits in accordance with paragraph (a), they were, to the extent they were not *franked distributions, paid out of profits of that income year that were not subject to income tax before they were paid out of such profits that were subject to income tax.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-93 If pre-joining time roll-over from foreign resident company or head company—step 3A in working out allocable cost amount

When there is a step 3A amount

(1) For the purposes of step 3A in the table in section 705-60, there is a step 3A amount if:

(a) before the joining time:

(i) there was a roll-over under Subdivision 126-B (a ***Subdivision 126-B roll-over***) in relation to a *CGT event that happened in relation to an asset (the ***roll-over asset***); or

(ii) former section 160ZZO of the *Income Tax Assessment Act 1936* applied in relation to a disposal (a ***section 160ZZO roll-over***) of an asset (also the ***roll-over asset***); and

(aa) at the joining time, as a result of the Subdivision 126-B roll-over or the section 160ZZO roll-over, the roll-over asset has:

(i) a *deferred roll-over gain; or

(ii) a *deferred roll-over loss; and

(b) the originating company in relation to the Subdivision 126-B roll-over, or the transferor in relation to the section 160ZZO roll-over:

(i) was a foreign resident; or

(ii) is the *head company in relation to the joined group; and

(c) the recipient company in relation to the Subdivision 126-B roll-over, or the transferee in relation to the section 160ZZO roll-over:

(i) was an Australian resident; and

(ii) is a *spread entity in relation to the joined group; and

(d) if the recipient company was previously a *subsidiary member of another consolidated group—the conditions in

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

section 104-182 were *not* satisfied at any time in relation to the other group between the Subdivision 126-B roll-over, or the section 160ZZO roll-over, and the joining time; and

(e) the roll-over asset is not a *pre-CGT asset at the joining time; and

(f) the roll-over asset becomes that of the head company of the joined group because subsection 701-1(1) (the single entity rule) applies when the joining entity becomes a *subsidiary member of the group.

(2) The step 3A amount is the amount of the *deferred roll-over gain or the *deferred roll-over loss mentioned in paragraph (1)(aa).

705-95 Pre-joining time distributions out of certain profits—step 4 in working out allocable cost amount

For the purposes of step 4 in the table in section 705-60, the step 4 amount is the sum of all distributions made by the joining entity before the joining time that:

(a) the *head company receives directly, or would receive indirectly if entities interposed between the head company and the joining entity successively distributed any distribution they received immediately after receiving it; and

(b) were made out of profits:

(i) that did *not* accrue to the joined group before the joining time (see subsection 705-90(7)); or

(ii) that accrued to the joined group before the joining time and recouped losses of any *sort that accrued to the joined group before that time (see subsection 705-90(8)).

Note: As well as subsection 705-90(7), paragraph 705-90(9)(b) and subsection 705-90(10) are relevant to working out whether or not profits accrued to the joined group before the joining time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-100 Losses accruing to joined group before joining time—step 5 in working out allocable cost amount

(1) For the purposes of step 5 in the table in section 705-60, the step 5 amount is the sum of all losses of any *sort of the joining entity that:

(a) had not been *utilised by the joining entity for the income year in which the joining time occurred or any earlier income year; and

(b) accrued to the joined group before the joining time (see subsection 705-90(8)).

(2) However, a loss is not to be taken into account under subsection (1) to the extent that it reduced the undistributed profits comprising the step 3 amount in the table in section 705-60.

705-105 Continuity of holding membership interests—steps 3 to 5 in working out allocable cost amount

If:

(a) a *membership interest that a *member of the joined group held in the joining entity at the joining time was taken under this Act to have been *acquired by the member for its *market value at a particular time (the ***market value time***); or

(b) the *cost base and *reduced cost base of a membership interest that a member of the joined group held in the joining entity at the joining time were, before that time, changed on one or more occasions by this Act so that they equalled the market value of the membership interest at a particular time (the last of which times is also the ***market value time***);

then, for the purpose of sections 705-90, 705-95, 705-100 and 713-25, the *head company is taken not to have held that membership interest, either directly or indirectly, before the market value time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-110 If joining entity transfers a loss to the head company—step 6 in working out allocable cost amount

(1) For the purposes of step 6 in the table in section 705-60, the step 6 amount is worked out by multiplying the sum of the losses mentioned in subsection (2) by the *corporate tax rate.

(2) The losses are the joining entity's losses of any *sort that:
  (a) were not *utilised by the joining entity for the income year in which the joining time occurred or any earlier income year; and
  (b) did not accrue to the joined group before the joining time (see subsection 705-90(8)); and
  (c) are transferred to the *head company under Subdivision 707-A; and
  (d) are not cancelled under section 707-145.

705-115 If head company becomes entitled to certain deductions—step 7 in working out allocable cost amount

(1) For the purposes of step 7 in the table in section 705-60, the step 7 amount is worked out using the following formula:

$$\text{Owned deductions} + \left[\text{Acquired deductions} \times {}^{*}\text{Corporate tax rate}\right]$$

where:

acquired deductions means all deductions covered by subsection (2) that are not owned deductions.

owned deductions means the sum of all deductions for which the following requirements are satisfied:
  (a) the deduction is covered by subsection (2);
  (b) assuming the expenditure that gave rise to the deduction were instead a profit that accrued at the time the expenditure was incurred, a distribution of that profit would have been a distribution made to the joined group out of profits that

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

accrued to the joined group before the joining time (see subsection 705-90(7)).

(2) This subsection covers any deduction to which the *head company becomes entitled under section 701-5 as a result of the joining entity becoming a *subsidiary member of the joined group, other than a deduction for expenditure:

(a) that is, forms part of or reduces, the cost of an asset of the joining entity that becomes an asset of the head company because subsection 701-1(1) (the single entity rule) applies; or

(b) to which section 110-40 (about expenditure on assets acquired before 7.30 pm on 13 May 1997) applies; or

(c) to the extent that the expenditure reduced the undistributed profits comprising the step 3 amount in the table in section 705-60.

(3) Subsection (2) does *not* cover a deduction under section 43-15 (which relates to *undeducted construction expenditure) if the joining entity *acquired the asset to which the deduction relates at or before 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 1997.

How to work out a pre-CGT factor for assets of joining entity

705-125 Pre-CGT proportion for joining entity

Object

(1) Because intra-group *membership interests in the joining entity are disregarded under subsection 701-1(1) (the single entity rule), the object of this section is to provide a mechanism to ensure that the benefit of the pre-CGT status of those interests is not lost. That mechanism involves:

(a) working out the proportion (measured by market value) of the membership interests in the joining entity that have pre-CGT status; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) if the joining entity later ceases being a member of the group, attaching pre-CGT status to that proportion of membership interests in it (see section 711-65), subject to integrity rules (see section 711-70).

How to work out pre-CGT proportion

(2) The ***pre-CGT proportion*** is the amount worked out by dividing:

(a) the sum of the *market value of each *membership interest in the joining entity that is:

(i) held by a *member of the group at the joining time; and

(ii) is a *pre-CGT asset;

by:

(b) the sum of the market value of each membership interest in the joining entity that is held by a member of the group at the joining time.

Modification if joining entity is a trust

(4) If the joining entity is a trust, a *membership interest in it is not taken into account under subsection (2) unless the membership interest is either a unit or an interest in the trust.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 705-B—Case of group formation

Guide to Subdivision 705-B

705-130 What this Subdivision is about

When a consolidated group comes into existence, the tax cost setting amount for the assets of each entity that becomes a subsidiary member is worked out by modifying the rules in Subdivision 705-A, so that the amount reflects the cost to the group of acquiring the entity.

Table of sections

Application and object

705-135 Application and object of this Subdivision

Modified application of Subdivision 705-A

705-140 Subdivision 705-A has effect with modifications
705-145 Order in which tax cost setting amounts are to be worked out where subsidiary members have membership interests in other subsidiary members
705-147 Adjustment in working out step 3A of allocable cost amount to take account of membership interests held by subsidiary members in other such members
705-155 Adjustments to restrict step 4 reduction of allocable cost amount to effective distributions to head company in respect of direct membership interests
705-160 Adjustment to allocation of allocable cost amount to take account of owned profits or losses of certain entities that become subsidiary members
705-163 Modified application of section 705-57

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Application and object

705-135 Application and object of this Subdivision

Application

(1) This Subdivision has effect for the head company core purposes set out in subsection 701-1(2) if one or more entities become *subsidiary members of a *consolidated group at the time (the ***formation time***) it comes into existence as a consolidated group.

Note: This is the first exception to Subdivision 705-A: see paragraph 705-15(a).

Object

(2) The object of this Subdivision is to modify the rules in Subdivision 705-A (which basically determine the tax cost setting amount for assets of an entity joining an existing *consolidated group) so that they have effect, and take account of different circumstances that apply, when a consolidated group comes into existence.

Note: The main circumstance is where one of the entities has membership interests in another. In such a case, the order in which the rules in Subdivision 705-A are applied will affect the tax cost setting amounts for the assets of the entities.

Modified application of Subdivision 705-A

705-140 Subdivision 705-A has effect with modifications

(1) Subdivision 705-A has effect in relation to each entity becoming a *subsidiary member of the *consolidated group at the formation time in the same way as that Subdivision has effect in relation to an entity becoming a subsidiary member of a consolidated group in circumstances covered by that Subdivision.

(2) However, that effect of Subdivision 705-A is subject to modifications set out in this Subdivision.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-145 Order in which tax cost setting amounts are to be worked out where subsidiary members have membership interests in other subsidiary members

Object

(1) The object of this section is to ensure that where, on becoming *subsidiary members, entities hold assets consisting of *membership interests in other subsidiary members, the *head company's cost of becoming the holder of the assets of all of the entities that become subsidiary members correctly reflects the group's cost of acquiring the entities.

Tax cost setting amounts to be worked out from top down

(2) If, on becoming *subsidiary members, entities hold *membership interests in any other entities that become subsidiary members, the *tax cost setting amounts for the assets of entities holding membership interests must be worked out before the tax cost setting amounts for the assets of the entities in which the membership interests are held.

Note: The tax cost setting amount in respect of assets of any subsidiary member in which the head company, but no other subsidiary member, holds membership interests can be worked out in any order in relation to the calculations for other subsidiary members.

Tax cost setting amount for higher entity's membership interests to be used in working out lower entity's tax cost setting amount

(3) The tax cost setting amount worked out for assets of an entity mentioned in subsection (2) consisting of *membership interests in another such entity is to be used as the amount for those interests under subsection 705-65(1) (step 1 of allocable cost amount) in working out the tax cost setting amount for assets of that other entity.

Note 1: Subsection 705-65(1) adds together amounts worked out in accordance with section 705-65 representing the cost of the membership interests that each member of the group holds in the entity. If any of those membership interests is held by another

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

subsidiary member, subsection (3) above will replace the amount otherwise applicable with the tax cost setting amount that will have been worked out for the interests in accordance with subsection (2) above.

Note 2: The tax cost setting amount worked out for the membership interests has no relevance other than for the purpose mentioned in subsection (3). This is because, under the single entity principle, intra group membership interests are ignored while entities are members of the group. If an entity ceases to be a member, section 701-15 and Division 711 set the tax cost of membership interests in the entity at that time.

Value shifting etc. provisions not to apply to later CGT events involving membership interests

(4) However, despite subsection (3), subsection 705-65(4) (which prevents the later operation of value shifting etc. provisions) still applies to the *membership interests.

Non-membership equity interests

(5) For the purposes of this section, if, on becoming a *subsidiary member, an entity holds a *non-membership equity interest in another entity that becomes a subsidiary member at the same time, that non-membership equity interest is treated as if it were a *membership interest in that other entity.

705-147 Adjustment in working out step 3A of allocable cost amount to take account of membership interests held by subsidiary members in other such members

Object

(1) The object of this section is to modify the effect that section 705-93 (step 3A of allocable cost amount) has in accordance with this Subdivision so that it takes account of *membership interests that entities that become *subsidiary members hold in other such entities.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Apportionment of step 3A amount among first level interposed entities

(2) If:

(a) under section 705-93, in its application in accordance with this Subdivision, there is a step 3A amount for the purpose of working out the group's *allocable cost amount for an entity (the ***subject entity***) that becomes a *subsidiary member of the group at the formation time; and

(b) at that time one or more entities (the ***first level entities***), that become subsidiary members of the group and in which the *head company holds *membership interests, are interposed between the head company and the subject entity;

then the step 3A amount is apportioned among the first level entities and the subject entity on the following basis:

(c) each first level entity has the following proportion of the step 3A amount:

$$\frac{\text{*Market value of first level entity's direct and indirect membership interests in subject entity}}{\text{*Market value of all membership interests in subject entity}}$$

where:

market value of all membership interests in subject entity means the *market value, at the formation time, of all *membership interests in the subject entity that are held by entities that become *members of the group at that time.

market value of first level entity's direct and indirect membership interests in subject entity means so much of the *market value of all membership interests in the subject entity (as defined above) as is attributable to *membership interests that the first level entity holds directly, or indirectly through other interposed entities that become *subsidiary members of the group at the formation time; and

(d) the subject entity has the remainder of the step 3A amount.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Membership interests in subsidiary members of group

(3) In applying section 705-93 for the purposes of this Subdivision, disregard paragraph 705-93(1)(f) if:

(a) the rollover asset mentioned in that section is a *membership interest in an entity that becomes a *subsidiary member at the formation time; and

(b) the rollover asset is *not* held at that time by the entity that becomes the *head company of the group.

Note: The step 3A amount is worked out under section 705-93.

705-155 Adjustments to restrict step 4 reduction of allocable cost amount to effective distributions to head company in respect of direct membership interests

Object

(1) The object of this section is to ensure that, in working out the group's *allocable cost amount for entities that become *subsidiary members of the group at the formation time, the reduction under step 4 in the table in section 705-60 (about pre-formation time distributions out of certain profits) is made only for profits that have been effectively distributed to the *head company in respect of its direct *membership interests in the entities. This ensures consistency with the ordering rule in section 705-145.

When section applies

(2) This section applies to a distribution (the ***subject distribution***) to the extent that the following conditions are satisfied:

(a) the distribution is made by an entity (the ***subject entity***) that becomes a *subsidiary member of the group at the formation time;

(b) in working out the group's *allocable cost amount for the subject entity there would, apart from this section, be a reduction under step 4 in the table in section 705-60 for the distribution.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Step 4 reduction only if subject distribution is made to head company etc.

(3) There is no reduction as mentioned in paragraph (2)(b) for the subject distribution unless:

(a) the subject distribution is made to the *head company of the group; or

(b) the reduction is in accordance with subsection (5).

Step 4 reduction for effective distribution to head company

(4) If:

(a) at the formation time, the *head company of the group has a direct *membership interest in the subject entity; and

(b) the head company acquired the membership interest directly from another entity, or indirectly as a result of one or more acquisitions from other entities, where:

(i) former section 160ZZ0 of the *Income Tax Assessment Act 1936* applied to each acquisition; or

(ii) there was a roll-over under Subdivision 126-B for each acquisition;

or a combination of these happened; and

(c) while it held the membership interest, the entity, or one of the entities, mentioned in paragraph (b) (the ***recipient of the further distribution***) received a distribution (the ***further distribution***) of some of the subject distribution from the subject entity;

the consequences in subsections (5) and (6) apply.

Reduction for further distribution that remains with recipient

(5) If:

(a) the following happen:

(i) by the formation time, any of the further distribution (the ***eligible reduction amount***) had not again been distributed by the recipient of the further distribution;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(ii) the recipient of the further distribution does not become a *subsidiary member of the group at the formation time; or

(b) the following happen:

(i) by the formation time, any of the further distribution (the ***eligible reduction amount***) had been distributed by the recipient of the further distribution to another entity directly, or indirectly though successive distributions by interposed entities;

(ii) that other entity does not become a subsidiary member of the group at the formation time; or

(c) both of the above paragraphs apply;

then, in working out the group's *allocable cost amount for the subject entity, the reduction under step 4 in the table in section 705-60 for the subject distribution only takes place to the extent that it equals the sum of all eligible reduction amounts.

Step 1 reduced cost base adjustment to reverse effect of reduction for further distribution

(6) Also, if former subsection 160ZK(5) of the *Income Tax Assessment Act 1936* or subsection 110-55(7) of this Act applied to the further distribution, then for the purposes of step 1 in the table in section 705-60 in working out the group's *allocable cost amount for the subject entity:

(a) the reference in subsection 705-65(3) to a reduction resulting from the application of former subsection 160ZK(5) of the *Income Tax Assessment Act 1936*; and

(b) the reference in subsection 705-65(5) to a reduction that has taken place under subsection 110-55(7);

include a reference to the reduction in the *reduced cost base of the membership interest in the subject entity resulting from the application of former subsection 160ZK(5) of the *Income Tax Assessment Act 1936*, or subsection 110-55(7) of this Act, to the further distribution.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-160 Adjustment to allocation of allocable cost amount to take account of owned profits or losses of certain entities that become subsidiary members

Object

(1) The object of this section is to prevent a distortion under section 705-35 in the allocation of *allocable cost amount to an entity that becomes a *subsidiary member of the group where that entity has direct or indirect *membership interests in another entity that has certain profits or tax losses when it becomes a subsidiary member.

Adjustment to allocation of allocable cost amount where direct interest in entity with profits/losses

(2) If:

(a) an entity becomes a *subsidiary member of the group at the formation time; and

(b) the entity has *membership interests in a second entity that becomes a subsidiary member of the group at that time; and

(c) in working out the group's *allocable cost amount for the second entity:

(i) an amount is required to be added (the ***second entity's profit/loss adjustment amount***) under step 3 in the table in section 705-60 (about profits accruing before becoming a subsidiary member of the group); or

(ii) an amount is required to be subtracted (also the ***second entity's profit/loss adjustment amount***) under step 5 in the table in section 705-60 (about losses accruing before becoming a subsidiary member of the group);

then, for the purposes of working out under section 705-35 the *tax cost setting amount for the assets of the first entity, the *market value of the first entity's membership interests in the second entity is reduced (in a subparagraph (c)(i) case) or increased (in a subparagraph (c)(ii) case) by the first entity's interest in the second entity's profit/loss adjustment amount (see subsection (3)).

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

First entity's interest in second entity's profit/loss adjustment amount

(3) The first entity's interest in the second entity's profit/loss adjustment amount is worked out using the formula:

$$\frac{\text{*Market value of first entity's *membership interests in second entity}}{\text{*Market value of all *membership interests in second entity}} \times \text{Second entity's profit/loss adjustment amount}$$

Adjustment to allocation of allocable cost amount for indirect interest in entity with profits/losses

(4) If:

(a) an entity becomes a *subsidiary member of the group at the formation time; and

(b) the entity has *membership interests in a second entity that becomes a subsidiary member of the group at that time; and

(c) the second entity has, directly or indirectly through one or more interposed entities that become subsidiary members of the group at the formation time, membership interests in a third entity that becomes a subsidiary member of the group at that time; and

(d) in working out the group's *allocable cost amount for the third entity:

(i) an amount is required to be added (the ***third entity's profit/loss adjustment amount***) under step 3 in the table in section 705-60 (about profits accruing before becoming a subsidiary member of the group); or

(ii) an amount is required to be subtracted (also the ***third entity's profit/loss adjustment amount***) under step 5 in the table in section 705-60 (about losses accruing before becoming a subsidiary member of the group);

then, for the purposes of working out under section 705-35 the *tax cost setting amount for the assets of the first entity, the *market value of the first entity's membership interests in the second entity

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

is reduced (in a subparagraph (d)(i) case) or increased (in a subparagraph (d)(ii) case) by the first entity's interest in the third entity's profit/loss adjustment amount (see subsection (5)).

First entity's interest in third entity's profit/loss adjustment amount

(5) The first entity's interest in the third entity's profit/loss adjustment amount is worked out using the formula:

$$\frac{\text{*Market value of first entity's membership interests in third entity held through second entity}}{\text{*Market value of all *membership interests in third entity}} \times \text{Third entity's profit/loss adjustment amount}$$

where:

market value of first entity's membership interests in third entity held through second entity means the *market value of all *membership interests in the third entity that the first entity holds indirectly through the second entity (including through that entity and one or more other entities that become *subsidiary members of the group and are interposed between the second entity and the third entity).

705-163 Modified application of section 705-57

Object

(1) The object of this section is to ensure that, in working out *tax cost setting amounts for *trading stock, *depreciating assets, *registered emissions units or *revenue assets of entities that become *subsidiary members of the group at the formation time, section 705-57 (about loss of pre-CGT status of certain *membership interests) only applies if the *membership interests held directly by the *head company of the group are affected.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Modified application of section 705-57—basic modification

(2) For the purposes of applying section 705-57 in accordance with this Subdivision, a reference in that section to a *membership interest that a *member of the joined group holds in the joining entity at the joining time is taken to be a reference to a *membership interest that the *head company of the *consolidated group holds directly in an entity becoming a *subsidiary member at the formation time.

Modified application of section 705-57—additional modifications where section 705-145 applies

(3) Also, if an entity (the ***first entity***) that becomes a *subsidiary member holds a *membership interest (the ***subject membership interest***) in another entity (the ***second entity***) that becomes a subsidiary member, section 705-57 (as modified in accordance with subsection (2)) is to be applied in relation to the subject membership interest as follows.

(4) First work out whether there would be a reduction under that section in the *tax cost setting amount for the subject membership interest that is used as mentioned in subsection 705-145(3) (the ***subsection 705-145(3) tax cost setting amount***) if:

(a) the subject membership interest, if it is not a revenue etc. asset of the first entity, were taken to be such an asset; and

(b) paragraphs 705-57(2)(c) and (d) and subsection 705-57(7) did not apply to the subject membership interest.

(5) Next, if there would be such a reduction (whose amount is the ***notional section 705-57 reduction amount***):

(a) apply section 705-57 to reduce the *tax cost setting amount for any revenue etc. asset of the second entity; and

(b) if the second entity holds a *membership interest in another entity that becomes a *subsidiary member—apply section 705-57 in relation to that interest in accordance with subsection (3) of this section;

and for those purposes:

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Authorised Version C2022C00307 registered 22/10/2022

(c) the subject membership interest is taken to be a membership interest that the *head company of the group holds directly in the second entity at the formation time; and

(d) the requirements of paragraphs 705-57(2)(a) and (b) are taken to be satisfied in relation to the subject membership interest; and

(e) the subject membership interest is taken to have a *cost base and *reduced cost base equal to the subsection 705-145(3) tax cost setting amount; and

(f) the subject membership interest is taken to have a loss of pre-CGT status adjustment amount equal to the notional section 705-57 reduction amount.

Note: If the head company actually held any membership interests in the second entity, or if other entities becoming subsidiary members held membership interests in the second entity to which this subsection also applied, those membership interests would also be taken into account in working out the reduction under paragraph (a) and in applying paragraph (b).

Section 705-57 not to apply where membership interests effectively acquired on normal market basis

(6) If:

(a) apart from this subsection, subsection 705-57(6) would apply in accordance with this Subdivision to the revenue etc. assets of an entity (the ***subject entity***) that becomes a *subsidiary member of the group at the formation time; and

(b) at the formation time, the *head company of the group holds all of the *membership interests in the subject entity; and

(c) subsection 705-57(6) would apply because a circumstance covered by subsection 705-57(4) (about loss of pre-CGT status because Division 149 etc. applied) existed; and

(d) the application of Division 149 of this Act, or the provision of the *Income Tax Assessment Act 1936*, as mentioned in paragraph 705-57(4)(b) of this Act happened because the entity that became the *head company of the group (the ***potential head entity***) *acquired all of the *membership

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

interests in the other entity mentioned in that paragraph directly or indirectly from another entity (the ***vendor***); and

(e) at the time of the acquisition, the potential head entity did not control (for value shifting purposes) the vendor, and vice-versa, and another entity did not control (for value shifting purposes) the potential head entity and the vendor; and

(f) the acquisition, or each of the acquisitions, mentioned in subsection 705-57(4) was a *same asset roll-over or was one to which any of former sections 160ZZN to 160ZZOC, 160ZZPA and 160ZZPJ of the *Income Tax Assessment Act 1936* applied;

then subsection 705-57(6) does not apply as mentioned in paragraph (a) of this subsection.

Subdivision 705-C—Case where a consolidated group is acquired by another

Guide to Subdivision 705-C

705-170 What this Subdivision is about

When a consolidated group is acquired by another consolidated group, modifications are made to the operation of Division 701 (the core rules) and Subdivision 705-A (tax cost setting amount where a single entity joins a consolidated group) basically to ensure that the tax cost setting amount for assets of the acquired group that become those of the acquiring group reflects the cost to the latter group of acquiring the former.

Table of sections

Application and object

705-175 Application and object of this Subdivision

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Modified application of Division 701 in relation to acquired group etc.

705-180 Modifications of Division 701

Modified application of Subdivision 705-A in relation to acquiring group

705-185 Subdivision 705-A has effect with modifications

Modifications of Subdivision 705-A for the purposes of this Subdivision

705-195 Modified application of subsection 705-65(6)
705-200 Modified application of section 705-85

Application and object

705-175 Application and object of this Subdivision

Application

(1) This Subdivision applies if all of the *members of a *consolidated group (the ***acquired group***) become members of another consolidated group (the ***acquiring group***) at a particular time (the ***acquisition time***) as a result of the *acquisition of *membership interests in the *head company of the acquired group.

Object

(2) The object of this Subdivision is:
   (a) to modify the rules in Division 701 (the core rules) to complement the treatment of the acquired group as a single entity that applied before the acquisition time; and
   (b) to modify Subdivision 705-A (which basically determines the tax cost setting amount for assets of an entity joining a consolidated group) to ensure that the *tax cost setting amount for assets of the acquired group that become those of the acquiring group reflects the cost to the latter group of acquiring the former.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 705-180

Modified application of Division 701 in relation to acquired group etc.

705-180 Modifications of Division 701

Certain provisions of Division 701 not to apply

(1) If, because an entity ceases to be a *subsidiary member of the acquired group when this Subdivision applies, a provision of Division 701 (other than section 701-25) would otherwise apply, in relation to the acquired group for the head company core purposes set out in subsection 701-1(2) or for the entity core purposes set out in subsection 701-1(3), the provision does not so apply.

Modified application of section 701-5

(2) Section 701-5 (the entry history rule) applies in relation to the acquiring group for the head company core purposes set out in subsection 701-1(2) as if entities that are or have been the *subsidiary members of the acquired group were or had been parts of the *head company of the acquired group.

Modified application of section 701-25

(3) The application of section 701-25 (which ensures tax-neutral consequences for a head company ceasing to hold assets when an entity leaves a group), in relation to the acquired group for the head company core purposes set out in subsection 701-1(2) and for the entity core purposes set out in subsection 701-1(3), is modified as follows:

(a) the reference in subsection (4) of that section to the end of the income year is taken to be a reference to the end of the income year that ends or, if subsection 701-30(3) as modified by subsection (4) of this section applies, of the income year that is taken to end, when the entity ceases to be a *subsidiary member of the acquired group;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the section applies (as modified by paragraph (a) of this subsection) to the entity that is the *head company of the acquired group ceasing to be a *member of that group in the same way as it applies to an entity that is a subsidiary member of that group ceasing to be a subsidiary member.

Modified application of section 701-30

(4) If the acquired group only exists for part of the income year, section 701-30 (about an entity not being a subsidiary member of a group for a whole income year) applies in relation to the acquired group for the head company core purposes in the same way as it applies to work out the taxable income, tax payable on that taxable income and loss of each *sort for an entity for a non-membership period.

Modified application of Subdivision 705-A in relation to acquiring group

705-185 Subdivision 705-A has effect with modifications

(1) Subdivision 705-A has effect in relation to the acquiring group for the head company core purposes set out in subsection 701-1(2) as if:

(a) the only *member of the acquired group that is a joining entity of the acquiring group were the entity that, just before the acquisition time, was the *head company of the acquired group; and

(b) the operation of this Part for the head company core purposes in relation to the head company and the entities that were *subsidiary members of the acquired group continued to have effect for the purposes of Subdivision 705-A.

Note 1: This means that for Subdivision 705-A purposes the subsidiary members of the acquired group are treated as part of the head company of that group, and as a result their assets (other than e.g. internal membership interests) have their tax costs set at the acquisition time.

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Authorised Version C2022C00307 registered 22/10/2022

Note 2: It also means e.g. that for Subdivision 705-A purposes the terminating values of the assets of those subsidiary members are worked out as if the assets were those of the head company at the acquisition time, and hence will be based (if applicable) on the tax cost setting amounts for assets that were set at the time entities became subsidiary members of the acquired group.

(2) However, that effect of Subdivision 705-A is subject to modifications set out in this Subdivision.

Note: The modifications of Subdivision 705-A made in this Subdivision constitute the second exception to Subdivision 705-A: see paragraph 705-15(b).

Modifications of Subdivision 705-A for the purposes of this Subdivision

705-195 Modified application of subsection 705-65(6)

Object

(1) The object of this section is to ensure that certain *non-membership equity interests held by *members of the acquiring group that are part of the cost of acquiring the acquired group are taken into account in working out the acquiring group's *allocable cost amount for the acquired group.

Non-membership equity interests

(2) Subsection 705-65(6) has effect as if it also treated as a *membership interest in the *head company of the acquired group a *non-membership equity interest in a *subsidiary member of the acquired group, where that interest was held at the acquisition time by a *member of the acquiring group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

705-200 Modified application of section 705-85

Object

(1) The object of this section is to ensure that if any of the following are not held by *members of either group:

(a) certain employee share interests in *subsidiary members of the acquired group;

(b) certain *non-membership equity interests in subsidiary members of the acquired group;

(c) certain preference share interests in subsidiary members of the acquired group;

and are therefore part of the cost of acquiring the acquired group, they increase the acquiring group's *allocable cost amount for the acquired group.

Increase for certain membership interests in subsidiary members of acquired group

(2) Subsections 705-85(1), (2) and (4) have effect as if a *membership interest in a *subsidiary member of the acquired group were a membership interest in the *head company of that group.

Non-membership equity interests

(3) Paragraph 705-85(3)(a) has effect as if it also increased the step 2 amount worked out under section 705-70 by the amount that would be the sum of the balances of the *non-share capital accounts of the *subsidiary members of the acquired group, assuming that:

(a) for a subsidiary member that is not a company—the subsidiary member were a company; and

(b) each *non-membership equity interest (if any) in a subsidiary member held at the acquisition time by a person other than a *member of the acquiring group or acquired group were a *non-share equity interest in the subsidiary member; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) the non-share equity interests (if any) mentioned in paragraph (b) were the only non-share equity interests in the subsidiary member.

Subdivision 705-D—Where multiple entities are linked by membership interests

Guide to Subdivision 705-D

705-210 What this Subdivision is about

When entities that are linked by membership interests join a consolidated group, the tax cost setting amount for the assets of each entity that becomes a subsidiary member is worked out by modifying the rules in Subdivision 705-A, so that the amount reflects the cost to the group of acquiring the entities.

Table of sections

Application and object

705-215 Application and object of this Subdivision

Modified application of Subdivision 705-A

705-220 Subdivision 705-A has effect with modifications
705-225 Order in which tax cost setting amounts are to be worked out where linked entities have membership interests in other linked entities
705-227 Adjustment in working out step 3A of allocable cost amount to take account of membership interests held by linked entities in other linked entities
705-230 Adjustments to restrict step 4 reduction of allocable cost amount to effective distributions to head company in respect of direct membership interests
705-235 Adjustment to allocation of allocable cost amount to take account of owned profits or losses of certain linked entities
705-240 Modified application of section 705-57

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Application and object

705-215 Application and object of this Subdivision

Application

(1) This Subdivision has effect for the head company core purposes set out in subsection 701-1(2) if:

(a) 2 or more entities (each of which is a ***linked entity***) become members of a *consolidated group at the same time as a result of an event that happens in relation to one of them; and

(b) the case is not covered by Subdivision 705-C.

Note: This is the third exception to Subdivision 705-A: see paragraph 705-15(c). In order for this Subdivision to have effect, one of the entities would need to hold directly or indirectly, just before the joining time, membership interests in all of the other entities.

Example: Entities A and B are not members of a consolidated group, but members of such a group, together with entity A, jointly hold all the membership interests in entity B. Members of the group then acquire all the membership interests in entity A and as a result of this event both entities, which are linked by the membership interests that one holds in the other, become members of the group.

Object

(2) The object of this Subdivision is to modify the rules in Subdivision 705-A (which basically determine the tax cost setting amount for assets of an entity joining an existing consolidated group) so that they take account of the different circumstances that apply where linked entities join.

Modified application of Subdivision 705-A

705-220 Subdivision 705-A has effect with modifications

(1) Subdivision 705-A has effect in relation to each linked entity becoming a *subsidiary member of the *consolidated group in the same way as that Subdivision operates in relation to an entity

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Authorised Version C2022C00307 registered 22/10/2022

becoming a subsidiary member of a consolidated group in circumstances covered by that Subdivision.

(2) However, that effect of Subdivision 705-A is subject to modifications set out in this Subdivision.

705-225 Order in which tax cost setting amounts are to be worked out where linked entities have membership interests in other linked entities

Object

(1) The object of this section is to ensure that where, on becoming *subsidiary members, linked entities hold assets consisting of *membership interests in other linked entities, the *head company's cost of becoming the holder of the assets of all of the linked entities correctly reflects the group's cost of acquiring the linked entities.

Tax cost setting amounts to be worked out from top down

(2) The *tax cost setting amounts for the assets of linked entities holding *membership interests must be worked out before the tax cost setting amounts for the assets of the linked entities in which the membership interests are held.

Note: The tax cost setting amount in respect of assets of any linked entity in which members of the group, but no linked entity, hold membership interests can be worked out in any order in relation to the calculations for other linked entities.

Tax cost setting amount for higher linked entity's membership interests to be used in working out lower linked entity's tax cost setting amount

(3) The *tax cost setting amount worked out for assets of a linked entity mentioned in subsection (2) consisting of *membership interests in another such entity is to be used as the amount for those interests under subsection 705-65(1) (step 1 of allocable cost

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Authorised Version C2022C00307 registered 22/10/2022

amount) in working out the tax cost setting amount for assets of that other linked entity.

Note 1: Subsection 705-65(1) adds together amounts worked out in accordance with section 705-65 representing the cost of the membership interests that each member of the group holds in the linked entity. If any of those membership interests is held by another linked entity, subsection (3) of this section will replace the amount otherwise applicable with the tax cost setting amount that will have been worked out for the interests in accordance with subsection (2) of this section.

Note 2: The tax cost setting amount worked out for the membership interests has no relevance other than for the purpose mentioned in subsection (3) of this subsection. This is because, under the single entity principle, intra group membership interests are ignored while entities are members of the group. If an entity ceases to be a member, section 701-15 and Division 711 set the tax cost of membership interests in the entity at that time.

Value shifting etc. provisions not to apply to later CGT events involving membership interests

(4) However, despite subsection (3), subsection 705-65(4) (which prevents the later operation of value shifting etc. provisions) still applies to the *membership interests.

Non-membership equity interests

(5) For the purposes of this section, if, on becoming a *subsidiary member, a linked entity holds a *non-membership equity interest in another linked entity, that interest is treated as if it were a *membership interest in that other linked entity.

705-227 Adjustment in working out step 3A of allocable cost amount to take account of membership interests held by linked entities in other linked entities

Object

(1) The object of this section is to modify the effect that section 705-93 (step 3A of allocable cost amount) has in

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

accordance with this Subdivision so that it takes account of *membership interests that linked entities hold in other linked entities at the time (the ***linked entity joining time***) when the linked entities become *subsidiary members of the group.

Apportionment of step 3A amount among first level interposed entities

(2) If:

(a) under section 705-93, in its application in accordance with this Subdivision, there is a step 3A amount for the purpose of working out the group's *allocable cost amount for a particular linked entity (the ***subject entity***); and

(b) at the linked entity joining time, one or more of the linked entities (the ***first level entities***) in which the *head company holds *membership interests are interposed between the head company and the subject entity;

then the step 3A amount is apportioned among the first level entities and the subject entity on the following basis:

(c) each first level entity has the following proportion of the step 3A amount:

$$\frac{\text{*Market value of first level entity's direct and indirect membership interests in subject entity}}{\text{*Market value of all membership interests in subject entity}}$$

where:

market value of all membership interests in subject entity means the *market value, at the linked entity joining time, of all *membership interests in the subject entity that are held by entities that become *members of the group at that time.

market value of first level entity's direct and indirect membership interests in subject entity means so much of the *market value of all membership interests in the subject entity (as defined above) as is attributable to *membership interests that the first level entity holds directly, or indirectly through other linked entities; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(d) the subject entity has the remainder of the step 3A amount.

Membership interests in subsidiary members of group

(3) In applying section 705-93 for the purposes of this Subdivision, disregard paragraph 705-93(1)(f) if:

(a) the rollover asset mentioned in that section is a *membership interest in an entity that becomes a *subsidiary member at the linked entity joining time; and

(b) the rollover asset is *not* held at that time by the entity that becomes the *head company of the group.

Note: The step 3A amount is worked out under section 705-93.

705-230 Adjustments to restrict step 4 reduction of allocable cost amount to effective distributions to head company in respect of direct membership interests

Object

(1) The object of this section is to ensure that, in working out the group's *allocable cost amount for the linked entities, the reduction under step 4 in the table in section 705-60 (about pre-formation time distributions out of certain profits) is made only for profits that have been effectively distributed to the *head company in respect of its direct *membership interests in the entities. This ensures consistency with the ordering rule in section 705-225.

When section applies

(2) This section applies to a distribution to the extent that the following conditions are satisfied:

(a) the distribution is made by a linked entity;

(b) in working out the group's *allocable cost amount for the linked entity there would, apart from this section, be a reduction under step 4 in the table in section 705-60 for the distribution.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

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Step 4 reduction only if subject distribution is made to head company

(3) There is no reduction as mentioned in subsection (2) for the distribution unless it is made to the *head company of the group.

705-235 Adjustment to allocation of allocable cost amount to take account of owned profits or losses of certain linked entities

Object

(1) The object of this section is to prevent a distortion under section 705-35 in the allocation of *allocable cost amount to a linked entity where that entity has direct or indirect *membership interests in another linked entity that has certain profits or tax losses.

Adjustment to allocation of allocable cost amount where direct interest in linked entity with profits/losses

(2) If:

(a) a linked entity has *membership interests in a second linked entity; and

(b) in working out the group's *allocable cost amount for the second linked entity:

(i) an amount is required to be added (the ***second linked entity's profit/loss adjustment amount***) under step 3 in the table in section 705-60 (about profits accruing before becoming a subsidiary member of the group); or

(ii) an amount is required to be subtracted (also the ***second linked entity's profit/loss adjustment amount***) under step 5 in the table in section 705-60 (about losses accruing before becoming a subsidiary member of the group);

then, for the purposes of working out under section 705-35 the *tax cost setting amount for the assets of the first linked entity, the

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

*market value of the first linked entity's membership interests in the second linked entity is reduced (in a subparagraph (b)(i) case) or increased (in a subparagraph (b)(ii) case) by the first linked entity's interest in the second linked entity's profit/loss adjustment amount (see subsection (3)).

First linked entity's interest in second linked entity's profit/loss adjustment amount

(3) The first linked entity's interest in the second linked entity's profit/loss adjustment amount is worked out using the formula:

$$\frac{\text{*Market value of first linked entity's *membership interests in second linked entity}}{\text{*Market value of all *membership interests in second linked entity}} \times \text{Second linked entity's profit/loss adjustment amount}$$

Adjustment to allocation of allocable cost amount for indirect interest in linked entity with profits/losses

(4) If:

(a) a linked entity has *membership interests in a second linked entity; and

(b) the second linked entity has, directly or indirectly through one or more interposed linked entities, membership interests in a third linked entity; and

(c) in working out the group's *allocable cost amount for the third linked entity:

(i) an amount is required to be added (the ***third linked entity's profit/loss adjustment amount***) under step 3 in the table in section 705-60 (about profits accruing before becoming a subsidiary member of the group); or

(ii) an amount is required to be subtracted (also the ***third linked entity's profit/loss adjustment amount***) under step 5 in the table in section 705-60 (about losses accruing before becoming a subsidiary member of the group);

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

then, for the purposes of working out under section 705-35 the *tax cost setting amount for the assets of the first linked entity, the *market value of the first linked entity's membership interests in the second linked entity is reduced (in a subparagraph (c)(i) case) or increased (in a subparagraph (c)(ii) case) by the first linked entity's interest in the third linked entity's profit/loss adjustment amount (see subsection (5)).

First linked entity's interest in third linked entity's profit/loss adjustment amount

(5) The first linked entity's interest in the third linked entity's profit/loss adjustment amount is worked out using the formula:

$$\frac{\text{*Market value of first linked entity's membership interests in third linked entity held through second linked entity}}{\text{*Market value of all *membership interests in third linked entity}} \times \text{Third linked entity's profit/loss adjustment amount}$$

where:

market value of first linked entity's membership interests in third linked entity held through second linked entity means the *market value of all *membership interests in the third linked entity that the first linked entity holds indirectly through the second linked entity (including through that entity and one or more other linked entities that are interposed between the second linked entity and the third linked entity).

705-240 Modified application of section 705-57

Object

(1) The object of this section is to ensure that, in working out *tax cost setting amounts for *trading stock, *depreciating assets, *registered emissions units or *revenue assets of the linked entities, section 705-57 (about loss of pre-CGT status of certain

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

membership interests) only applies if the *membership interests held directly by the *head company of the group are affected.

Modified application of section 705-57—basic modification

(2) For the purposes of applying section 705-57 in accordance with this Subdivision, a reference in that section to a *membership interest that a *member of the joined group holds in the joining entity at the joining time is taken to be a reference to a membership interest that the *head company of the *consolidated group holds directly in a linked entity at the time the linked entity becomes a *subsidiary member.

Modified application of section 705-57—additional modifications where section 705-225 applies

(3) Also, if a linked entity (the ***first linked entity***) holds a *membership interest (the ***subject membership interest***) in another linked entity (the ***second linked entity***), section 705-57 (as modified in accordance with subsection (2)) is to be applied in relation to the subject membership interest as follows.

(4) First work out whether there would be a reduction under that section in the *tax cost setting amount for the subject membership interest that is used as mentioned in subsection 705-225(3) (the ***subsection 705-225(3) tax cost setting amount***) if:

(a) the subject membership interest, if it is not a revenue etc. asset of the first linked entity, were taken to be such an asset; and

(b) paragraphs 705-57(2)(c) and (d) and subsection 705-57(7) did not apply to the subject membership interest.

(5) Next, if there would be such a reduction (whose amount is the ***notional section 705-57 reduction amount***):

(a) apply section 705-57 to reduce the *tax cost setting amount for any revenue etc. asset of the second linked entity; and

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Authorised Version C2022C00307 registered 22/10/2022

(b) if the second linked entity holds a *membership interest in another linked entity—apply section 705-57 in relation to that interest in accordance with subsection (3) of this section;

and for those purposes:

(c) the subject membership interest is taken to be a membership interest that the *head company of the group holds directly in the second linked entity; and

(d) the requirements of paragraphs 705-57(2)(a) and (b) are taken to be satisfied in relation to the subject membership interest; and

(e) the subject membership interest is taken to have a *cost base and *reduced cost base equal to the subsection 705-225(3) tax cost setting amount; and

(f) the subject membership interest is taken to have a loss of pre-CGT status adjustment amount equal to the notional section 705-57 reduction amount.

Note: If the head company actually held any membership interests in the second linked entity, or if other linked entities held membership interests in the second linked entity to which this subsection also applied, those membership interests would also be taken into account in working out the reduction under paragraph (a) and in applying paragraph (b).

Subdivision 705-E—Adjustments for errors etc.

Guide to Subdivision 705-E

705-300 What this Subdivision is about

Errors in making tax cost setting amount calculations are reversed by means of an immediate capital gain or loss if it would be unreasonable to require the calculations to be re-done.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Table of sections

Operative provisions

705-305 Object of this Subdivision
705-310 Operation of Part IVA of the *Income Tax Assessment Act 1936*
705-315 Errors that attract special adjustment action
705-320 Tax cost setting amounts taken to be correct

Operative provisions

705-305 Object of this Subdivision

The object of this Subdivision is to avoid the time and expense involved in correcting errors affecting *tax cost setting amount calculations. This is done by providing for *capital gains or *capital losses to reverse the errors.

705-310 Operation of Part IVA of the *Income Tax Assessment Act 1936*

To avoid doubt, this Subdivision does not limit the operation of Part IVA of the *Income Tax Assessment Act 1936*.

705-315 Errors that attract special adjustment action

(1) Section 705-320 (about later adjustments to correct *tax cost setting amount calculation errors) applies if the conditions in this section are satisfied.

Tax cost setting amount taken into account

(2) The first condition is that the *head company of a *consolidated group worked out a *tax cost setting amount, in purported compliance with this Division, for an asset of an entity that becomes a *subsidiary member of the group that is an asset of a kind referred to in section 705-35 as a reset cost base asset.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Error in calculation

(3) The second condition is that:

(a) the *head company made one or more errors in working out the *tax cost setting amount; and

(b) those errors caused the tax cost setting amount to differ from its correct amount.

If the errors caused the tax cost setting amount to be more, the difference is an ***overstated amount***. If the errors caused the tax cost setting amount to be less, the difference is an ***understated amount***.

Unreasonable to require recalculation

(4) The third condition is that, having regard to the following factors:

(a) the net size of the errors compared to the size of the *allocable cost amount for the joining entity;

(b) the number of *tax cost setting amounts that would have to be recalculated, and the difficulty of making the recalculations;

(c) the number of adjustments, in assessments that could be amended and in future *income tax returns, that would be necessary to correct the errors;

(d) the difficulty in obtaining any necessary information;

it is not reasonable to require a recalculation of the amounts involved.

Exception where error due to fraud or evasion

(5) However, the conditions in this section are *not* satisfied if the errors were to any extent due to fraud or evasion.

Requirement to notify

(6) The *head company of the *consolidated group must, as soon as practicable after becoming aware that it made one or more errors in working out the *tax cost setting amount, notify the Commissioner in the *approved form:

(a) that it had made the errors; and

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Authorised Version C2022C00307 registered 22/10/2022

(b) of the amount of the overstated amount or understated amount.

705-320 Tax cost setting amounts taken to be correct

(1) For the purposes of this Act (other than this Subdivision) and for the purposes of the *Taxation Administration Act 1953*, any *tax cost setting amounts that were worked out by the *head company, so far as they were due to the errors, are taken to have been correct if the conditions in section 705-315 are satisfied.

Note 1: If the conditions in section 705-315 are satisfied, CGT event L6 happens (see section 104-525).

Note 2: Subsection (1) means that the Commissioner cannot amend any assessments necessary to correct the errors, and that (except as mentioned in subsection (2)) no offences or administrative penalties arise in respect of the errors.

(2) Subsection (1) does not apply for the purposes of determining whether there is an offence against section 8N of the *Taxation Administration Act 1953*, or an administrative penalty under section 284-75 or 284-145 in Schedule 1 to that Act, in relation to statements made before the Commissioner became aware of the errors.

Note 1: Section 8N of the *Taxation Administration Act 1953* deals with false or misleading statements. Sections 284-75 and 284-145 in Schedule 1 to that Act set out the circumstances in which an entity is liable for an administrative penalty.

Note 2: The offence and administrative penalty provisions however apply on a modified basis—see subsection 8W(1C) of the *Taxation Administration Act 1953*, and subsections 284-80(2) and 284-150(2) in Schedule 1 to that Act.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 707—Losses for head companies when entities become members etc.

Table of Subdivisions

707-A Transfer of losses to head company
707-B Can a transferred loss be utilised?
707-C Amount of transferred losses that can be utilised
707-D Special rules about losses

Subdivision 707-A—Transfer of losses to head company

Guide to Subdivision 707-A

707-100 What this Subdivision is about

A loss made by an entity before the time it becomes a member of a consolidated group is transferred to the head company of the group at that time if the entity could have utilised the loss had the entity not become a member of the group.

Table of sections

707-105 Who can utilise the loss?

Objects

707-110 Objects of this Subdivision

Application

707-115 What losses this Subdivision applies to

Transfer of loss from joining entity to head company

707-120 Transfer of loss from joining entity to head company
707-125 Modified business continuity test for companies' post-1999 losses
707-130 Modified pattern of distributions test

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

707-135 Transferring loss transferred to joining entity because business continuity test was satisfied

Effect of transfer of loss

707-140 Effect of transfer of loss

Cancelling the transfer of the loss

707-145 Cancelling the transfer of the loss

What happens if the loss is not transferred?

707-150 Loss cannot be utilised for income year ending after the joining time

707-105 Who can utilise the loss?

(1) If the loss is transferred, the head company is treated for income years ending after the transfer as having made the loss, so the head company can utilise the loss for those income years to the extent permitted by:

(a) the general rules (outside this Part) about an entity utilising a loss it has made; and

(b) the special rules about transferred losses in the other Subdivisions of this Division that supplement and modify those general rules.

Note: If the entity from which the loss was transferred became a subsidiary member of the consolidated group, the entity cannot utilise the loss for those income years because of section 701-1 (single entity rule) and section 707-140.

(2) If the loss is *not* transferred, then, for an income year ending after the time the entity became a member of the consolidated group, the loss cannot be utilised by any entity.

Note: The loss will not be transferred if the entity would not have been able to utilise it or if the transfer is cancelled under section 707-145.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Objects

707-110 Objects of this Subdivision

The main objects of this Subdivision are:

(a) to provide for the transfer of a loss from an entity (the ***joining entity***) becoming a *member of a *consolidated group to the *head company of the group (so the head company may be able to *utilise it), if the joining entity could have utilised the loss if it had not become a member of the group; and

(b) to prevent the utilisation by any entity of a loss made by the joining entity, if the joining entity could not have utilised the loss if it had not become a member of the group.

Application

707-115 What losses this Subdivision applies to

This Subdivision applies to a loss of any *sort if:

(a) an entity (the ***joining entity***) becomes a *member of a *consolidated group (the ***joined group***) at a time (the ***joining time***) in an income year (the ***joining year***); and

(b) the loss was made by the joining entity for an income year ending before the joining time.

Note 1: If the joining entity had a loss transferred to it by a previous operation of this Subdivision (when the entity was the head company of a consolidated group), this Subdivision operates later as if the joining entity had made the loss. See section 707-140.

Note 2: Section 707-405 may affect the income year for which the joining entity is treated as having made the loss, if the joining entity made the loss and the loss is referable to part of an income year.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Transfer of loss from joining entity to head company

707-120 Transfer of loss from joining entity to head company

Transfer of loss from joining entity to head company

(1) Subject to subsection (1A), the loss is transferred at the joining time from the joining entity to the *head company of the joined group (even if they are the same entity).

(1A) The loss is transferred under subsection (1) only to the extent (if any) that the loss could have been *utilised by the joining entity for an income year consisting of the *trial year if:

(a) at the joining time, the joining entity had not become a *member of the joined group (but had been a *wholly-owned subsidiary of the *head company if the joining entity is not the head company); and

(b) the amount of the loss that could be utilised for the trial year were not limited by the joining entity's income or gains for the trial year.

*What is the **trial year**?*

(2) The ***trial year*** is the period:

(a) starting at the *latest* of these times:

(i) the time 12 months before the joining time;

(ii) the time the joining entity came into existence;

(iii) the time the joining entity last ceased to be a *subsidiary member of a *consolidated group, if the joining entity had been a member of a consolidated group before the joining time but was not a *member of a consolidated group just before the joining time; and

(b) ending just after the joining time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Business continuity test involving trial year

(3) When working out whether the joining entity carried on, throughout the *trial year (or a period including the trial year):

(a) the same business as the business it carried on at a particular time; or

(b) a similar business to the business it carried on at that time;

assume that the entity carried on at and just after the joining time the same business that it carried on just before the joining time.

Transfer of loss for income year overlapping trial year

(4) If the loss was made by the joining entity for an income year all or part of which occurs in the *trial year, the transfer of the loss under subsection (1) is not prevented by the fact that the loss was made for that income year.

Designated infrastructure project entities

(5) Despite subsection (1A), the loss is transferred under subsection (1) to the full extent if:

(a) the loss is a *tax loss; and

(b) the joining entity is a *designated infrastructure project entity:

(i) at a time in the *loss year; and

(ii) just before the joining time.

707-125 Modified business continuity test for companies' post-1999 losses

(1) This section operates if:

(a) the joining entity made the loss for an income year starting after 30 June 1999; and

(b) section 165-13 or subsection 165-15(2) or (3) or 166-5(5) or (6) is relevant to working out (under section 707-120) whether the loss is transferred *from* the joining entity.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) Work out whether the loss is transferred on the basis that section 165-13 required the joining entity to satisfy the *business continuity test for:

(a) the period (the ***business continuity test period***) consisting of:

(i) the *trial year; and

(ii) the income year that included the *test time worked out for section 165-13 for the joining entity (disregarding paragraph (b) of this subsection), if that income year started before the trial year; and

(b) the time (the ***test time***) just before the end of the income year for which the loss was made by the joining entity.

(3) Work out whether the loss is transferred on the basis that:

(a) subsection 165-15(2) specified that the period (the ***business continuity test period***) for the *business continuity test consisted of:

(i) the *trial year; and

(ii) the income year in which the person began to control, or became able to control, the voting power in the company, if that income year started before the trial year; and

(b) subsection 165-15(3) required the business continuity test to be applied to the company's business immediately before the time (the ***test time***) just before the end of the income year for which the loss was made by the joining entity.

(4) If Subdivision 166-A would apply to the joining entity for an income year consisting of the *trial year, work out whether the loss is transferred on the basis that:

(a) subsection 166-5(5) treated the joining entity as having satisfied the condition in section 165-13 if the joining entity satisfied the *business continuity test for the period (the ***business continuity test period***) consisting of:

(i) the trial year; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(ii) the income year described in subsection (5) of this section, if that income year started before the trial year; and

(b) subsection 166-5(6) required the business continuity test to be applied to the *business that the joining entity carried on at the time (the ***test time***) just before the end of the income year for which the loss was made by the joining entity.

Note: Subdivision 166-A applies to widely held companies and eligible Division 166 companies unless they choose that Subdivision 165-A apply to them without the modifications made by Subdivision 166-A.

(5) For the purposes of subparagraph (4)(a)(ii), the income year is:

(a) the income year in which occurred the first time mentioned in subsection 166-5(6); or

(b) the income year of the joining entity containing the time at which the joining entity is taken under subsection 707-210(5) to fail to meet the condition in section 165-12, if that subsection is relevant to working out whether the joining entity can *utilise the loss.

Note 1: Section 707-205 affects the start of the test period if the joining entity made the loss under a previous operation of this Subdivision.

Note 2: Section 707-210 is about whether a company can utilise certain losses transferred to it under this Subdivision from a company.

(6) Subsection (4) of this section has effect despite subsection 707-210(6).

Note: Subsection 707-210(6) modifies section 166-5 for working out whether a company can utilise certain losses transferred to it under this Subdivision from a company.

707-130 Modified pattern of distributions test

(1) This section operates for the purpose of working out (under section 707-120) whether the loss is transferred *from* the joining entity, if section 267-20 in Schedule 2F to the *Income Tax Assessment Act 1936* is relevant for that purpose.

Note 1: That section is relevant if the joining entity has been a non-fixed trust at any time in the period from the start of the income year in which the

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

entity made the loss until the time it became a subsidiary member of the joined group (and was not an excepted trust at all times in the period).

Note 2: That section prevents an entity from utilising a tax loss unless the entity meets the conditions in subsection 267-30(2) (if applicable) and section 267-35 in that Schedule by passing the pattern of distributions test for certain income years.

(2) Section 267-30 in that Schedule has effect as if the income year mentioned in that section were the joining year, and not the *trial year.

Note: Section 267-30 in that Schedule requires the joining entity to pass the pattern of distributions test for the income year mentioned in that section if that entity distributed income or capital in that income year or within 2 months after the end of that income year.

(3) Section 267-35 in that Schedule has effect as if the reference in that section to an earlier income year were to an income year earlier than the joining year.

(4) Disregard each distribution (if any) of income or capital (within the meaning of that Schedule) made by the joining entity after the joining time, so far as it was made from an amount of the entity's income or capital attributable to a time after the joining time, in working out:

(a) whether section 267-30 in that Schedule requires the joining entity to pass the pattern of distributions test (as defined in that Schedule); and

(b) whether the joining entity passes that test as required by section 267-30 or 267-35 in that Schedule.

Note: Disregarding that percentage of a distribution may affect a test year distribution of income or a test year distribution of capital, as those terms are defined in section 269-65 in that Schedule, and thus affect whether the joining entity passes the pattern of distributions test under section 269-60 in that Schedule.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

707-135 Transferring loss transferred to joining entity because business continuity test was satisfied

(1) This section operates if the loss had been transferred to the joining entity (by a previous operation of this Subdivision) because the entity *from* which the loss was transferred carried on during a particular period:

(a) the same business as it carried on at a particular time; or

(b) if section 165-211 applies in relation to the loss—a business similar to the business it carried on at a particular time.

Note: Section 165-211 enables an entity to satisfy the business continuity test by carrying on a similar business.

(2) The loss is *not* transferred from the joining entity to the *head company of the joined group (despite section 707-120), unless the joining entity satisfies the *business continuity test for:

(a) the *trial year (the ***business continuity test period***); and

(b) the time (the ***test time***) just before the end of the income year in which the loss was transferred to the joining entity.

Effect of transfer of loss

707-140 Effect of transfer of loss

(1) To the extent that the loss is transferred under section 707-120 from the joining entity to the *head company of the joined group, this Act operates (except so far as the contrary intention appears) for the purposes of income years ending after the transfer as if:

(a) the head company had made the loss for the income year in which the transfer occurs; and

(b) the joining entity had not made the loss for the income year for which the joining entity actually made the loss.

(1A) However, subsection (1) does not affect the operation of paragraph 165-211(1)(a) or (c).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: This subsection ensures that the head company can only apply the version of the business continuity test in section 165-211 if the loss of the joining entity was incurred on or after 1 July 2015.

Head company may utilise loss for income year of transfer

(2) The *head company is not prevented from *utilising the loss for the income year in which the transfer occurs merely because this Act operates as if the head company had made the loss (to the extent of the transfer) for that year.

Debt forgiveness in income year for which loss is made

(3) If a debt of the *head company of the joined group is *forgiven in the income year in which the transfer occurs, sections 245-115 and 245-130 operate as if the head company had made the loss for an earlier income year.

Note: This subsection has the effect that the loss may be reduced in accordance with one of those subsections by applying the total net forgiven amount for the income year in which the transfer occurs.

Cancelling the transfer of the loss

707-145 Cancelling the transfer of the loss

(1) The *head company of the joined group may choose to cancel the transfer of the loss.

(2) If the *head company of the joined group does so, this Act (except this section) operates for all income years ending after the transfer as if it had not occurred under section 707-120.

(3) The choice cannot be revoked.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

What happens if the loss is not transferred?

707-150 Loss cannot be utilised for income year ending after the joining time

To the extent that the loss is *not* transferred under section 707-120 from the joining entity to the *head company of the joined group, the loss cannot be *utilised by any entity for an income year ending after the joining time.

Subdivision 707-B—Can a transferred loss be utilised?

Guide to Subdivision 707-B

707-200 What this Subdivision is about

This Subdivision modifies rules about a company maintaining the same ownership to be able to utilise a loss transferred to it under Subdivision 707-A, and specifies what things happening before the transfer are to be taken into account in working out whether the company can utilise the loss.

Table of sections

Operative provisions

707-205 Modified period for test for maintaining same ownership
707-210 Utilisation of certain losses transferred from a company depends on company that made the losses earlier

Operative provisions

707-205 Modified period for test for maintaining same ownership

(1) This section modifies Divisions 165, 166 and 167 for the purposes of working out whether a company can *utilise a loss of any *sort that it made because of a transfer under Subdivision 707-A.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) Subdivision 165-A and Divisions 166 and 167 operate for those purposes as if the *loss year started at the time of the transfer.

Note 1: This means that the ownership test period defined by subsection 165-12(1) and the test period defined by subsection 166-5(2) start at the time of the transfer.

Note 2: Without this section, those periods would start at the start of the income year in which the transfer occurred, so events occurring before the transfer (such as changes in holdings of voting power, rights to dividends or rights to capital) could affect whether the company could utilise the tax loss or net capital loss.

707-210 Utilisation of certain losses transferred from a company depends on company that made the losses earlier

(1) This section has effect for the purposes of working out whether a company (the ***latest transferee***) can *utilise for an income year a loss it made because of a *COT transfer from a company (the ***latest transferor***).

(1A) A transfer of a loss under Subdivision 707-A from a company to a company is a ***COT transfer*** of the loss if the transfer occurs because:

(a) the transferor meets the conditions in section 165-12; and

(b) the conditions in one or more of paragraphs 165-15(1)(a), (b) and (c) do not exist in relation to the transferor.

Meeting conditions in section 165-12

(2) The latest transferee is taken to meet the conditions in section 165-12 for the income year in relation to the loss if and only if the company (the ***test company***) described in subsection (3) would have met those conditions for the income year had the circumstances described in subsection (4) existed.

Note 1: The latest transferee and the test company may be the same company.

Note 2: Section 707-405 may affect the income year for which the test company is treated as having made the loss, if the loss is referable to part of an income year.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) The test company is the first company to make the loss. However, if:

(a) the loss was made by the latest transferor because of one or more earlier transfers of the loss under Subdivision 707-A from a company to a company; and

(b) one or more of those earlier transfers was *not* a *COT transfer;

the test company is the company *to* which the loss was transferred in the most recent transfer described in paragraph (b).

(4) The circumstances are that:

(a) the test company was *not* treated by Subdivision 707-A for the income year as not having made the loss; and

(b) if the test company made the loss apart from that Subdivision and transferred the loss to itself under that Subdivision—the test company was *not* treated by that Subdivision for the income year as having made the loss for the income year in which the transfer occurred; and

(c) nothing happened, after the time the loss was transferred from the test company to the *head company of a *consolidated group, to *membership interests or voting power:

(i) in an entity that was at that time a *subsidiary member of the group; or

(ii) in an entity that was at that time interposed between the test company and the head company;

that would affect whether the test company would meet the conditions in section 165-12 for the income year; and

(d) if the loss has later been transferred under that Subdivision to the head company of another consolidated group—nothing happened, after the time of the later transfer, to membership interests or voting power:

(i) in the later transferor; or

(ii) in an entity that was at that time interposed between the later transferor and the head company;

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

that would affect whether the test company would meet the conditions in section 165-12 for the income year.

Failing to meet conditions in section 165-12

(5) The latest transferee is taken to fail to meet a condition in section 165-12 only at:

(a) the first time the test company would have failed to meet the condition had the circumstances described in subsection (4) existed; or

(b) the test time described in subsection 166-5(6) for the test company, if Division 166 is relevant to working out whether the test company could have *utilised the loss had the circumstances described in subsection (4) existed.

Business continuity test applying to latest transferee under Division 166

(6) If subsection 166-5(5) affects whether the latest transferee can *utilise the loss for the income year because the latest transferee is a *widely held company or an *eligible Division 166 company, or both, during the year, subsection 166-5(6) operates as if it required the *business continuity test to be applied to the *business the latest transferee carried on just before the time described in subsection (5) of this section.

If the test company made the loss because of a transfer

(7) If the test company made the loss because of a transfer under Subdivision 707-A from another entity, Divisions 165 and 166 operate in relation to the test company for the purposes of subsection (2) as if the test company's *loss year started at the time of the transfer.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 707-C—Amount of transferred losses that can be utilised

Guide to Subdivision 707-C

707-300 What this Subdivision is about

Losses transferred to the head company of a consolidated group under Subdivision 707-A can be utilised for an income year only against a fraction of the income or gains remaining after the company has utilised other losses and deductions.

Note: This Subdivision does not apply if the joining entity is a designated infrastructure project entity just before the transfer and the head company is a designated infrastructure project entity just after the transfer: see section 415-45.

Table of sections

Object

707-305 Object of this Subdivision

How much of a transferred loss can be utilised?

707-310 How much of a transferred loss can be utilised?
707-315 What is a ***bundle*** of losses?
707-320 What is the ***available fraction*** for a bundle of losses?
707-325 ***Modified market value*** of an entity becoming a member of a consolidated group
707-330 Losses transferred from former head company
707-335 Limit on utilising transferred losses if circumstances change during income year
707-340 Utilising transferred losses while exempt income remains
707-345 Other provisions are subject to this Subdivision

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Object

707-305 Object of this Subdivision

(1) The main object of this Subdivision is to limit, in a way that gives effect to the principles in subsections (2) and (3), the amount of losses transferred under Subdivision 707-A that can be *utilised for an income year by the transferee.

(2) One principle is that the transferee is to *utilise the transferred losses for an income year only to the extent to which it has income or gains for the income year remaining after reduction by its other losses and deductions.

(3) The other principle is that the amount of a transferred loss that the transferee can *utilise is to reflect the amount of the loss that the transferor could have *utilised for the income year if the transferor of the loss (whether the original maker of the loss or not) had not *become* a *member of a *consolidated group at the time of the transfer.

(4) To give effect to those principles, this Subdivision operates on the assumption that, if each transferor of a loss to the transferee had not become a *member of a *consolidated group at the time of the transfer:

(a) all the transferors of transferred losses to the transferee would have made income or gains for the year whose total did not exceed the transferee's income or gains for the year remaining after reduction by its other losses and deductions; and

(b) a particular transferor's income or gains for the year would have equalled a fraction of the transferee's income or gains for the year remaining after reduction by its other losses and deductions.

(5) The fraction is worked out by reference to the transferor's *market value at the time of the transfer (on the assumption that market value reflects capacity to generate income or gains in future).

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

How much of a transferred loss can be utilised?

707-310 How much of a transferred loss can be utilised?

(1) This section limits the amount of losses in a particular *bundle of losses transferred under Subdivision 707-A that can be *utilised by the transferee. The limit is set by reference to the *available fraction for the bundle.

Note: Section 707-335 of this Act and section 707-350 of the *Income Tax (Transitional Provisions) Act 1997* set different limits on utilising losses in a bundle of losses in certain circumstances.

Basic rule

(2) The transferee cannot *utilise more of the losses in the *bundle than the transferee would have been able to utilise (apart from this section) under the conditions in subsections (3), (4) and (5).

(3) The first condition is that the only amount of the transferee's *ordinary income, *statutory income or gains (if any) of a kind described in column 1 of an item of the table for the income year is the *available fraction of the amount worked out as described in column 2 of the item having regard to:

(a) the transferee's *ordinary income, *statutory income or gains for the income year apart from this section; and

(b) the transferee's deductions for the income year and losses, *except* losses transferred to the transferee under Subdivision 707-A.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Income and gains	
Column 1 **The transferee's ordinary income, statutory income or gains of this kind:**	**Column 2** **Are worked out by reference to this amount:**
1 *Capital gains	The result of: (a) step 2 of the method statement in subsection 102-5(1); or (b) step 3 of the method statement in section 165-111; (as appropriate) for the transferee and the income year
3 *Exempt film income	The transferee's *net exempt film income for the income year remaining after deduction of the transferee's *film losses (if any)
4 *Assessable film income	The transferee's *net assessable film income for the income year remaining after deduction of the transferee's *film losses (if any)
5 *Exempt income other than *exempt film income	The amount of the transferee's *net exempt income for the income year that would have remained after deducting from it the transferee's *tax losses (if any), assuming the amount of that income were what it would have been had the transferee *not* had *exempt film income for the year
6 Assessable income that is not attributable to *capital gains and is not *assessable film income	The amount (if any) that would have been the transferee's taxable income (if any) for the income year if the transferee had *not* had for the income year: (a) any *net capital gain; or (b) any *net assessable film income; reduced by the amount (the ***transferee's grossed-up franking offset amount***) worked out in accordance with paragraph (3A)(c)

(3A) For the purposes of subsection (3):

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Authorised Version C2022C00307 registered 22/10/2022

(a) the transferee's *tax losses to which paragraph (b) of, or the table in, that subsection applies are to be worked out on the assumption that the transferee chooses to deduct under subsection 36-17(2) all of the tax losses and that subsection 36-17(5) does not apply to that choice; and

(b) except as mentioned in paragraph (a) of this subsection, amounts worked out as described in column 2 of an item of the table in subsection (3) are to be worked out making the same choices as the transferee actually makes in working out its taxable income as stated in its *income tax return for the income year; and

(c) the transferee's grossed-up franking offset amount mentioned in column 2 of item 6 in the table is the amount worked out using the formula:

$$\frac{1}{\text{Transferee's *corporate tax rate for imputation purposes for the income year}} \times \text{Franking offsets}$$

where:

franking offsets means the total amount of *tax offsets to which the transferee is entitled for the income year under Division 207 and Subdivision 210-H (except those that are subject to the refundable tax offset rules because of section 67-25).

(4) The second condition is that once the amounts of the transferee's income or gains have been worked out under subsection (3) they are *not* reduced by:

(a) deductions, or losses, other than losses in the *bundle; or

(b) taxes or expenses described in subsection 375-805(4) (which is about *net exempt film income).

Note: One of the effects of subsection (4) is that, for working out how much of a film loss in the bundle can be deducted from the transferee's net exempt film income or net assessable film income:

(a) the transferee's net exempt film income will be the same as its exempt film income worked out under subsection (3); and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the transferee's net assessable film income will be the same as its assessable film income worked out under subsection (3).

(5) The third condition is that once the amounts of the transferee's *exempt income have been worked out under subsection (3), assume that the transferee had no losses, outgoings or taxes described in subsection 36-20(1) (which is about *net exempt income), in working out how much of a *tax loss in the *bundle can be deducted from the transferee's net exempt income.

707-315 What is a *bundle* of losses?

(1) A ***bundle*** of losses comes into existence at the time (the ***initial transfer time***) a loss of any *sort that has not previously been transferred under Subdivision 707-A is transferred under that Subdivision from an entity (the ***real loss-maker***) to the *head company of a *consolidated group (the ***joined group***).

(2) At the initial transfer time, the ***bundle*** consists of every loss (regardless of its *sort) that:

(a) is transferred at that time under that Subdivision from the real loss-maker to the *head company of the joined group; and

(b) has not been transferred under that Subdivision before that time.

Note: For certain purposes, section 707-327 of the *Income Tax (Transitional Provisions) Act 1997* treats the bundle as including certain other losses too.

(3) The ***bundle*** still exists at a later time if it includes at that later time at least one loss of any *sort that could be *utilised or otherwise reduced by an entity for an income year ending after that time (even if one or more losses have ceased to be included in the bundle before that later time).

Note: A bundle continues to exist even if the losses in it are transferred again under Subdivision 707-A after the initial transfer time.

(4) A loss ceases to be included in a *bundle at the first time for which it is true that the loss cannot be *utilised or otherwise reduced by any entity for an income year ending after that time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(5) If, had a loss been made by a company as assumed under a provision of Division 170, the loss would have been transferred under Subdivision 707-A, this Subdivision and other provisions that relate to or may affect the *available fractions for one or more *bundles of losses (including sections 707-140 and 719-325) operate as if the transfer had occurred.

Note: Section 707-140 provides for a choice to cancel a transfer under Subdivision 707-A. Section 719-325 provides for a choice to cancel all losses in certain bundles of losses. A choice under one of those sections may result in a bundle not coming into existence, or not being in existence after a certain time.

(6) To avoid doubt, a choice under section 707-145 or 719-325, as it operates because of subsection (5) of this section, relating to the loss does not affect or prevent:

(a) a transfer of the loss that would have occurred under Subdivision 707-A as described in another application of that subsection involving a different company; or

(b) *utilisation of the loss by the company that actually made the loss and is different from the company assumed under Division 170 to have made the loss.

Note: Therefore a choice under section 707-145 or 719-325, as operating because of subsection (5) of this section, will be able to cause only one bundle not to exist, and will not affect the existence of other bundles that are treated as existing because of other operations of that subsection.

707-320 What is the *available fraction* for a bundle of losses?

(1) The ***available fraction*** for a *bundle of losses at a time is:

$$\frac{\text{*Modified market value of the real loss-maker at the initial transfer time}}{\text{Transferee's adjusted market value at the initial transfer time}}$$

where:

transferee's adjusted market value at the initial transfer time means the amount that would be the *market value, at the initial

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

transfer time, of the transferee to which the losses in the *bundle were transferred at that time if:

(a) the transferee did not have a loss of any *sort for an income year ending before that time; and

(b) the balance of the transferee's *franking account were nil at that time.

Note: The value for the transferee will be worked out on the basis that subsidiary members of the consolidated group headed by the transferee are part of the transferee, because of section 701-1 (the single entity rule).

(2) However, if an event described in an item of the table happens, the ***available fraction*** for the *bundle is reduced or maintained just after the event by multiplying it by the factor identified in the item:

Factors affecting the available fraction

Item	Event	Factor
1	One or more losses in the *bundle are transferred for the second or subsequent time	The lesser of 1 and this fraction: $\frac{\text{*Market value of the transferor at the time of the transfer}}{\text{*Market value of the transferee at the time of the transfer}}$
2	At the same time as the losses in the *bundle were most recently transferred, losses in one or more other bundles were transferred from the same transferor to the same transferee, and the losses in the bundle or one of the other bundles had not been transferred before	The result of dividing the *lesser* of: (a) the available fraction (apart from this subsection) for the bundle of losses that had not been transferred before; and (b) 1; by the sum of the available fractions for all the bundles (apart from this item applying to transfers at the time)
3	The company to which the losses in the *bundle were most recently transferred has transferred to it at a later time losses in one or more other bundles	$1 - \frac{\text{Total of the available fractions for the other bundles just after the later time}}{}$

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Factors affecting the available fraction

Item	Event	Factor
4	There is an increase in the *market value of the company to which the losses in the *bundle were most recently transferred, because of an event described in subsection 707-325(4) (but not covered by subsection 707-325(5))	$\frac{\text{*Market value of the company just before the event}}{\text{*Market value of the company just before the event} + \text{Amount of the increase}}$
5	The available fractions (apart from this item) for all the *bundles of losses most recently made by the company that most recently made the losses in the bundle total more than 1.000	$\frac{1}{\text{The total}}$

(3) If the transfer under Subdivision 707-A of one or more losses in a *bundle causes events described in 2 or more items of the table in subsection (2) to happen and require calculations of the available fraction for that bundle and for one or more other bundles:

(a) make the calculations required by those items in the order in which the items appear in the table; and

(b) take account of the results of a calculation under an earlier item in making a calculation under a later item.

(4) For a *bundle of losses:

(a) subject to paragraph (b)—the ***available fraction*** is worked out to 3 decimal places, rounding up if the fourth decimal place is 5 or more; or

(b) if the available fraction worked out under paragraph (a) is 0.000 and, if it were worked out to more decimal places, it would include one or more non-zero digits—the ***available fraction*** is worked out to the number of decimal places that includes the first or only such digit, rounding up if the next decimal place is 5 or more.

Examples: For 0.000328, the available fraction is 0.0003. For 0.000086, the available fraction is 0.00009.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(4A) Subsections (1) and (2) have effect subject to subsection (4).

(5) If, apart from this subsection, the ***available fraction*** for a *bundle of losses would need to be worked out by dividing a number by 0, work out the available fraction by dividing the number by 1.

(6) The ***available fraction*** for a *bundle of losses is 0 if, apart from this subsection, it would be negative.

707-325 *Modified market value* of an entity becoming a member of a consolidated group

Basic rule

(1) The ***modified market value*** of an entity that becomes a *member of a *consolidated group at a particular time is the amount that would be the *market value of the entity at that time if:

(a) the entity had no loss of any *sort for any income year, and the balance of its *franking account at that time were nil; and

(b) the *subsidiary members of the group at that time were separate entities and not just parts of the *head company of the group; and

(c) the entity's market value did *not* include an amount attributable (directly or indirectly) to a *membership interest in a member of the group (other than the entity):

(i) that is a *corporate tax entity; or

(ii) that transferred a loss under Subdivision 707-A to the head company of the group at or before that time; and

(d) the contribution to the entity's market value made by a trust (other than one that is a member described in paragraph (c)) were limited to the amount attributable to the entity's *fixed entitlements (if any) at that time to income or capital of the trust that is *not* attributable (directly or indirectly) to a membership interest in such a member.

Note 1: Section 707-330 affects the modified market value of an entity that becomes a subsidiary member of the consolidated group, if the entity was the head company of another consolidated group just beforehand.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note 2: Section 707-325 of the *Income Tax (Transitional Provisions) Act 1997* provides for an entity's modified market value to be increased in certain circumstances for the purposes of working out the available fraction for a bundle of losses transferred from the entity.

Rule to prevent inflation of modified market value

(2) However, if:

(a) one or more of the events described in subsection (4) occurred in the 4 years before the time; and

(b) the amount worked out under subsection (1) *exceeds* what it would have been if none of those events had occurred;

the ***modified market value*** of the entity at the time is the amount worked out under subsection (1), reduced by the amount worked out under subsection (3).

(3) The amount of the reduction is the *lesser* of:

(a) the excess described in paragraph (2)(b); and

(b) the total increase in the *market value of the entity that occurred immediately after each event mentioned in paragraph (2)(a) because of the event.

(4) These are the events:

(a) an injection of capital into the entity or an entity that was an *associate of the entity (or of the trustee of the entity, if the entity is a trust) at the time of the injection;

(b) a transaction that:

(i) did not take place at *arm's length; and

(ii) involved the entity or an entity that was an associate of the entity (or of the trustee of the entity, if the entity is a trust) at the time of the transaction.

(5) For the purposes of paragraph (2)(a), disregard an injection of capital if, and only if, it is made:

(a) into a *listed public company through a *dividend reinvestment *scheme involving the issue of a *share in the company to an entity that held a share in the company before the injection; or

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Authorised Version C2022C00307 registered 22/10/2022

(b) in association with the acquisition of a *share in a company in relation to which the conditions in subsection 703-35(5) are met; or

(c) in association with the acquisition of a *share, in a body corporate, in relation to which the conditions in subsection 703-37(4) are met.

Note 1: Section 703-35 of this Act deals with shares acquired under arrangements for employee shareholdings.

Note 2: Section 703-37 of this Act deals with certain preference shares following an ADI restructure.

707-330 Losses transferred from former head company

(1) This section has effect for working out the *available fraction for a *bundle of losses if:

(a) an entity (the ***ex-head company***) becomes a *subsidiary member of a *consolidated group (the ***bigger group***) at a time (the ***joining time***); and

(b) just before the joining time the ex-head company was the *head company of another consolidated group (the ***old group***); and

(c) at the joining time the losses are transferred under Subdivision 707-A from the ex-head company to the head company of the bigger group.

(2) Work out the ex-head company's *modified market value or *market value as if each *member of the bigger group that had been a *subsidiary member of the old group just before the joining time were a part of the ex-head company, and not a separate member of the bigger group, when the transfer occurred.

(3) Also, work out the ex-head company's *modified market value as if each *subsidiary member of the old group had been a part of the ex-head company while it was a subsidiary member of the old group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

707-335 Limit on utilising transferred losses if circumstances change during income year

(1) This section limits the amount of losses in a particular *bundle of losses transferred under Subdivision 707-A that can be *utilised by the transferee for an income year if:

(a) the losses in the bundle are transferred to the transferee after the start of the income year; or

(b) the value of the *available fraction for the bundle changes at a time within the period (the ***transferee's loss-holding period***) described in subsection (2).

(2) The transferee's loss-holding period:

(a) starts at the start of the income year or, if the losses in the *bundle were transferred to the transferee from another entity during the income year, at the time of the transfer; and

(b) ends when one of these events occurs:

(i) the income year ends;

(ii) the transferee becomes a *subsidiary member of a *consolidated group.

(3) The transferee cannot *utilise for the income year more of the losses than is reasonable having regard to:

(a) the method in section 707-310 for working out the maximum amount of the losses the transferee could utilise for the income year (apart from this section); and

(b) the number of days in the transferee's loss-holding period; and

(c) the value or values of the *available fraction for the *bundle during the transferee's loss-holding period; and

(d) the number of days in the transferee's loss-holding period for which the available fraction for the bundle has a particular value; and

(e) the principle that, if the transferee transferred the losses to itself under Subdivision 707-A after the start of the income year, the amount of the losses it can utilise for the income year should be worked out as if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) the losses had been included in the bundle from the start of the income year; and

(ii) the available fraction for the bundle had been 1 from the start of the income year until the time of the transfer; and

(f) any other relevant matters.

(4) Section 707-310 has effect subject to this section.

707-340 Utilising transferred losses while exempt income remains

Transferred film losses and net exempt film income

(1) If:

(a) the transferee of *film losses in a *bundle of losses has deducted from its *net exempt film income for an income year an amount of those losses that:

(i) is equal to the amount of *exempt film income worked out under subsection 707-310(3) for the transferee and the bundle; or

(ii) if section 707-335 affects the transferee's utilisation of losses in the bundle—is reasonable, having regard to that section; and

(b) the transferee still has net exempt film income for the year and film losses remaining in the bundle;

the fact the transferee still has net exempt film income does not stop it deducting film losses remaining in the bundle from its *net assessable film income for the year.

Transferred tax losses and net exempt income

(2) If:

(a) the transferee of *tax losses (other than *film losses) in a *bundle of losses has deducted from its *net exempt income for an income year an amount of its tax losses (other than film losses) in the bundle that:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) is equal to the amount of *exempt income worked out under subsection 707-310(3) for the transferee and the bundle; or

(ii) if section 707-335 affects the transferee's utilisation of losses in the bundle—is reasonable, having regard to that section; and

(b) the transferee still has net exempt income for the year and tax losses (other than film losses) remaining in the bundle;

the fact the transferee still has net exempt income does not stop it deducting tax losses (other than film losses) remaining in the bundle from its assessable income for the year.

Limit on deduction

(3) This section does not allow the deduction for an income year of an amount of losses in a *bundle so as to exceed the limit set by section 707-310 or 707-335 on *utilisation for the year of losses of that *sort in the bundle.

707-345 Other provisions are subject to this Subdivision

The rules in this Subdivision are additional to the provisions of this Act about *utilising losses that are outside this Subdivision. Those provisions have effect subject to this Subdivision.

Subdivision 707-D—Special rules about losses

Table of sections

707-400 Head company's business before and after consolidation not compared
707-410 Exit history rule does not treat entity as having made a loss
707-415 Application of losses with nil available fraction for certain purposes

707-400 Head company's business before and after consolidation not compared

(1) If:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the *business continuity test applies to a company that becomes a *head company of a *consolidated group at a time; and

(b) apart from this section, the business continuity test period would start before that time and end after it;

the ***business continuity test period*** starts at that time (and ends when it would end apart from this section), for the purposes of that application of the business continuity test.

(2) Subsection (1) does not apply for the purposes of working out whether the company can transfer to itself a loss under section 707-120.

707-410 Exit history rule does not treat entity as having made a loss

(1) To avoid doubt, if the *head company of a *consolidated group makes a loss of a particular *sort and an entity ceases to be a *subsidiary member of the group, the entity is *not* taken because of section 701-40 (the exit history rule):

(a) to have made the loss; or

(b) to have made another loss of the same sort because of the circumstances that caused the head company to make the loss.

(2) It does not matter whether the *head company makes the loss because of a transfer under Subdivision 707-A (whether from the entity or another entity) or because of another provision.

707-415 Application of losses with nil available fraction for certain purposes

(1) Subsection (2) applies if:

(a) an entity (the ***joining entity***) becomes a *member of a *consolidated group at a time (the ***joining time***); and

(b) a *tax loss or a *net capital loss was transferred from the joining entity to the *head company of the group at the joining time under Subdivision 707-A; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) that loss is included in a *bundle of losses for which the *available fraction is 0.

(2) The *head company can choose to apply the loss as shown in the table:

Item	If ...	the head company can choose to apply the loss in reduction of ...	for the purposes of ...
1	(a) the joining entity owed a debt just before the joining time to an entity that was not a *member of the group at the joining time; and (b) the loss is wholly or partly attributable to the debt; and (c) Subdivision 245-E (about applying the total net forgiven amount to reduce other amounts) applies in relation to the debt (or another debt that is reasonably connected to the debt) because the debt is *forgiven after the joining time	the *total net forgiven amount	applying that total net forgiven amount in accordance with sections 245-115, 245-130, 245-145 and 245-175

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Item	If ...	the head company can choose to apply the loss in reduction of ...	for the purposes of ...
2	(a) the joining entity owed a *limited recourse debt just before the joining time to an entity that was not a *member of the group at the joining time; and (b) Division 243 applies in relation to the debt; and (c) the loss is wholly or partly attributable to a deduction mentioned in paragraph 243-15(1)(c) for an income year ending before the joining time	the deduction	working out the excess referred to in subsection 243-35(1).
3	(a) the joining entity ceases to be a *subsidiary member of the group at a time (the ***leaving time***) after the joining time; and (b) the entity's liabilities at the leaving time are the same as, or are reasonably connected to, the liabilities that it had at the joining time	the amount remaining mentioned in paragraph 104-520(1)(b)	working out whether *CGT event L5 happens at the leaving time, and if so, the amount of any *capital gain under subsection 104-520(3).

Limits on application of loss

(3) The loss can be applied under subsection (2) in relation to an income year only to the extent that it could be *utilised by the *head company for the income year, on the assumption that the *available fraction for the *bundle of losses was 1.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(4) The amount of the loss that may be applied in accordance with item 1 of the table in subsection (2) cannot exceed the *gross forgiven amount of the debt to which the loss is attributable.

(5) The amount of the loss that may be applied in accordance with item 2 of the table in subsection (2) cannot exceed the amount of the loss that is attributable to the deduction mentioned in that item.

(6) For the purposes of item 3 of the table in subsection (2), if:

(a) assuming that the joining entity ceased to be a *subsidiary member of the *consolidated group just after the joining time, the *head company of the group would make a *capital gain because of *CGT event L5; and

(b) the sum of the losses in the *bundle of losses mentioned in paragraph (1)(c) exceeds the amount of the capital gain;

the total amount of those losses that may be applied in accordance with that item cannot exceed the amount of the capital gain.

(7) To avoid doubt, a loss can be applied under this section only to the extent that it has not already been applied.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 709—Other rules applying when entities become subsidiary members etc.

Table of Subdivisions

709-A Franking accounts
709-B Imputation issues
709-C Treatment of excess franking deficit tax offsets when entity becomes a subsidiary member of a consolidated group
709-D Deducting bad debts

Subdivision 709-A—Franking accounts

Guide to Subdivision 709-A

709-50 What this Subdivision is about

> Only the head company of a consolidated group has an operating franking account. The subsidiary members' franking accounts do not operate while they are subsidiary members. Debits or credits that would otherwise arise in subsidiary members' franking accounts arise instead in the head company's franking account.

Table of sections

Object

709-55 Object of this Subdivision

Treatment of franking accounts at joining time

709-60 Nil balance franking account for joining entity

Treatment of subsidiary member's franking account

709-65 Subsidiary member's franking account does not operate

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Treatment of head company's franking account

709-70 Credits arising in head company's franking account
709-75 Debits arising in head company's franking account

Franking distributions by subsidiary member

709-80 Subsidiary member's distributions on employee shares and certain preference shares taken to be distributions by the head company
709-85 Non-share distributions by subsidiary members taken to be distributions by head company
709-90 Subsidiary member's distributions to foreign resident taken to be distributions by head company

Payment of group liability by former subsidiary member

709-95 Payment of group liability by former subsidiary member
709-100 Refund of income tax to former subsidiary member

Object

709-55 Object of this Subdivision

The object of this Subdivision is for each *consolidated group to operate what is in substance a single *franking account, by ensuring that:

(a) there is a nil balance in the franking accounts of entities becoming *subsidiary members of the group; and
(b) the franking accounts of those subsidiary members do not operate while they are subsidiary members; and
(c) debits or credits that would otherwise arise in the franking accounts of the subsidiary members arise instead in the franking account of the *head company of the group; and
(d) the head company is the only *member of the group that can frank distributions.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Treatment of franking accounts at joining time

709-60 Nil balance franking account for joining entity

(1) This section operates if an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***).

(2) If the joining entity's *franking account is in surplus just before the joining time:

(a) a debit equal to the *franking surplus arises at the joining time in the joining entity's franking account; and

(b) a credit equal to the franking surplus arises at the joining time in the franking account of the *head company of the group.

(3) If the joining entity's *franking account is in deficit just before the joining time:

(a) a credit equal to the *franking deficit arises at the joining time in the joining entity's franking account; and

(b) the joining entity is liable to pay *franking deficit tax as if the joining entity's income year had ended just before the joining time; and

(c) despite item 5 of the table in section 205-15, a credit does not arise under that item in the joining entity's franking account because of that liability.

Treatment of subsidiary member's franking account

709-65 Subsidiary member's franking account does not operate

The *franking account of an entity that is a *subsidiary member of a *consolidated group does not operate during the period:

(a) beginning just after the entity becomes a subsidiary member of the group; and

(b) ending when the entity ceases to be a subsidiary member of the group.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Treatment of head company's franking account

709-70 Credits arising in head company's franking account

(1) This section operates if a credit would arise in the *franking account of a *subsidiary member of a *consolidated group at a time (the ***crediting time***) apart from section 709-65.

(2) A credit arises in the *franking account of the *head company of the group at the crediting time.

Note: A credit can also arise in the head company's franking account at any time under section 205-15.

(3) The amount of the credit is the same as the amount of the credit that would arise in the *franking account of the *subsidiary member.

(4) This section does not apply to a credit arising in the *subsidiary member's *franking account under paragraph 709-60(3)(a).

Note: Such a credit arises if the entity that became the subsidiary member had a deficit in its franking account just before the time it became the subsidiary member. The credit equals the deficit, creating a nil balance in the account from that time.

709-75 Debits arising in head company's franking account

(1) This section operates if a debit would arise in the *franking account of a *subsidiary member of a *consolidated group at a time (the ***debiting time***) apart from section 709-65.

(2) A debit arises in the *franking account of the *head company of the group at the debiting time.

Note: A debit can also arise in the head company's franking account at any time under section 205-30.

(3) The amount of the debit is the same as the amount of the debit that would arise in the *franking account of the *subsidiary member.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(4) This section does not apply to a debit arising in the *subsidiary member's *franking account under paragraph 709-60(2)(a).

Note: Such a debit arises if the entity that became the subsidiary member had a surplus in its franking account just before the time it became the subsidiary member. The debit equals the surplus, creating a nil balance in the account from that time.

Franking distributions by subsidiary member

709-80 Subsidiary member's distributions on employee shares and certain preference shares taken to be distributions by the head company

(1) This section operates if:

(a) a *subsidiary member of a *consolidated group makes a *frankable distribution; and

(b) the distribution is made because an entity (the ***shareholder***) owns a *share in the subsidiary member; and

(c) the share must be disregarded under subsection 703-35(4) or 703-37(4); and

(d) the distribution is made to the shareholder, or to another entity because the shareholder owns the share; and

(e) the entity to which the distribution is made is not a *member of the group.

Note 1: Subsection 703-35(4) requires certain shares acquired under employee share schemes to be disregarded.

Note 2: Subsection 703-37(4) requires certain preference shares to be disregarded following an ADI restructure.

(2) Part 3-6 operates as if the *distribution were a *frankable distribution made by the *head company of the group to a *member of the head company.

Note: Part 3-6 deals with imputation.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

709-85 Non-share distributions by subsidiary members taken to be distributions by head company

(1) This section operates if:

(a) an entity holds a *non-share equity interest in a *subsidiary member of a *consolidated group; and

(b) the subsidiary member makes a *non-share distribution to the entity as holder of the interest; and

(c) the distribution is a *frankable distribution; and

(d) the entity to which the distribution is made is not a *member of the group.

(2) Part 3-6 operates as if the *distribution were a *frankable distribution made by the *head company of the group to a *member of the head company.

Note: Part 3-6 deals with imputation.

709-90 Subsidiary member's distributions to foreign resident taken to be distributions by head company

Part 3-6 operates as if a *frankable distribution made by a *subsidiary member of a *consolidated group (the ***foreign-held subsidiary***) were a frankable distribution made by the *head company of the group to a *member of the head company if:

(a) the foreign-held subsidiary meets the set of requirements in section 703-45, section 701C-10 of the *Income Tax (Transitional Provisions) Act 1997* or section 701C-15 of that Act; and

(b) the frankable distribution is made to a foreign resident.

Note: Part 3-6 deals with imputation.

Payment of group liability by former subsidiary member

709-95 Payment of group liability by former subsidiary member

(1) This section operates if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) an entity (the ***former subsidiary***) ceases to be a *subsidiary member of a *consolidated group (the ***old group***) at a particular time (the ***leaving time***); and

(b) at or after the leaving time, the former subsidiary:

(i) *pays a PAYG instalment for which it was jointly and severally liable under subsection 721-15(1) because it was a subsidiary member of the old group; or

(ii) *pays income tax for which it was jointly and severally liable under that subsection because it was a subsidiary member of the old group; and

(c) apart from this section, a *franking credit would arise under section 205-15 in the *franking account of the former subsidiary at a time (the ***crediting time***) because of that payment.

(2) The credit:

(a) does not arise at the crediting time in the *franking account of the former subsidiary; and

(b) instead, arises at the crediting time in the franking account of the entity that was the *head company of the old group at the leaving time.

709-100 Refund of income tax to former subsidiary member

(1) This section operates if:

(a) an entity (the ***former subsidiary***) ceases to be a *subsidiary member of a *consolidated group (the ***old group***) at a particular time (the ***leaving time***); and

(b) at or after the leaving time, the former subsidiary *receives a refund of income tax or *receives a refund of diverted profits tax, for which it was jointly and severally liable under subsection 721-15(1) because it was a subsidiary member of the old group; and

(c) apart from this section, a *franking debit would arise under section 205-30 in the *franking account of the former

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

subsidiary at a time (the ***debiting time***) because of that payment.

(2) The debit:

(a) does not arise at the debiting time in the *franking account of the former subsidiary; and

(b) instead, arises at the debiting time in the franking account of the entity that was the *head company of the old group at the leaving time.

Subdivision 709-B—Imputation issues

Guide to Subdivision 709-B

709-150 What this Subdivision is about

This Subdivision modifies the way Division 208 (exempting entities and former exempting entities) operates in relation to consolidated groups.

Table of sections

Operative provisions

709-155 Testing consolidated groups
709-160 Subsidiary member is exempting entity
709-165 Subsidiary member is former exempting entity
709-170 Head company and subsidiary are exempting entities
709-175 Head company is former exempting entity

Operative provisions

709-155 Testing consolidated groups

(1) To determine whether a *consolidated group is an *exempting entity or *former exempting entity, the tests in Division 208 are applied to the *head company of the group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) However, there are some additional rules that can alter the way that Division 208 applies to a *consolidated group. These are set out in sections 709-160 to 709-175.

(3) In applying those rules to an entity that is a *member of a *consolidated group:

(a) Division 208 is to be applied before those rules; and

(b) that Division is to be applied just after the entity became a member of the group but, for a *subsidiary member, it is to be applied on the assumption that the subsidiary was not a member of the group at that time.

(4) Except as mentioned in paragraph (3)(b), Division 208 has no application to a *subsidiary member of a *consolidated group.

709-160 Subsidiary member is exempting entity

(1) This section operates if:

(a) the *head company of a *consolidated group is neither an exempting entity nor a *former exempting entity; and

(b) a *corporate tax entity becomes a *subsidiary member of the group at a time (the ***joining time***); and

(c) the entity is an *exempting entity at the joining time.

(2) These rules apply to the *consolidated group.

Rules applying to *consolidated group

Item	Rule
1	The *head company becomes a *former exempting entity at the joining time
2	The *head company has both a *franking account and an *exempting account
3	If the *subsidiary member's *franking account has a *franking surplus at the joining time: (a) a debit equal to that surplus arises in that account at the joining time; and (b) a credit equal to that surplus arises in the *exempting account of the *head company at the joining time

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Rules applying to *consolidated group	
Item	**Rule**
4	Subsection 709-60(2) (about franking surplus) does not apply to the *subsidiary member
5	Item 1 of the table in section 208-115 does not apply to the *head company
6	Item 1 of the table in section 208-120 does not apply to the *head company
7	Item 1 of the table in section 208-130 does not apply to the *head company
8	Item 1 of the table in section 208-145 does not apply to the *head company

Note 1: If the subsidiary's franking account is in deficit, it will be liable for franking deficit tax: see subsection 709-60(3).

Note 2: The subsidiary's franking account does not operate while it is a member of the group: see section 709-65.

709-165 Subsidiary member is former exempting entity

(1) This section operates if:

(a) the *head company of a *consolidated group is neither an exempting entity nor a *former exempting entity; and

(b) a *corporate tax entity becomes a *subsidiary member of the group at a time (also the ***joining time***); and

(c) the entity is a *former exempting entity at the joining time.

(2) These rules apply to the *consolidated group.

Rules applying to *consolidated group	
Item	**Rule**
1	The *head company becomes a *former exempting entity at the joining time
2	The *head company has both a *franking account and an *exempting account

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Rules applying to *consolidated group	
Item	**Rule**
3	If the *subsidiary member's *exempting account has an *exempting surplus at the joining time: (a) a debit equal to that surplus arises in that account at the joining time; and (b) a credit equal to that surplus arises in the exempting account of the *head company at the joining time
4	If the *subsidiary member's *exempting account has an *exempting deficit at the joining time: (a) a credit equal to that deficit arises in that account at the joining time; and (b) a debit equal to that deficit arises in the subsidiary's *franking account just before the joining time
5	The *subsidiary member's *exempting account does not operate during the period: (a) starting just after the joining time; and (b) ending when the entity ceases to be a subsidiary member of the group
6	Item 1 of the table in section 208-115 does not apply to the *head company
7	Item 1 of the table in section 208-120 does not apply to the *head company
8	Item 1 of the table in section 208-130 does not apply to the *head company
9	Item 1 of the table in section 208-145 does not apply to the *head company

Note 1: Any surplus in the subsidiary's franking account will be transferred to the head company's franking account: see subsection 709-60(2).

Note 2: If the subsidiary's franking account is in deficit, it will be liable for franking deficit tax: see subsection 709-60(3). This deficit may be increased by item 4 in the table in subsection (2).

Note 3: The subsidiary's franking account does not operate while it is a member of the group: see section 709-65.

709-170 Head company and subsidiary are exempting entities

There is no change to the status of the *head company of a *consolidated group if:

(a) the head company is an *exempting entity; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) a *corporate tax entity becomes a *subsidiary member of the group at a time (also the ***joining time***); and

(c) the entity is an exempting entity at the joining time.

Note 1: If the subsidiary's franking account is in surplus, that surplus will be transferred to the head company's franking account: see subsection 709-60(2).

Note 2: If the subsidiary's franking account is in deficit, it will be liable for franking deficit tax: see subsection 709-60(3).

Note 3: The subsidiary's franking account does not operate while it is a member of the group: see section 709-65.

709-175 Head company is former exempting entity

(1) Subsection (2) operates if:

(a) the *head company of a *consolidated group is a *former exempting entity; and

(b) a *corporate tax entity becomes a *subsidiary member of the group at a time (also the ***joining time***); and

(c) the entity is an *exempting entity at the joining time.

(2) These rules apply to the *consolidated group.

Rules applying to *consolidated group

Item	Rule
1	There is no change to the status of the *head company
2	If the subsidiary member's *franking account has a *franking surplus at the joining time: (a) a debit equal to that surplus arises in that account at the joining time; and (b) a credit equal to that surplus arises in the *exempting account of the *head company at the joining time
3	Subsection 709-60(2) (about franking surplus) does not apply to the *subsidiary member

Note 1: If the subsidiary's franking account is in deficit, it will be liable for franking deficit tax: see subsection 709-60(3).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note 2: The subsidiary's franking account does not operate while it is a member of the group: see section 709-65.

(3) Subsection (4) operates if:

(a) the *head company of a *consolidated group is a *former exempting entity; and

(b) a *corporate tax entity becomes a *subsidiary member of the group at a time (also the ***joining time***); and

(c) the entity is a *former exempting entity at the joining time.

(4) These rules apply to the *consolidated group.

Rules applying to *consolidated group

Item	Rule
1	There is no change to the status of the *head company
2	If the *subsidiary member's *exempting account has an *exempting surplus at the joining time: (a) a debit equal to that surplus arises in that account at the joining time; and (b) a credit equal to that surplus arises in the exempting account of the *head company at the joining time
3	If the *subsidiary member's *exempting account has an *exempting deficit at the joining time: (a) a credit equal to that deficit arises in that account at the joining time; and (b) a debit equal to that deficit arises in the subsidiary's *franking account just before the joining time
4	The *subsidiary member's *exempting account does not operate during the period: (a) starting just after the joining time; and (b) ending when the entity ceases to be a subsidiary member of the group

Note 1: If the subsidiary's franking account is in deficit, it will be liable for franking deficit tax: see subsection 709-60(3). This deficit may be increased by item 3 in the table in subsection (4).

Note 2: The subsidiary's franking account does not operate while it is a member of the group: see section 709-65.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(5) There is no change to the status of the *head company of a *consolidated group if:

(a) the head company is a *former exempting entity; and

(b) a *corporate tax entity becomes a *subsidiary member of the group; and

(c) the entity is neither an *exempting entity nor a former exempting entity at the joining time.

Note 1: If the subsidiary's franking account is in surplus, that surplus will be transferred to the head company's franking account: see subsection 709-60(2).

Note 2: If the subsidiary's franking account is in deficit, it will be liable for franking deficit tax: see subsection 709-60(3).

Note 3: The subsidiary's franking account does not operate while it is a member of the group: see section 709-65.

Subdivision 709-C—Treatment of excess franking deficit tax offsets when entity becomes a subsidiary member of a consolidated group

Guide to Subdivision 709-C

709-180 What this Subdivision is about

This Subdivision provides that any excess in the tax offset arising from a franking deficit tax liability of an entity that becomes a subsidiary member of a consolidated group is transferred to the head company of the group.

Table of sections

709-185 Joining entity's excess franking deficit tax offsets transferred to head company

709-190 Exit history rule not to treat leaving entity as having a franking deficit tax offset excess

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

709-185 Joining entity's excess franking deficit tax offsets transferred to head company

(1) This section operates if:

(a) an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) the joining entity is entitled to a *tax offset under section 205-70 for the income year that ends or, if subsection 701-30(3) applies, that is taken by subsection (3) of that section to end, at the joining time; and

(c) an amount (the ***joining entity's excess***) of the offset remains after applying section 63-10 (about the tax offset priority rules) to the joining entity's basic income tax liability for that income year.

Transfer of excess to head company

(2) For the purpose of applying subsection 205-70(1) to the *head company of the *consolidated group for the income year in which the joining time occurs:

(a) if, as described in paragraph 205-70(1)(c), an amount of a *tax offset remains after applying section 63-10—that amount is taken to be increased by the amount of the joining entity's excess; or

(b) otherwise:

(i) paragraph 205-70(1)(c) is taken to apply to the head company; and

(ii) the remaining amount of a tax offset covered by that paragraph is taken to be the amount of the joining entity's excess.

Note: Paragraph 205-70(1)(c) refers to tax offsets under section 205-70.

(2A) In working out whether paragraph (2)(a) applies, take into account any application of this section to any other entity that became a *subsidiary member of the group before the joining time.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Joining entity prevented from utilising excess in later income years

(3) For the purpose of applying subsection 205-70(1) to the joining entity for any income year after that in which the joining time occurs, the joining entity's excess is disregarded.

709-190 Exit history rule not to treat leaving entity as having a franking deficit tax offset excess

To avoid doubt, if:

(a) the *head company of a *consolidated group is entitled to a *tax offset under section 205-70 for an income year; and

(b) an amount (the ***excess***) of the offset remains after applying section 63-10 (about the tax offset priority rules) to the head company's basic income tax liability for that income year; and

(c) an entity ceases to be a *subsidiary member of the group in the income year;

the entity is *not* taken because of section 701-40 (the exit history rule):

(d) to have the excess; or

(e) to have another excess of that kind because of the circumstances that caused the head company to have the excess.

Subdivision 709-D—Deducting bad debts

Guide to Subdivision 709-D

709-200 What this Subdivision is about

An entity can deduct a bad debt that: (a) has for a period been owed to a member of a consolidated group; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) has for another period been owed to an entity that was not a member of that group;

only if each entity that has been owed the debt for such a period could have deducted the debt had it been written off as bad at the end of the period. This applies even if the debt is owed to the same entity for different periods.

Table of sections

Application and object

709-205 Application of this Subdivision
709-210 Object of this Subdivision

Limit on deduction of bad debt

709-215 Limit on deduction of bad debt

Extension of Subdivision to debt/equity swap loss

709-220 Limit on deduction of swap loss

Application and object

709-205 Application of this Subdivision

(1) This Subdivision affects whether an entity (the ***claimant***) that is or has been a *member of a *consolidated group and writes off a debt, or part of a debt, as bad may deduct the debt or part if the conditions in subsection (2) exist.

Note: This Subdivision affects similarly whether an entity that is or has been a member of a consolidated group and extinguishes a debt as part of a debt/equity swap may deduct a loss resulting from the swap. See section 709-220.

(2) The conditions are that, in the time starting when the debt was incurred (whether to the claimant or another entity) and ending when the claimant wrote off the debt or part:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the debt was owed to an entity (whether the claimant or another entity) for a period (a ***debt test period***) when the entity was a *member of a *consolidated group; and

(b) the debt was owed to an entity (whether the claimant or another entity) for a period (also a ***debt test period***) when the entity was a *not* a member of that group.

Note 1: The debt must have been owed to the claimant for at least one of the debt test periods for the claimant to have been able to write it off.

Note 2: One effect of section 701-1 (Single entity rule) is that a debt is taken to be owed to the head company of a consolidated group while the debt is owed to a subsidiary member of the group.

(3) Ignore section 701-5 (Entry history rule) and section 701-40 (Exit history rule) in identifying a debt test period.

Note: Subsection (3) does not affect sections 701-5 and 701-40 so far as they operate to treat the debt, or part of the debt, as having been included in the claimant's assessable income. That inclusion is generally a condition under section 25-35 for the claimant to be able to deduct the debt.

(4) This Subdivision does not apply in relation to a debt merely because it is assigned:

(a) from an entity that is a *member of a *consolidated group to an entity that is not a member of that group; or

(b) from an entity that is not a member of a consolidated group to an entity that is a member of a consolidated group; or

(c) from an entity that is a member of a consolidated group to an entity that is a member of another consolidated group.

This subsection has effect despite subsections (1) and (2).

Note: There is not an assignment of a debt from one entity to another merely because section 701-1 (Single entity rule) starts or ceases to apply in relation to the entities so that the debt ceases to be a debt owed to one entity and becomes a debt owed to the other entity.

709-210 Object of this Subdivision

The main object of this Subdivision is to ensure that the claimant can deduct the debt, or part of it, only if each entity that was owed

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

the debt for a debt test period could have deducted the debt if it had been written off as bad at the end of the period.

Limit on deduction of bad debt

709-215 Limit on deduction of bad debt

(1) The claimant can deduct the debt, or part of the debt, if, and only if:

(a) section 8-1 or 25-35 permits the deduction (ignoring subsection 25-35(5) and the provisions mentioned in that subsection); and

(b) the condition in subsection (2) is met for each debt test period.

(2) The condition is that the entity that was owed the debt for the debt test period could have deducted the debt for an income year (the ***debt test income year***) starting and ending at the times identified in subsection (3) if:

(a) the entity had written off the debt as bad at the end of the period; and

(b) these provisions (the ***modified provisions***) had effect as described in this section:

(i) sections 165-123 and 165-126 (which are about conditions that must be met for a company to be able to deduct a bad debt);

(ii) sections 266-35, 266-85, 266-120, 266-160 and 267-25 in Schedule 2F to the *Income Tax Assessment Act 1936* (which are about conditions that must be met for certain kinds of trusts to be able to deduct a bad debt);

(iii) other provisions of this Act so far as they relate to a section listed in subparagraph (i) or (ii); and

(c) these provisions did not apply:

(i) subsections 165-120(2) and (3);

(ii) section 63G of the *Income Tax Assessment Act 1936*;

(iii) section 267-65 in Schedule 2F to that Act.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note 1: Some of the other provisions of this Act that relate to a section listed in subparagraph (2)(b)(i) are sections 165-120, 165-129 and 165-132 and Subdivision 166-C.

Note 2: Some of the other provisions of this Act that relate to a section listed in subparagraph (2)(b)(ii) are sections 266-40, 266-45, 266-90, 266-125, 266-165, 267-30, 267-35, 267-40 and 267-45 in Schedule 2F to the *Income Tax Assessment Act 1936*.

Debt test income year

(3) The table shows when the debt test income year starts and ends.

Start and end of debt test income year

	If:	**The start of the debt test income year is:**	**The end of the debt test income year is:**
1	Both these conditions are met: (a) the entity that is owed the debt for the debt test period is the claimant; (b) the period ends at the time (the ***write-off time***) the claimant actually writes off the debt or part of the debt	The later of these times (or either of them if they are the same): (a) the start of the income year in which the write-off time occurs; (b) the start of the debt test period	The end of the income year in which the write-off time occurs
2	Either: (a) the entity that is owed the debt for the debt test period is *not* the claimant; or (b) that entity is the claimant but that period ends before the claimant actually writes off the debt or part of the debt	The later of these times (or either of them if they are the same): (a) 12 months before the end of the debt test period; (b) the start of the debt test period	The end of the debt test period

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Continuity periods, ownership test periods and test periods

(4) For the purposes of subsection (2), the modified provisions have effect as if:

(a) the *first continuity period started at the start time shown in the table and ended at the start of the debt test income year; and

(b) the *second continuity period were the debt test income year or, for the purposes of section 165-123 and Subdivision 166-C defining periods by reference to the second continuity period, the period:

(i) starting at the start of the debt test income year; and

(ii) ending at the end time shown in the table; and

(c) each section listed in subparagraph (2)(b)(ii) specified that the test period identified in the section:

(i) started at the start time shown in the table; and

(ii) ended at the end time shown in the table.

Start time and end time

	If:	The start time is:	The end time is:
1	All these conditions are met: (a) the entity that is owed the debt for the debt test period is the claimant; (b) the period ends at the time (the ***write-off time***) the claimant actually writes off the debt or part of the debt; (c) the claimant is the *head company of a *consolidated group at the write-off time	The start of the debt test period	The end of the income year in which the write-off time occurs

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Start time and end time			
	If:	**The start time is:**	**The end time is:**
2	All these conditions are met: (a) the entity that is owed the debt for the debt test period is the claimant; (b) the period ends at the time (the ***write-off time***) the claimant actually writes off the debt or part of the debt; (c) the claimant is *not* the *head company of a *consolidated group at the write-off time	Just before the start of the debt test period	The end of the income year in which the write-off time occurs
3	The debt test period: (a) starts at a time other than a time when the entity that is owed the debt for the period ceases to be a *member of a *consolidated group; and (b) ends when the entity becomes a member of such a group; (whether or not the entity was the *head company of another such group during the period)	The start of the debt test period	Just after the end of the debt test period

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Start time and end time

	If:	The start time is:	The end time is:
4	Both these conditions are met: (a) the entity that is owed the debt for the debt test period is the *head company of a *consolidated group; (b) the period ends when: (i) a *subsidiary member of the group becomes a *member of another consolidated group; or (ii) the entity ceases to be the head company of the group without becoming a member of another consolidated group	The start of the debt test period	The end of the debt test period
4A	Both these conditions are met: (a) the entity that is owed the debt for the debt test period is the *head company of a *consolidated group; (b) the period ends when a *subsidiary member of the group ceases to be a *member of the group without becoming a member of another consolidated group	The start of the debt test period	The end of the debt test period

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Start time and end time			
	If:	**The start time is:**	**The end time is:**
5	The debt test period: (a) starts when the entity that is owed the debt for the period ceases to be a *member of a *consolidated group; and (b) ends later when the entity becomes a member of a consolidated group	Just before the start of the debt test period	Just after the end of the debt test period

(5) For the purposes of subsection (2), the modified provisions have effect as if section 267-25 in Schedule 2F to the *Income Tax Assessment Act 1936* applied in relation to debts whether they were incurred in the income year or an earlier income year.

Test time for business continuity test under section 165-126

(6) For the purposes of subsection (2), the modified provisions have effect as if subsection 165-126(2) specified that the test time were the later of these times (or either of them if they are the same):

(a) the first time at which it is not practicable to show that the company will meet the conditions in section 165-123 (as modified by this section);

(b) the time just after the start of the debt test period.

Business at and just after the end of the debt test period

(7) If:

(a) the debt test period ends when the entity that was owed the debt for the period becomes a *member of a *consolidated group; and

(b) under the modified provisions, the *business that the entity carried on at or just after the end of the period is relevant to the question whether the entity could have deducted the debt as described in subsection (2);

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

those provisions have effect for the purposes of that subsection as if the entity carried on at those times the business it carried on just before the end of the period.

Extension of Subdivision to debt/equity swap loss

709-220 Limit on deduction of swap loss

Object

(1) The object of this section is to limit the circumstances in which an entity can deduct a swap loss (as defined in section 63E of the *Income Tax Assessment Act 1936*) resulting from a debt/equity swap (as defined in that section) to circumstances similar to those in which this Subdivision lets an entity deduct a debt it writes off as bad.

Modified operation of sections 709-205, 709-210 and 709-215

(2) Sections 709-205, 709-210 and 709-215 (except subsection 709-215(2)) apply in relation to the extinction (however described) of a debt as part of a debt/equity swap in the same way as they apply in relation to the writing off of a debt as bad.

(3) Subsection 709-215(1):
   (a) applies in relation to a swap loss from a debt/equity swap in the same way as it applies in relation to a debt, or part of a debt; and
   (b) applies as if paragraph 709-215(1)(a) referred to subsection 63E(3) of the *Income Tax Assessment Act 1936* instead of sections 8-1 and 25-35.

(4) This section has effect despite subsection 63E(5) of the *Income Tax Assessment Act 1936*.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 711—Tax cost setting amount for membership interests where entities cease to be subsidiary members of consolidated groups

Guide to Division 711

711-1 What this Division is about

If an entity ceases to be a subsidiary member of a consolidated group, the tax cost setting amount for the group's membership interests in the entity reflects the group's cost for the entity's net assets.

Table of sections

Application and object of this Division

711-5 Application and object of this Division

Tax cost setting amount for membership interests etc.

711-10 Tax cost setting amount worked out under this Division
711-15 Tax cost setting amount where no multiple exit
711-20 What is the old group's allocable cost amount for the leaving entity?
711-25 Terminating values of the leaving entity's assets—step 1 in working out allocable cost amount
711-30 What is the head company's terminating value for an asset?
711-35 If head company becomes entitled to certain deductions—step 2 in working out allocable cost amount
711-40 Liabilities owed to the leaving entity by members of the old group—step 3 in working out allocable cost amount
711-45 Liabilities etc. owed by the leaving entity—step 4 in working out allocable cost amount
711-46 Liability arising from transfer or assignment of securitised assets
711-55 Tax cost setting amount for membership interests where multiple exit
711-65 Membership interests treated as having been acquired before 20 September 1985

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

711-70 Additional integrity rule if membership interests treated as having been acquired before 20 September 1985 under section 711-65—application of Division 149 to head company
711-75 Additional integrity rule if membership interests treated as having been acquired before 20 September 1985 under section 711-65—application of CGT event K6

Application and object of this Division

711-5 Application and object of this Division

Application

(1) This Division has effect:
   (a) for the head company core purposes set out in subsection 701-1(2); and
   (b) for the entity core purposes set out in subsection 701-1(3);
if an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group (the ***old group***) at a particular time (the ***leaving time***).

Object

(2) The object of this Division is, when entities cease to be *subsidiary members, to preserve the alignment of the *head company's costs for *membership interests in entities and their assets that is established when entities become subsidiary members.

Note: The reasons for preserving this alignment are set out in subsection 705-10(3).

(3) This is achieved by recognising the *head company's cost for those interests, just before the leaving time, as an amount equal to the cost of the leaving entity's assets at the leaving time reduced by the amount of its liabilities.

(4) If multiple entities cease to be *subsidiary members at the same time, the cost of any *membership interests that one holds in another is treated in a similar way.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 711-10

Tax cost setting amount for membership interests etc.

711-10 Tax cost setting amount worked out under this Division

If this Division applies, the amount of the following is worked out under the Division:

(a) the *tax cost setting amount for the purposes of item 2 in the table in section 701-60 for each *membership interest in the leaving entity that *members of the old group held; and

(b) if 2 or more entities cease to be *subsidiary members of the group at the same time because of an event happening in relation to one of them—the tax cost setting amount for the purposes of item 4 in the table in that section for each membership interest that the leaving entity holds in any of the other entities.

711-15 Tax cost setting amount where no multiple exit

(1) The *tax cost setting amount for each *membership interest in the leaving entity that *members of the old group held, where paragraph 711-10(b) does not apply, is worked out by:

(a) first, working out the old group's *allocable cost amount for the leaving entity in accordance with section 711-20; and

(b) next, if there is more than one class of membership interests in the leaving entity—allocating the allocable cost amount to each class in proportion to the *market value of all of the membership interests in the class; and

(c) next, allocating the result under paragraph (a) or (b) to each of the membership interests, or membership interests in the class, by dividing the result by the number of those membership interests; and

(d) finally, if the leaving entity is a trust—for each membership interest in the trust that satisfies these conditions:

(i) it is neither a unit nor an interest in the trust;

(ii) the member of the old group that held it began to hold it only because money or property was settled on the trust;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(iii) it either had no *cost base or it had a cost base of nil;

reducing the result under paragraph (c) to nil.

Note: Compare the treatment of such interests when an entity joins a group: see section 713-20.

Non-membership equity interests

(2) For the purposes of this section, if at the leaving time a *member of the old group holds a *non-membership equity interest in the leaving entity, that non-membership equity interest is treated as if:

(a) it were a *membership interest in the leaving entity; and

(b) it were of a different class than any other membership interest in the leaving entity.

711-20 What is the old group's *allocable cost amount* for the leaving entity?

(1) Work out the old group's ***allocable cost amount*** for the leaving entity in this way:

Working out the old group's allocable cost amount for the leaving entity

Step	What the step requires	Purpose of the step
1	Start with the step 1 amount worked out under section 711-25, which is about the *terminating values of the leaving entity's assets just before the leaving time.	To ensure that the allocable cost amount includes the cost of the assets.
2	Add to the result of step 1 the step 2 amount worked out under section 711-35, which is about the value of deductions inherited by the leaving entity that are not reflected in the *terminating value of the leaving entity's assets just before the leaving time.	To ensure that the value of the deductions is reflected in the allocable cost amount.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 711-20

Working out the old group's allocable cost amount for the leaving entity		
Step	**What the step requires**	**Purpose of the step**
3	Add to the result of step 2 the step 3 amount worked out under section 711-40, which is about liabilities owed by *members of the old group to the leaving entity at the leaving time.	To ensure that the liabilities, which are not recognised while the leaving entity is taken to be part of the *head company by subsection 701-1(1), are reflected in the allocable cost amount.
4	Subtract from the result of step 3 the step 4 amount worked out under section 711-45, which is about: (a) the leaving entity's liabilities just before the leaving time; and (b) *membership interests in the leaving entity that are not held by *members of the old group.	To ensure that the allocable cost amount is reduced to reflect the liabilities and the value of the membership interests.
5	If the amount remaining after step 4 is positive, it is the old group's allocable cost amount for the leaving entity. Otherwise the old group's allocable cost amount is nil.	

Note: If the amount remaining after step 4 is negative, the head company is taken to have made a capital gain equal to the amount: see CGT event L5.

Recalculation in order to work out amount of capital loss

(2) If it is necessary to work out whether the *head company makes a capital loss for a *CGT event that happens at or after the leaving time in relation to any of the *membership interests, the old group's allocable cost amount for the leaving entity is instead worked out as if the head company's *terminating value for any asset covered by subsection 705-30(4) (as it applies for the purposes of section 711-30) were instead equal to the asset's *reduced cost base just before the leaving time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

711-25 Terminating values of the leaving entity's assets—step 1 in working out allocable cost amount

(1) For the purposes of step 1 in the table in subsection 711-20(1), the step 1 amount is worked out by adding up the *head company's *terminating values of all the assets that the head company holds at the leaving time because the leaving entity is taken by subsection 701-1(1) (the single entity rule) to be a part of the head company.

Goodwill

(2) If loss of control and ownership of the leaving entity by the *head company would decrease the *market value of the goodwill associated with assets or businesses of the old group (other than those of the leaving entity), the head company's *cost base of the asset consisting of goodwill that it holds at the leaving time because of its control and ownership of the leaving entity is added to the step 1 amount.

Note: If the asset arose because the head company acquired control and ownership of a joining entity, subsection 705-35(3) would have applied in relation to the joining entity. The asset could also have arisen e.g. because the head company acquired a business from an entity without acquiring the entity.

Increase in step 1 amount for certain former privatised assets

(3) If:

(a) the *head company of the old group *holds a *depreciating asset at the leaving time because the leaving entity is taken by subsection 701-1(1) (the single entity rule) to be a part of the head company; and

(b) the asset's *tax cost was set at the *tax cost setting amount when an entity (whether the leaving entity or another entity) became a *subsidiary member of the old group; and

(c) the tax cost setting amount for the asset was reduced because of section 705-47 (which is about certain assets that were *privatised assets);

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Authorised Version C2022C00307 registered 22/10/2022

the amount of the reduction is added to the step 1 amount.

Increase in step 1 amount for certain privatised assets

(4) If:

(a) the *head company of the old group *holds a *depreciating asset at the leaving time because the leaving entity is taken by subsection 701-1(1) (the single entity rule) to be a part of the head company; and

(b) the first element of the *cost of the asset was worked out by reference to subsection 58-70(5) because a *member of the old group acquired the asset as described in subsection 58-5(4) on or after 1 July 2002; and

(c) the amount of the first element of the cost of the asset is *less* than the amount it would have been apart from item 11 of the table in subsection 40-180(2) (which makes subsection 58-70(5) relevant to working out that element);

the difference between the amounts is added to the step 1 amount.

711-30 What is the head company's *terminating value* for an asset?

(1) The *head company's ***terminating value*** for an asset that it holds at the leaving time because the leaving entity is taken by subsection 701-1(1) to be a part of the head company is worked out as follows.

(2) The amount is worked out by applying section 705-30 in a corresponding way to the way that section applies to work out the *terminating value for an asset that a joining entity holds at the joining time.

(3) However, that amount is the asset's *market value at the leaving time if:

(a) the asset is a right to receive lease payments under a lease; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the asset's *tax cost was set when an entity (whether the leaving entity or another entity) became a *subsidiary member of the old group; and

(c) the asset was taken to be a *retained cost base asset for the purposes of Division 705 when its tax cost was set, because of paragraph 705-56(3)(b).

711-35 If head company becomes entitled to certain deductions—step 2 in working out allocable cost amount

(1) Work out the step 2 amount for the purposes of the table in subsection 711-20(1) by multiplying all deductions covered by subsection (2) by the *corporate tax rate.

(2) This subsection covers any deduction to which the leaving entity becomes entitled under section 701-40 as a result of the leaving entity ceasing to be a *subsidiary member of the old group, other than a deduction for expenditure:

(a) that is, forms part of or reduces, the cost of an asset that becomes an asset of the leaving entity because subsection 701-1(1) (the single entity rule) ceases to apply; or

(b) to which section 110-40 (about expenditure on assets acquired before 7.30 pm on 13 May 1997) applies.

(3) Subsection (2) does *not* cover a deduction under section 43-15 (which relates to *undeducted construction expenditure) if, because of section 701-40 (the exit history rule), the leaving entity is taken to have *acquired the asset to which the deduction relates at or before 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 1997.

711-40 Liabilities owed to the leaving entity by members of the old group—step 3 in working out allocable cost amount

For the purposes of step 3 in the table in subsection 711-20(1), the step 3 amount is the total, for all liabilities owed by *members of

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

the old group to the leaving entity at the leaving time, of the *tax cost setting amounts of the corresponding assets of the leaving entity.

Note: The tax cost of a corresponding asset of the leaving entity is set under section 701-45. The tax cost setting amount of the corresponding asset is determined under section 701-60A.

711-45 Liabilities etc. owed by the leaving entity—step 4 in working out allocable cost amount

(1) 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.

Leaving entity's accounting principles for tax cost setting

(1A) 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 (disregarding subsection 701-1(1) (the single entity rule)).

Exclusion for deferred tax liability

(1B) An amount is not to be added for an accounting liability that is an amount recorded in a deferred tax liability account in accordance with the leaving entity's *accounting principles for tax cost setting.

(1C) Subsection (1B) does not apply to an accounting liability that relates to an asset mentioned in paragraph 713-575(2)(a) or (b) (certain assets of life insurance company).

Exclusion where transfer of accounting liability

(2) An amount is not to be added for an accounting liability that arises because of the leaving entity's ownership of an asset if, on *disposal of the asset, the accounting liability will transfer to the new owner.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Example: A liability to rehabilitate a mine site, where, under legislation or a licence, the liability will be transferred to the new owner on disposal of the mine.

Exclusion where liability is obligation to make lease payments

(2A) An amount is not to be added for an accounting liability that is the leaving entity's obligation as lessee to make lease payments under a lease, if:

(a) subsection 705-56(4) applied in relation to the liability, at a time when an entity (whether the leaving entity or another entity) became a *subsidiary member of the old group; and

(b) the liability was *not* taken into account under subsection 705-70(1) at that time, because of paragraph 705-56(4)(b).

Reduction for future deduction

(3) If some or all of an accounting liability will result in a deduction to the leaving entity, the amount to be added for the accounting liability is reduced by the following amount:

$$\left[\text{Deduction} \times {}^{*}\text{Corporate tax rate}\right] - \text{Double-counting adjustment}$$

where:

double-counting adjustment means the amount of any reduction that has already occurred in the accounting liability under subsection (1) to take account of the future availability of the deduction.

Amount for intra-group liabilities

(4) If an accounting liability of the leaving entity is owed to a *member of the old group, the amount to be added for the liability is the *tax cost setting amount of the corresponding asset of the member.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Adjustment for unrealised gains and losses

(5) If, for income tax purposes, an accounting liability, or a change in the amount of an accounting liability, (other than one owed to a *member of the old group) is taken into account at a later time than is the case in accordance with the leaving entity's *accounting principles for tax cost setting, the amount to be added for the accounting liability is equal to the payment that would be necessary to discharge the liability just before the leaving time without an amount being included in the assessable income of, or allowable as a deduction to, the *head company.

Note: An example is accrued employee leave entitlements or foreign exchange gains and losses.

Increase in step 4 amount for employee share interests

(6) If any *membership interest (an ***employee share interest***) in the leaving entity needed to be disregarded under section 703-35 in order for the leaving entity to be a *wholly-owned subsidiary of the *head company at the leaving time, the step 4 amount is increased by the sum of the *market values of those interests.

Increase to cover ADI restructure preference share interests

(6A) If any *share in the leaving entity needed to be disregarded under section 703-37 in order for the leaving entity to be a *wholly-owned subsidiary of the *head company at the leaving time, the step 4 amount is increased by the sum of the *market values of those shares.

Increase for non-share capital account balance

(6B) The step 4 amount is increased by the amount that would be the balance of the leaving entity's *non-share capital account, assuming that:

(a) if the leaving entity is not a company—the leaving entity were a company; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) each *non-membership equity interest (if any) in the leaving entity held at just before the leaving time by a person other than a *member of the old group were a *non-share equity interest in the leaving entity; and

(c) the non-share equity interests (if any) mentioned in paragraph (b) were the only non-share equity interests in the leaving entity.

Increase to cover certain equity interests

(7) The step 4 amount is increased by the *market value of each thing that, in accordance with the leaving entity's *accounting principles for tax cost setting, is equity in the leaving entity at the leaving time, where the thing is also a *debt interest.

Adjustment where amount of liability differed for purpose of calculating allocable cost amount on entry

(8) Subsection (10) applies if:

(a) either:

(i) an amount (the ***exit liability amount***) was added for a particular liability under subsection (5); or

(ii) a particular liability is covered by subsection (5), but no amount was added for it under that subsection (in which case the ***exit liability amount*** is zero); and

(b) the liability was taken into account in working out the *allocable cost amount (the ***original entry ACA***) for a *subsidiary member (whether or not the leaving entity) of the old group in accordance with Division 705; and

(c) the exit liability amount is not the same as the amount (the ***entry liability amount***) of the liability that was taken into account in working out the original entry ACA, after any adjustments made under:

(i) section 705-70, 705-75 or 705-80; and

(ii) subsection (9) of this section; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(d) if the liability is a provision for annual leave or long service leave, or a provision for a liability contingent on a future event:

(i) in the case of a liability that was, in accordance with the *accounting principles that the entity would have used if it had prepared its financial statements just before the time it became a subsidiary member of the group, a current liability of the entity at that time—the leaving time occurs less than 1 year after that time; or

(ii) otherwise—the leaving time occurs less than 4 years after that time.

(9) Make these adjustments to the entry liability amount if, at a time when the leaving entity was a *subsidiary member of the old group, the *head company of the group paid an amount that reduced the liability:

(a) reduce the entry liability amount by the amount of the reduction; and

(b) if the payment gave rise to an amount being included in the assessable income of the head company—after making the reduction in paragraph (a), further reduce the entry liability amount by the product of:

(i) the amount included in assessable income; and

(ii) the *corporate tax rate; and

(c) if the payment gave rise to a deduction for the head company—after making the reduction in paragraph (a), increase the entry liability amount by the product of:

(i) the amount deducted; and

(ii) the corporate tax rate.

(10) The step 4 amount is altered by:

(a) if the entry liability amount exceeds the exit liability amount—increasing the step 4 amount by the excess; or

(b) if the entry liability amount falls short of the exit liability amount—decreasing the step 4 amount by the shortfall.

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Authorised Version C2022C00307 registered 22/10/2022

Exclusion of amounts for certain securitisation liabilities

(11) An amount is not to be added for an accounting liability of the leaving entity if the accounting liability is covered under section 711-46 (securitisation liabilities).

711-46 Liability arising from transfer or assignment of securitised assets

This section covers an accounting liability (the ***securitisation liability***) if the following circumstances exist:

(b) in working out the step 4 amount mentioned in subsection 711-45(1) in relation to the leaving entity, an amount would be added under that subsection for the securitisation liability (disregarding subsection 711-45(11));

(c) a member of the old group transferred or equitably assigned one or more assets (the ***underlying securitised assets***) to another entity before the leaving time;

(d) the securitisation liability:

(i) arose from the transfer or equitable assignment of the underlying securitised assets; and

(ii) is a liability of the leaving entity at the leaving time (according to the leaving entity's *accounting principles for tax cost setting);

(e) the other entity was established for the purpose of securitising assets;

(f) the underlying securitised assets were securitised in accordance with that purpose before the leaving time;

(g) at the leaving time the *market value of the leaving entity's interest in the underlying securitised assets is nil, or is substantially less than the amount of the securitisation liability.

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Authorised Version C2022C00307 registered 22/10/2022

Section 711-55

711-55 Tax cost setting amount for membership interests where multiple exit

(1) If 2 or more entities cease to be *subsidiary members of the old group at the same time because of an event happening in relation to one of them, the *tax cost setting amount for each *membership interest mentioned in paragraphs 711-10(a) and (b) is worked out in accordance with this section.

Object

(2) The object of this section is to ensure that the *tax cost setting amount for *membership interests that each entity holds in another entity reflects a proportion of the other entity's cost for its net assets.

Tax cost setting amounts to be worked out for certain membership interests in all of the entities

(3) A *tax cost setting amount must be worked out for each *membership interest (the ***subject interest***) that one of the entities holds in another of the entities just before the leaving time, and this must be done:

(a) by applying section 711-15 to the subject interest as if:

(i) a reference in that section, or any provision of this Division that relates to it, to any membership interest that *members of the old group hold in the leaving entity were a reference to the subject interest; and

(ii) a reference in that section, or any provision of this Division that relates to it, to liabilities owed by members of the old group included a reference to liabilities owed by any of the entities that cease to be *subsidiary members of the old group at the leaving time; and

(b) by working out the tax cost setting amount for membership interests in entities that are held by other entities before

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Authorised Version C2022C00307 registered 22/10/2022

working out the tax cost setting amount for membership interests in those other entities.

Tax cost setting amount for membership interests acquired by head company

(4) Then work out the *tax cost setting amount mentioned in paragraph 711-10(a) for the *membership interests held by the *head company in the same way as under section 711-15.

Note: In doing so, tax cost setting amounts worked out under subsection (3) of this section for membership interests held by the leaving entity in other entities will be taken into account in working out the allocable cost amount for the leaving entity. Those tax cost setting amounts will in turn have been affected by any other tax cost setting amounts worked out under subsection (3) for membership interests in other entities.

Tax cost setting amount for membership interests acquired by leaving entity

(5) The *tax cost setting amount mentioned in paragraph 711-10(b) for *membership interests of which the leaving entity becomes the holder will be one of the tax cost setting amounts worked out under subsection (3) of this section.

Example: Companies A, B, C, D and E are all subsidiary members that leave the old group at the same time. Just before the leaving time, company A owned shares in company B and company C, and company B owned shares in companies D and E.

First, work out company A's tax cost setting amount for membership interests in company C and company B's tax cost setting amount for membership interests in companies D and E by applying section 711-15 in accordance with paragraph (3)(a) above.

Next, work out company A's tax cost setting amount for membership interests in company B under that section as so applied, taking into account the tax cost setting amount just worked out for company B's assets consisting of shares in companies D and E.

Finally, work out the head company's tax cost setting amount for membership interests in company A under section 711-15 in accordance with subsection (4) above, taking into account the tax cost setting amounts worked out for companies B and C.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 711-65

711-65 Membership interests treated as having been acquired before 20 September 1985

When this section applies

(1) This section applies unless:
  (a) Subdivision 705-C (about one group joining another consolidated group) applies in relation to the old group; and
  (b) the leaving entity is a *subsidiary member of the old group.

(1A) To avoid doubt, this section applies regardless of whether the leaving entity ceases to be a *subsidiary member of the old group at the leaving time because another entity also ceases to be a subsidiary member of the old group at the leaving time.

Interests treated as if purchased before 20 September 1985

(2) If this section applies, a number of the *membership interests in the leaving entity that *members of the old group hold are taken to have been acquired before 20 September 1985.

Number of pre-CGT membership interests

(3) The number is the result of the formula in subsection (4), rounded down to:
  (a) the nearest whole number if the result is not already a whole number; or
  (b) zero if the result is a number more than zero but less than one.

Formula

(4) The formula is:

$$\text{Number of * membership interests in leaving entity held by *members of old group} \times \text{Leaving entity's pre-CGT proportion}$$

where:

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Authorised Version C2022C00307 registered 22/10/2022

leaving entity's pre-CGT proportion is the amount worked out under section 705-125.

Dealing with classes of membership interests

(6) If there are 2 or more classes of *membership interests in the leaving entity, this section operates separately in relation to each class as if the interests in that class were all the interests in the entity.

Allocation of the number to particular membership interests

(7) The *head company must choose which particular *membership interests comprise the number worked out under subsection (2).

Modification if leaving entity is a trust

(8) If the leaving entity is a trust, a *membership interest in it is not taken into account under this section unless the membership interest is either a unit or an interest in the trust.

711-70 Additional integrity rule if membership interests treated as having been acquired before 20 September 1985 under section 711-65—application of Division 149 to head company

(1) This section applies if:

(a) the leaving entity held assets at the time it became a *subsidiary member of the old group (disregarding subsection 701-1(1) (the single entity rule)); and

(b) some or all of the assets:

(i) stopped being *pre-CGT assets under Division 149 at a time (the ***Division 149 time***) when the *head company of the group held them under subsection 701-1(1) (the single entity rule); or

(ii) would have stopped being pre-CGT assets under Division 149 at a time (also the ***Division 149 time***) when the head company of the group held them under

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Authorised Version C2022C00307 registered 22/10/2022

subsection 701-1(1) (the single entity rule) if they had been pre-CGT assets just before that time; and

(c) the leaving entity was a subsidiary member of the group at that time.

(2) The *pre-CGT proportion of the leaving entity at the leaving time is taken to be nil.

(3) Adjust the old group's *allocable cost amount for the leaving entity as follows:

(a) if the amount under subsection (4) exceeds the amount under subsection (6)—increase the allocable cost amount by the excess;

(b) if the amount under subsection (4) falls short of the amount under subsection (6)—reduce the allocable cost amount by the shortfall.

(4) Subject to subsection (5), the amount under this subsection is:

(a) if Subdivision 705-A applied in relation to the leaving entity at the time it became a *subsidiary member of the old group—the total of the amounts that were taken into account under subsection 705-65(1) for *membership interests in the leaving entity at that time; or

(b) otherwise—assuming that Subdivision 705-A had applied in relation to the leaving entity at the time it became a subsidiary member of the old group, the total of the amounts that would have been taken into account under subsection 705-65(1) for membership interests in the leaving entity at that time.

(5) For the purposes of subsection (4), if a *membership interest in the leaving entity was covered under paragraph 705-125(2)(a) (pre-CGT interests) when it became a *subsidiary member of the old group, treat the amount that was taken into account for the membership interest under subsection 705-65(1) as the interest's *market value just after the Division 149 time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(6) The amount under this subsection is the old group's *allocable cost amount for the leaving entity, worked out on the assumption that the leaving entity ceased to be a *subsidiary member of the old group just after the Division 149 time.

711-75 Additional integrity rule if membership interests treated as having been acquired before 20 September 1985 under section 711-65—application of CGT event K6

(1) This section applies if the leaving entity ceases to be a *subsidiary member of the old group because of a situation giving rise to *CGT event A1, C2, E1, E2 or E8 in relation to one or more *membership interests in the leaving entity.

(2) For the purposes of applying subsections 104-230(2) and (8) in relation to those *membership interests:

(a) disregard subsection 701-1(1) (the single entity rule) in working out the *net value of the leaving entity; and

(b) treat the reference in subsection 104-230(2) to "Just before the other event happened" as a reference to "Just before the leaving time".

Note 1: The single entity rule will continue to apply in determining whether the property mentioned in subsection 104-230(2) for the leaving entity was acquired on or after 20 September 1985.

Note 2: However, in a case of multiple exit from a consolidated group (see section 711-55), the property mentioned in subsection 104-230(2) for the leaving entity may include membership interests in another entity leaving the group at the leaving time. To determine which of those membership interests were acquired on or after 20 September 1985 for the purposes of applying subsection 104-230(2) to the leaving entity, see section 711-65.

(3) In determining the sum of the *cost bases of the property mentioned in subsection 104-230(6), treat the cost base of an asset that is included in that property as:

(a) if the asset has its *tax cost set at the leaving time under section 701-50—its *tax cost setting amount; or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 711-75

(b) if the *terminating value of the asset is taken into account in working out the step 1 amount under section 711-25 for the leaving entity—that terminating value; or

(c) if the asset is taken into account in working out the step 3 amount under section 711-40 for the leaving entity—the value of the asset that is so taken into account.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 713—Rules for particular kinds of entities

Table of Subdivisions

713-A Trusts
713-C Some unit trusts treated like head companies of consolidated groups
713-E Partnerships
713-L Life insurance companies
713-M General insurance companies

Subdivision 713-A—Trusts

Table of sections

Working out a joined group's allocable cost amount for a joining trust

713-20 Increasing the step 1 amount for settled capital that could be distributed tax free in respect of discretionary interests
713-25 Undistributed, realised profits that accrue to joined group before joining time and could be distributed tax free—step 3 in working out allocable cost amount

Determining destination of distribution by non-fixed trust

713-50 Factors to consider

Working out a joined group's allocable cost amount for a joining trust

713-20 Increasing the step 1 amount for settled capital that could be distributed tax free in respect of discretionary interests

(1) The object of this section is to increase the step 1 amount worked out under section 705-65 (for the purpose of working out the joined group's allocable cost amount) if:

(a) the joining entity is a trust; and

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Authorised Version C2022C00307 registered 22/10/2022

(b) some or all of the *membership interests in the trust are neither units nor interests in the trust; and

(c) some or all of the trust capital is settled capital that could be distributed tax free at the joining time.

The increase in the step 1 amount takes account of the settled capital that could be distributed tax free.

Note 1: As a result, the settled capital that could be distributed tax free is treated in a way that is analogous to the group's cost of acquiring the trust: see subsection 705-10(2).

Note 2: Paragraph (1)(b) reflects the position that a distribution in respect of a unit or interest in the trust is generally covered by CGT event E4 and so is not tax-free: see section 104-70.

(2) The step 1 amount worked out under section 705-65 is increased by the amount worked out under the following method statement if, at the joining time, there are *membership interests (the ***discretionary interests***) in the trust each of which satisfies these conditions:

(a) it is neither a unit nor an interest in the trust;

(b) the entity that owned it at the joining time began to own it only because money or property was settled on the trust;

(c) it either has no *cost base or it has a cost base of nil.

Note: If a membership interest has a cost base greater than nil, the cost base is already taken into account in working out the step 1 amount under section 705-65.

Method statement

Step 1. Add up:

(a) each amount settled on the trust before or at the joining time; and

(b) the *market value of each item of property settled on the trust before or at the joining time, worked out as at when the item was settled;

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Authorised Version C2022C00307 registered 22/10/2022

except to the extent that that amount or market value forms part of the *cost base of a *membership interest in the trust that was taken into account in working out the step 1 amount under section 705-65.

Step 2. Work out how much of the step 1 amount would have been paid in respect of the discretionary interests if, at the joining time:

(a) the entire trust capital and trust income had been realised and distributed; and

(b) the trust had ended.

Note: This may involve determining how a power of appointment would have been exercised. Section 713-50 lists matters to have regard to in determining this.

Step 3. Reduce the step 2 amount by so much of it as:

(a) would have been included in the assessable income of any *member of the trust who owned any of the discretionary interests at the joining time; or

(b) would have been taken into account in working out a *capital gain or *capital loss made by such a member.

Step 4. Work out how much of the step 1 amount consists of one or more of these:

(a) an amount settled on the trust directly by the *head company of the *consolidated group (whether or not the group was in existence when the amount or item was settled on the trust);

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) an amount settled on the trust directly by any other entity *not* excluded by subsection (3) (which covers entities that are not independent and unconnected donors to the trust);

(c) the *market value of an item of property settled on the trust directly by the head company;

(d) the market value of an item of property settled on the trust directly by any other entity *not* excluded by subsection (3).

Step 5. The step 1 amount worked out under section 705-65 is increased by the *lesser* of:

(a) the step 3 amount worked out under this method statement; and

(b) the step 4 amount worked out under this method statement.

(3) This subsection excludes these entities for the purposes of step 4 of the method statement in subsection (2):

Entities that are not independent and unconnected donors to the trust

Item	This entity is excluded:
1	An entity that is a *member of the *consolidated group at the joining time
2	An entity that has been a *member of the *consolidated group at any time before the joining time, even if it was not such a member when it settled the amount or item of property on the joining entity
3	An entity that, because of a *scheme, will or may become a *member of the *consolidated group at some time after the joining time
4	An entity that, when the amount or item of property was settled on the joining entity, was an *associate of an entity covered by item 1, 2 or 3

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Entities that are not independent and unconnected donors to the trust	
Item	**This entity is excluded:**
5	An entity that, in settling the amount or item of property on the joining entity, acted in accordance with the directions, instructions or wishes of one or more entities, at least one of which is covered by item 1, 2, 3 or 4 (whether those directions, instructions or wishes were communicated directly or indirectly, including through interposed entities)
6	A company or trust that an entity covered by item 1, 2 or 3 would be taken to *control (for value shifting purposes) when the company or trust settled the amount or item of property on the joining entity, if each entity covered by item 1, 2, 3 or 4 had been at that time an *associate of every other entity covered by item 1, 2, 3 or 4
7	A partnership if, when the partnership settled the amount or item of property on the joining entity, a *member of the partnership was an entity covered by item 1, 2, 3, 4 or 6

713-25 Undistributed, realised profits that accrue to joined group before joining time and could be distributed tax free—step 3 in working out allocable cost amount

(1) For the purposes of step 3 in the table in section 705-60, if the joining entity is a trust, the step 3 amount is the sum of the trust's realised profits, to the extent that:

(a) they accrued to the joined group before the joining time (as defined in subsection 705-90(7)); and

(b) as at the joining time, they have not been distributed to *members of the trust; and

(c) if each of them were distributed as mentioned in paragraphs 705-90(7)(a) and (b):

(i) they would be distributed *otherwise* than in respect of a unit or an interest in the trust; or

(ii) their non-assessable parts for the purposes of section 104-70 would be disregarded in working out whether or not a *capital gain had been made because of CGT event E4;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

except to the extent that they recouped losses of any *sort that accrued to the joined group before the joining time (as defined in subsection 705-90(8)).

Note: If the joining entity, or an entity interposed between the head company and the joining entity, is a non-fixed trust, this section may involve determining how a power of appointment would have been exercised. Section 713-50 lists matters to have regard to in determining this.

Trusts not covered

(2) Subsection (1) does not apply to a trust that is a *corporate tax entity at the joining time.

Note: This excludes corporate unit trusts and public trading trusts, which are covered by the imputation system.

Determining destination of distribution by non-fixed trust

713-50 Factors to consider

In working out, for the purposes of this Part, how much of something a *non-fixed trust would have distributed to an entity, or in respect of a *membership interest in the trust, have regard to all relevant factors, including:

(a) the pattern of any previous distributions by the trust; and

(b) by whom the trust has from time to time been *controlled (for value shifting purposes).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 713-C—Some unit trusts treated like head companies of consolidated groups

Guide to Subdivision 713-C

713-120 What this Subdivision is about

A public trading trust can sometimes choose to form a consolidated group and be treated like a company and head company of the group. The treatment affects the trust, the trustee and other entities connected with the trust (such as members of the trust and entities the trustee holds membership interests in).

Table of sections

Object of this Subdivision

713-125 Object of this Subdivision

Choice to form a consolidated group

713-130 Choosing to form a consolidated group

Effects of choice

713-135 Effects of choice
713-140 Modifications of the applied law

Object of this Subdivision

713-125 Object of this Subdivision

(1) The main object of this Subdivision is to provide, by the means described in subsections (2) and (3), for certain unit trusts to be treated like companies, and therefore like *head companies of *consolidated groups, with consequent effects on other entities including:

(a) the trustees; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) *members of the trusts; and

(c) entities the trustees hold *membership interests in.

(2) The first means is letting a *public trading trust, that could become the *head company of a *consolidated group if the trust were a company, choose to form such a group (with other entities as *subsidiary members).

(3) The second means is changing the way in which the law relating to income tax applies on and after the time the choice takes effect, so that law (with some modifications) applies in relation to the trust or the trustee (as appropriate) in a way corresponding to the way in which that law applies in relation to a company.

Note: The law relating to income tax includes legislation relating to associated imposts (such as those connected with the imputation system).

Choice to form a consolidated group

713-130 Choosing to form a consolidated group

A trust may make a choice under section 703-50 (Choice to consolidate a consolidatable group), as if the trust were a company (the ***assumed company***), but only if:

(a) the assumed company could make the choice, if it beneficially owned the *membership interests in other entities that are legally owned by the trustee; and

(b) the day specified in the choice is the first day of an income year for which the trust is a *public trading trust.

Note: Assuming that a trust is a company also involves assuming:

(a) that the company has characteristics of the trust, such as the location of the central management and control (which is relevant to residence), the business of the trust, not being incorporated etc.; and

(b) that membership interests in the trust are membership interests in the company (owned by the same persons and in the same way as membership interests in the trust are owned); and

(c) that the company's taxable income is taxed at the same rate as the trust's net income.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Effects of choice

713-135 Effects of choice

(1) If the trust makes the choice, the law (the ***applied law***) described in subsection (2) applies in relation to the trust in a way corresponding to the way in which that law applies to a company. The applied law applies in that way in relation to the trust or trustee (as appropriate):

(a) with the appropriate modifications (including those described in section 713-140, so far as they are appropriate); and

(b) in relation to all times at or after the start of the day specified in the choice; and

(c) so far as it is relevant to the operation of the applied law in relation to the trust and a time at or after the start of that day—in relation to a time when the trust existed before the start of that day.

Note 1: The application of the applied law in this way affects not only the trust and the trustee but also other entities connected with the trust, such as members of the trust and entities in which the trustee holds membership interests. Some examples of that effect are that:

(a) a consolidated group comes into existence on the day specified in the choice; and

(b) there may be a scrip for scrip roll-over for an entity exchanging its shares in a company for membership interests in the trust.

Note 2: The application of the applied law in this way involves treatment of characteristics, things and persons relating to the trust corresponding to the treatment by the applied law of analogous characteristics, things and persons relating to a company (as envisaged in the note to section 713-130). These are some examples of analogous things and analogous persons:

(a) units in the trust and shares in a company;

(b) unitholders in the trust and shareholders in a company;

(c) trust voting interests and voting shares in a company.

(2) The applied law is:

(a) this Act (other than this Subdivision); and

(b) an Act that imposes any impost payable under this Act; and

(c) the *Income Tax Rates Act 1986*; and

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(d) the *Taxation Administration Act 1953*, so far as it relates to an Act covered by paragraph (a), (b) or (c); and

(e) any other Act, so far as it relates to an Act covered by paragraph (a), (b), (c) or (d); and

(f) regulations and other legislative instruments under an Act covered by any of the preceding paragraphs.

(3) Subsection (1) does not make an entity liable to a criminal, civil or administrative penalty.

Note: An entity is liable to such a penalty under the applied law only if that law, as it applies apart from subsection (1), makes the entity liable.

713-140 Modifications of the applied law

Overview

(1) This section describes modifications of the applied law in its application in relation to a trust or trustee under section 713-135, but does not limit the modifications of that law that are appropriate for the purposes of that section.

General modifications

(2) A reference in the applied law to a thing or person described in column 2 of an item of the table includes a reference to a thing or person described in column 3 of the item.

General modifications

Column 1 Item	Column 2 A reference in the applied law to:	Column 3 Includes a reference to:
1	A body corporate	The trust or trustee (as appropriate)
2	A dividend	A distribution from the trust, so far as the distribution is from profits
3	A share capital account	The amount of the trust estate that is *not* attributable to profits

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

General modifications		
Column 1 **Item**	**Column 2** **A reference in the applied law to:**	**Column 3** **Includes a reference to:**
4	A director (of a company, body corporate or corporation)	The trustee or, if the trustee is a body corporate, a director of the trustee (as appropriate)

Note: An expression in column 2 of an item of the table has the meaning that the expression has in the provision of the applied law containing the reference.

(3) The trust is not covered by a reference in the applied law to a trust.

Note: Subsections (3) and (4) of this section do not affect an entity's liability for criminal, civil and administrative penalties under the applied law, as those subsections modify (so far as appropriate) the applied law as it applies because of subsection 713-135(1), and that subsection does not affect liability for such penalties (see subsection 713-135(3)).

(4) The trustee is not covered by a reference in the applied law to a trustee (except a reference in section 254 of the *Income Tax Assessment Act 1936*).

Note: Section 254 of the *Income Tax Assessment Act 1936* deals with obligations and liabilities of trustees.

Modifications of specific provisions

(5) A provision of an Act identified in an item of the table is modified as set out in the item.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Modifications of specific provisions			
Item	**Act(s)**	**Provision**	**Modification**
3	*Income Tax Assessment Act 1997*	Division 83A	The Division does not apply in relation to an *ESS interest acquired under an *employee share scheme before the day specified in the choice if the Division did not apply in relation to the interest before that day.
4	*Income Tax Assessment Act 1997* and *Income Tax (Transitional Provisions) Act 1997*	Part 3-90 (of each Act)	The Part has effect as if an entity were a *wholly-owned subsidiary of the trust if the entity would have been one had the trustee owned beneficially *membership interests in the entity that the trustee owned legally.

Subdivision 713-E—Partnerships

Guide to Subdivision 713-E

713-200 What this Subdivision is about

This Subdivision modifies tax cost setting rules in Divisions 701, 705 and 711 so that they take account of the special characteristics of partnerships. The modifications apply in these situations:

(a) an entity that is a partner in a partnership becomes a subsidiary member of a consolidated group;

(b) a partnership becomes, or ceases to be, a subsidiary member of a consolidated group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Table of sections

Objects

713-205 Objects of this Subdivision

Partnership cost setting interests etc.

713-210 Partnership cost setting interests
713-215 Terminating value for partnership cost setting interest

Setting tax cost of partnership cost setting interests

713-220 Set tax cost of partnership cost setting interests if partner joins consolidated group
713-225 Tax cost setting amount for partnership cost setting interest

Special rules where partnership joins consolidated group

713-235 Partnership joins group—set tax cost of partnership assets
713-240 Partnership joins group—tax cost setting amount for partnership asset

Special rules where partnership leaves consolidated group

713-250 Partnership leaves group—standard provisions modified
713-255 Partnership leaves group—tax cost setting amount for partnership cost setting interests
713-260 Partnership leaves group—tax cost setting amount for assets consisting of being owed certain liabilities
713-265 Partnership leaves group—adjustments to allocable cost amount of partner who also leaves group

Objects

713-205 Objects of this Subdivision

(1) The first object of this Subdivision is to ensure that if:

(a) an entity that is a partner in a partnership becomes a *subsidiary member of a *consolidated group; and

(b) the partnership does not become a *subsidiary member of the group;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

the provisions mentioned in subsection (3) operate as if the *partnership cost setting interests of the entity in the partnership were the entity's only assets relating to the partnership.

Note: In general, the head company of the consolidated group is treated as a partner in the partnership, in accordance with section 701-1 (the single entity rule).

(2) The second object of this Subdivision is to ensure that where a partnership becomes a *subsidiary member of a *consolidated group, the provisions mentioned in subsection (3) operate:

(a) as if the group became the holder of the assets of the partnership; and

(b) to set the *tax cost of the assets of the partnership at an appropriate amount, taking into account the taxation treatment of partnerships.

Note: While the partnership is a subsidiary member of the group, it loses its separate tax identity (under the single entity rule in subsection 701-1(1)). Therefore, in general, the assets of the partnership are treated as assets of the head company of the group and partnership cost setting interests in the partnership are ignored.

(3) The provisions are:

(a) section 701-10 (about setting the tax cost of assets of an entity joining a group); and

(b) Subdivision 705-A; and

(c) any other provision of this Act giving Subdivision 705-A a modified effect in circumstances other than those covered by that Subdivision.

Note: An example of provisions covered by paragraph (c) are the provisions of Subdivision 705-B giving Subdivision 705-A a modified effect when a consolidated group is formed.

(4) The third object of this Subdivision is to ensure that, where a partnership ceases to be a *subsidiary member of a *consolidated group, the provisions mentioned in subsection (5) operate:

(a) as if the group's *partnership cost setting interests were the group's only assets relating to the partnership; and

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) to set the *tax cost of those interests at an appropriate amount, taking into account the fact that the group ceases to be the holder of the assets of the partnership.

(5) The provisions are:

(a) sections 701-15 and 701-50 (about setting the tax cost of membership interests in an entity that leaves the group); and

(b) sections 701-20 and 701-45 (about the cost of assets consisting of certain liabilities owed by or to an entity that leaves the group); and

(c) Division 711.

Partnership cost setting interests etc.

713-210 Partnership cost setting interests

A ***partnership cost setting interest*** in a partnership is the asset that is comprised of:

(a) an interest in an asset of the partnership; or

(b) an interest in the partnership that is not covered by paragraph (a);

but does not include an asset that is comprised of a *membership interest in the partnership.

Note 1: A partner may have more than one partnership cost setting interest that relates to an asset of the partnership (see section 106-5).

Note 2: A partnership cost setting interest may relate to an asset of the partnership, but the asset of the partnership is not a partnership cost setting interest in the partnership.

713-215 Terminating value for partnership cost setting interest

(1) This section modifies the way in which the *terminating value of a *partnership cost setting interest in a partnership is worked out under section 705-30.

(2) For the purposes of this Subdivision, the *terminating value of the *partnership cost setting interest at a time is:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) if the interest relates to an asset of the partnership—the interest's individual share of the terminating value of that asset (worked out in accordance with subsection (3)) at that time; or

(b) otherwise—the terminating value of the interest at that time worked out under section 705-30.

(3) To work out the amount of the *terminating value of the asset of the partnership mentioned in paragraph (2)(a), apply section 705-30 as if:

(a) the time mentioned in subsection (2) were the joining time mentioned in that section; and

(b) the partnership were, at the time mentioned in subsection (2), the joining entity mentioned in that section.

Setting tax cost of partnership cost setting interests

713-220 Set tax cost of partnership cost setting interests if partner joins consolidated group

(1) This section applies if an entity (the ***joining entity***) that is a partner in a partnership becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***).

Note: If the partnership becomes a subsidiary member of the group at the joining time, the application of this section is affected by section 713-235.

(2) In applying the provisions mentioned in subsection 713-205(3) in relation to the joining entity:

(a) work out the *tax cost setting amount for each *partnership cost setting interest in the partnership that the joining entity holds at the joining time, in accordance with section 713-225; and

(b) except for the purposes of section 713-235 (which applies only if the partnership joins the group), do not work out tax cost setting amounts for the assets of the partnership; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) do not work out tax cost setting amounts for the *membership interests in the partnership held by the joining entity.

Note 1: Because of paragraphs (b) and (c), no amount of allocable cost amount for the joining entity is allocated to the assets of the partnership, or to membership interests in the partnership held by the joining entity.

Note 2: If assets of the partnership are held on revenue account, the related partnership cost setting interests held by the joining entity have their tax cost set at the joining time. However, that tax cost does not alter calculations of the net income or exempt income of the partnership, or of a partnership loss, for the purposes of section 92 of the *Income Tax Assessment Act 1936*.

713-225 Tax cost setting amount for partnership cost setting interest

(1) This section modifies the way in which the *tax cost setting amounts are worked out under Division 705 for the *partnership cost setting interests mentioned in paragraph 713-220(2)(a).

Partnership cost setting interest takes character of partnership asset—general

(2) Work out the *tax cost setting amounts for those *partnership cost setting interests as if any partnership cost setting interest that relates to an asset (the ***underlying partnership asset***) of the partnership were an asset of the same kind as the underlying partnership asset.

Note: The kinds of assets mentioned in subsection (2) include the following:
(a) retained cost base assets;
(b) reset cost base assets that are held on revenue account (however, if such assets are trading stock or depreciating assets, the special rule in subsection (4) will apply) or on capital account;
(c) excluded assets (see subsection (3));
(d) current assets (within the meaning of subsection 705-125(2)).

Example: The partnership has an asset that is Australian currency (which is a retained cost base asset). A partnership cost setting interest of the joining entity in that asset is treated as a retained cost base asset for the purpose of working out the tax cost setting amounts for the joining entity's partnership cost setting interests in the partnership.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Partnership cost setting interest takes character of partnership asset—excluded assets

(3) If:

(a) tax cost setting amounts were to be worked out for the assets of the partnership under Division 705; and

(b) in working out those amounts, the underlying partnership asset mentioned in subsection (2) would be an excluded asset for the purposes of section 705-35;

then subsection (2) operates so that the *tax cost setting amounts for those *partnership cost setting interests are worked out as if any partnership cost setting interest that relates to the underlying partnership asset were an excluded asset for the purposes of section 705-35.

Special character of partnership cost setting interest in partnership asset that is trading stock, a depreciating asset or a registered emissions unit

(4) Despite subsection (2), if an asset of the partnership is *trading stock, a *depreciating asset or a *registered emissions unit, work out the *tax cost setting amounts for those *partnership cost setting interests as if:

(a) a partnership cost setting interest relating to that asset were a *retained cost base asset; and

(b) the tax cost setting amount for that partnership cost setting interest were equal to its *terminating value (worked out in accordance with section 713-215).

Partnership liabilities—working out allocable cost amount

(6) If:

(a) in accordance with the *accounting principles that the partnership would use if it were to prepare its financial statements just before the joining time, a thing (the ***partnership liability***) is a liability of the partnership at the joining time; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) for that reason, the partnership liability is not an accounting liability of the joining entity at the joining time for the purposes of section 705-70;

then sections 705-70, 705-75 and 705-80 operate as if the partnership liability were an accounting liability of the joining entity at the joining time, to the extent of the joining entity's individual share of the partnership liability.

Partnership deductions—working out allocable cost amount

(7) Section 705-115 operates as if:

(a) a deduction to which the partnership is entitled (the ***partnership deduction***) were a deduction to which the joining entity was entitled, to the extent of the joining entity's individual share of the partnership deduction; and

(b) the deduction to which the joining entity was entitled were of the same kind as the partnership deduction.

Note: These kinds of deductions include acquired deductions and owned deductions (within the meaning of section 705-115).

Special rules where partnership joins consolidated group

713-235 Partnership joins group—set tax cost of partnership assets

(1) This section applies if a partnership becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***).

(2) In applying the provisions mentioned in subsection 713-205(3) in relation to the partnership:

(a) do not work out an allocable cost amount for the partnership; and

(b) work out the *tax cost setting amount for each asset of the partnership covered by subsection (3), in accordance with section 713-240.

Note: If a partner in the partnership becomes a subsidiary member of the group at the joining time, tax cost setting amounts are worked out for the assets of the partner (including partnership cost setting interests)

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

before tax cost setting amounts are worked out for the assets of the partnership.

(3) An asset of the partnership at the joining time is covered by this subsection, unless it would be an excluded asset for the purposes of section 705-35 on the assumption that tax cost setting amounts were worked out for the assets of the partnership under Division 705 (instead of section 713-240).

713-240 Partnership joins group—tax cost setting amount for partnership asset

(1) Work out the *tax cost setting amounts for the assets covered by subsection 713-235(3) as follows:

(a) firstly, add up the subsection (2) amounts for all the partnership cost setting interests in the partnership at the joining time (the result is the ***partnership cost pool***);

Note 1: Partnership cost setting interests held by a partner that becomes a subsidiary member of the group at the joining time are included in the calculation in paragraph (a). The operation of the cost setting rules in relation to that partner at the joining time may affect the subsection (2) amounts for those interests.

Note 2: Partnership cost setting interests are included in the calculation in paragraph (a), even if the cost setting rules have not applied in relation to the interests (for example, if the interests were acquired directly by the head company).

(b) secondly, work out the tax cost setting amounts for the assets covered by subsection 713-235(3) that are *retained cost base assets, in accordance with section 705-25;

(c) thirdly, work out the tax cost setting amounts for the rest of the assets covered by subsection 713-235(3), in accordance with subsection (3).

Subsection (2) amount for a partnership cost setting interest

(2) For the purposes of paragraph (1)(a), the subsection (2) amount for a *partnership cost setting interest is the amount specified in the following table:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Working out the subsection (2) amount		
Item	**If the market value of the partnership cost setting interest is ...**	**the subsection (2) amount for the partnership cost setting interest is ...**
1	equal to or greater than its *cost base	its cost base
2	less than its *cost base but greater than its *reduced cost base	its *market value
3	less than or equal to its *reduced cost base	its reduced cost base

Allocating partnership cost pool to partnership assets that are not retained cost base assets

(3) Work out the *tax cost setting amounts for the assets mentioned in paragraph (1)(c) by applying sections 705-35, 705-40, 705-45 and 705-47 to those assets, as if:

(a) the partnership were, at the joining time, the joining entity mentioned in those sections; and

(b) the assets of the partnership were the assets covered by subsection 713-235(3); and

(c) the allocable cost amount mentioned in paragraph 705-35(1)(a) were the partnership cost pool.

(4) For the purposes of this section, section 104-510 (CGT event L3) applies as if the group's allocable cost amount for the entity mentioned in that section were the partnership cost pool.

Special rules where partnership leaves consolidated group

713-250 Partnership leaves group—standard provisions modified

(1) This section applies if a partnership ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: The section applies whether or not any partner that is a subsidiary member of the group also ceases to be a subsidiary member at the leaving time.

(2) Apply the provisions mentioned in subsection 713-205(5) subject to the modifications in the provisions that follow under this *group heading.

713-255 Partnership leaves group—tax cost setting amount for partnership cost setting interests

Overview

(1) Instead of working out *tax cost setting amounts for *membership interests in the partnership, a special rule requires *partnership cost setting interests in the partnership to be worked out. Where other entities cease to be *subsidiary members at the same time, the normal tax cost setting amount rules are applied for membership interests in the other entities, but the special rule is applied for partnership cost setting interests in the partnership.

Tax cost setting amounts for membership interests in partnership not to be worked out

(2) Do not work out *tax cost setting amounts for *membership interests in the partnership.

Partnership is only entity that exits—tax cost setting amount for partnership cost setting interests

(3) Except where the partnership ceases to be a *subsidiary member in circumstances covered by subsection (5), work out in accordance with subsection (4) the *tax cost setting amount just before the leaving time for each *partnership cost setting interest in the partnership held by a partner that is a *member of the group just before the leaving time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Tax cost setting amount

(4) The *tax cost setting amount is equal to the partner's individual share of the *terminating value of the partnership asset to which the *partnership cost setting interest relates.

Note: For income tax purposes there is no disposal by the head company of any assets of the partnership when it ceases to be a subsidiary member of the group.

Multiple exit case—tax cost setting amounts for both partnership cost setting interests in partnership and membership interests in other entities

(5) If the partnership is one of 2 or more entities that cease to be *subsidiary members of the old group at the same time because of an event happening in relation to one of them, apply section 711-55 as if:

(a) except in paragraph 711-55(3)(a), a reference to *membership interests in an entity, or to the *tax cost setting amount for such interests, where the entity is the partnership, were a reference to *partnership cost setting interests in the partnership, or to the tax cost setting amount for such interests; and

(b) paragraph 711-55(3)(a) were replaced by a requirement that, where the entity in which the membership interests mentioned in subsection 711-55(3) are held is the partnership, subsection (4) of this section is to be applied in working out the tax cost setting amount of the partnership cost setting interests in the partnership.

713-260 Partnership leaves group—tax cost setting amount for assets consisting of being owed certain liabilities

(1) This section applies if:

(a) when the partnership ceases to be a *subsidiary member of the group, a partner remains a *member of the group; and

(b) an asset becomes an asset of the *head company because subsection 701-1(1) (the single entity rule) ceases to apply to

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

the partnership when it ceases to be a subsidiary member; and

(c) the asset is, ignoring that subsection:

(i) the partner's interest in an asset of the partnership consisting of a liability of a member of the group owed to the partnership; or

(ii) the partner's share of a liability of the partnership owed to a member of the group.

(2) The asset's *tax cost is set at the leaving time at a *tax cost setting amount equal to the *market value of the asset.

713-265 Partnership leaves group—adjustments to allocable cost amount of partner who also leaves group

(1) This section has effect in working out the group's *allocable cost amount for a partner in the partnership, if the partner ceases to be a *subsidiary member of the group at the leaving time.

(2) Section 711-35 operates as if:

(a) a deduction to which the partnership becomes entitled (the ***partnership deduction***) were a deduction to which the partner becomes entitled, to the extent of the partner's individual share of the partnership deduction; and

(b) the deduction to which the partner becomes entitled were of the same kind as the partnership deduction.

Note: These kinds of deductions include acquired deductions and owned deductions (within the meaning of section 711-35).

(3) Section 711-40 operates as if a liability owed by *members of the group to the partnership at the leaving time were a liability owed by members of the group to the partner at that time, to the extent of the partner's individual share of the liability.

(4) If:

(a) in accordance with the *accounting principles that the partnership would use if it were to prepare its financial statements just before the leaving time (disregarding

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Authorised Version C2022C00307 registered 22/10/2022

subsection 701-1(1) (the single entity rule)), a thing (the ***partnership liability***) is a liability of the partnership just before the leaving time; and

(b) for that reason, the partnership liability is not an accounting liability of the partner just before the leaving time for the purposes of section 711-45;

then section 711-45 operates as if the partnership liability were an accounting liability of the partner just before the leaving time, to the extent of the partner's individual share of the partnership liability.

Subdivision 713-L—Life insurance companies

Guide to Subdivision 713-L

713-500 What this Subdivision is about

This Subdivision sets out special rules for:

(a) a life insurance company that becomes, or ceases to be, a member of a consolidated group; and

(b) the head company of a consolidated group where a life insurance company is a subsidiary member of the group.

Table of sections

General modifications for life insurance companies

713-505 Head company treated as a life insurance company
713-510 Certain subsidiaries of life insurance companies cannot be members of consolidated group
713-510A Disregard single entity rule in working out certain amounts in respect of life insurance company

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Life insurance companies' liabilities on joining consolidated group

713-511 Treatment of certain liabilities for income year when life insurance company joins consolidated group

Tax cost setting rules for life insurance companies joining consolidated group

713-515 Certain assets taken to be retained cost base assets where life insurance company joins group
713-520 Valuing certain liabilities where life insurance company joins group
713-525 Obligation to value certain assets and liabilities at joining time

Losses of life insurance companies joining consolidated group

713-530 Treatment of certain losses of life insurance company

Losses of life insurance companies' subsidiaries joining consolidated group

713-535 Losses of entities whose membership interests are complying superannuation assets of life insurance company
713-540 Losses of entities whose membership interests are segregated exempt assets of life insurance company

Imputation rules for life insurance companies joining consolidated group

713-545 Treatment of franking surplus in franking account of life insurance subsidiary joining group
713-550 Treatment of head company's franking account after joining

Liabilities for life insurance companies leaving consolidated group

713-565 Treatment of certain liabilities for income year when life insurance company leaves consolidated group

Losses for life insurance companies leaving consolidated group

713-570 Certain losses transferred to leaving company

Tax cost setting rules for life insurance companies leaving consolidated group

713-575 Terminating value of certain assets where life insurance company leaves group
713-580 Valuing certain liabilities where life insurance company leaves group

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

713-585 Obligation to value certain assets and liabilities at leaving time

General modifications for life insurance companies

713-505 Head company treated as a life insurance company

This Act, and the *Income Tax Rates Act 1986*, apply to the *head company of a *consolidated group as if it were a *life insurance company for an income year if one or more life insurance companies are *subsidiary members of the group at any time during that year.

713-510 Certain subsidiaries of life insurance companies cannot be members of consolidated group

(1) An entity cannot be a *subsidiary member of a *consolidated group or *consolidatable group of which a *life insurance company is a *member if:

(a) the life insurance company owns, either directly or indirectly through one or more interposed entities, all the *membership interests in the entity and either:

(i) some, but not all, of the membership interests described in subsection (3) (the ***key interests***) are *complying superannuation assets of the life insurance company; or

(ii) some, but not all, of the key interests are *segregated exempt assets of the life insurance company; or

(b) the life insurance company owns, either directly or indirectly through one or more interposed entities, only some of the membership interests in the entity and any of the key interests are complying superannuation assets or segregated exempt assets of the life insurance company.

Note: The entity could, however, be a member of another consolidated group or consolidatable group.

(2) An entity cannot continue to be a *subsidiary member of a *consolidated group of which a *life insurance company is a *member if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the life insurance company owns, either directly or indirectly through one or more interposed entities, all the *membership interests in the entity and, had the entity not been a subsidiary member of the group, either:

(i) some, but not all, of the membership interests described in subsection (3) (the ***key interests***) would be *complying superannuation assets of the life insurance company; or

(ii) some, but not all, of the key interests would be *segregated exempt assets of the life insurance company; or

(b) the life insurance company owns, either directly or indirectly through one or more interposed entities, only some of the membership interests in the entity and, had the entity not been a subsidiary member of the group, any of the key interests would be complying superannuation assets or segregated exempt assets of the life insurance company.

(3) The key interests are the *membership interests the *life insurance company owns directly in:

(a) the entity; or

(b) an interposed entity.

713-510A Disregard single entity rule in working out certain amounts in respect of life insurance company

(1) This section applies if a *life insurance company is a *member of a *consolidated group.

(2) However, if the *life insurance company is a *subsidiary member of the group, this section does not apply:

(a) for the purposes of working out the *tax cost setting amount of an asset of the life insurance company when it becomes a subsidiary member of the group; and

(b) for the purposes of working out the tax cost setting amount of a *membership interest in the life insurance company if it ceases to be a subsidiary member of the group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) Disregard section 701-1 (the single entity rule) in working out any of the following for the purposes of Division 320 in relation to the *life insurance company:

(a) amounts of the *head company's ordinary income and statutory income derived from *segregated exempt assets that are not assessable income and are not *exempt income under paragraph 320-37(1)(a);

(b) the head company's taxable income of the *complying superannuation class (see section 320-137);

(c) the head company's *tax loss of the complying superannuation class (see section 320-141);

(d) the total *transfer value of the head company's *complying superannuation assets (see paragraph 320-175(1)(a));

(e) the amount of the head company's *complying superannuation liabilities (see paragraph 320-175(1)(b));

(f) the total transfer value of the head company's segregated exempt assets (see paragraph 320-230(1)(a));

(g) the amount of the head company's *exempt life insurance policy liabilities (see paragraph 320-230(1)(b)).

Life insurance companies' liabilities on joining consolidated group

713-511 Treatment of certain liabilities for income year when life insurance company joins consolidated group

(1) This section affects how paragraph 320-15(1)(h) and section 320-85 apply if:

(a) a *life insurance company becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) just before the joining time, the life insurance company had one or more liabilities under the *net risk components of life insurance policies.

Note: Paragraph 320-15(1)(h) and section 320-85 both operate on the basis of a comparison of the value of the company's liabilities under the net risk components of life insurance policies at the end of the current

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

year with the value of those liabilities at the end of the previous year, so that:

(a) that paragraph includes an amount in the company's assessable income for the current year if the value at the end of the current year is less than the value at the end of the previous income year; and

(b) that section allows a deduction for the current year if the value at the end of the current year is more than the value at the end of the previous income year.

(2) The object of this section is to ensure that the *head company of the *consolidated group bears the income tax consequences relating to a change in *value of the liabilities only after the joining time.

Note: The life insurance company bears the income tax consequences relating to a change in value of the liabilities before the joining time, because section 701-30 ensures that paragraph 320-15(1)(h) and section 320-85 apply in relation to a part of the income year before that time when the company was not a subsidiary member of a consolidated group as if that part were an income year.

(3) Paragraph 320-15(1)(h) and section 320-85 apply for the head company core purposes set out in section 701-1 (Single entity rule) as if the *value of the liabilities at the end of the last income year ending before the joining time were the value of the liabilities (for the *life insurance company) just before the joining time.

Tax cost setting rules for life insurance companies joining consolidated group

713-515 Certain assets taken to be retained cost base assets where life insurance company joins group

(1) If an entity that becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***) is a *life insurance company, these assets are ***retained cost base assets***:

(a) a *complying superannuation asset, or a *segregated exempt asset, of the company; and

(b) another asset of the company that is held by the company for the purpose of discharging its liabilities under the *net investment component of ordinary life insurance policies

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(except policies that provide for *participating benefits or *discretionary benefits under *life insurance business carried on in Australia); and

(c) for a life insurance company that has demutualised under Division 9AA of Part III of the *Income Tax Assessment Act 1936* where, in the period starting just after the company demutualises and ending at the joining time, all of the *membership interests in the company were owned by the same group—a goodwill asset of the company.

(2) If the *retained cost base asset is covered by paragraph (1)(a) or (b), its *tax cost setting amount is:

(a) for the purposes of working out the tax cost setting amounts for reset cost base assets (see section 705-35)—the asset's *transfer value just before the joining time; and

(b) for all other purposes—the asset's *terminating value.

(3) If the *retained cost base asset is covered by paragraph (1)(c), its *tax cost setting amount is the embedded value (see subsection 121AM(1) of the *Income Tax Assessment Act 1936*) on the applicable accounting day (see subsection 121AM(3) of that Act) of the *life insurance company concerned reduced by the net value of shareholders' assets held by the company on that day.

(4) The ***net investment component of ordinary life insurance policies*** is the component of *life insurance policies (except *exempt life insurance policies and *complying superannuation life insurance policies) that:

(a) is the component in respect of the part of those policies that has not been reinsured under a *contract of reinsurance; and

(b) is not the *net risk component of those policies.

713-520 Valuing certain liabilities where life insurance company joins group

(1) Despite section 705-70, if the joining entity mentioned in step 2 in the table in section 705-60 is a *life insurance company, the joining

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

entity's liabilities mentioned in this section are to be valued as mentioned in this section.

(2) The value of the joining entity's *complying superannuation liabilities (if any) is the amount worked out under section 320-190 at the joining time.

(3) The value of the joining entity's *exempt life insurance policy liabilities (if any) is the amount worked out under section 320-245 at the joining time.

(4) Subsection (5) applies to a liability of the joining entity if:
  (a) the liability is under the *net risk component of a *life insurance policy; and
  (b) the joining entity could deduct under section 320-80 an amount for the *risk component of claims paid under the policy had it not become a *member of the *consolidated group.

(5) The value of that liability is the *current termination value of the *net risk component of the *life insurance policy at the joining time (calculated by an *actuary).

(6) The value of the joining entity's liabilities under the *net investment component of ordinary life insurance policies is the amount worked out for those liabilities under subsection 320-190(2) as if those liabilities were *complying superannuation liabilities.

713-525 Obligation to value certain assets and liabilities at joining time

Division 320 has effect as if the time when a *life insurance company becomes a *subsidiary member of a *consolidated group were a *valuation time for the purposes of sections 320-175 and 320-230.

Note: This means that there must be a valuation of the complying superannuation assets and complying superannuation liabilities under section 320-175 (with the consequences set out in section 320-180),

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

and a valuation of the segregated exempt assets and exempt life insurance policy liabilities under section 320-230 (with the consequences set out in section 320-235), as at that time.

Losses of life insurance companies joining consolidated group

713-530 Treatment of certain losses of life insurance company

(1) This section applies if:

(a) a *life insurance company becomes a *member of a *consolidated group at a time (the ***joining time***); and

(b) just before the joining time, the life insurance company had either:

(i) a *tax loss of the *complying superannuation class; or

(ii) a *net capital loss from *complying superannuation assets.

(2) This Act operates (except so far as the contrary intention appears) for the purposes of income years ending after the joining time as if:

(a) the *head company of the *consolidated group had made the loss for the income year in which the joining time occurs; and

(b) the *life insurance company had not made the loss for the income year for which it made the loss.

(3) The *head company is not prevented from *utilising the loss for the income year in which the joining time occurs merely because this Act operates as if the head company had made the loss for that year.

(4) Division 707 does not apply in relation to the *net capital loss or the *tax loss at the joining time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Losses of life insurance companies' subsidiaries joining consolidated group

713-535 Losses of entities whose membership interests are complying superannuation assets of life insurance company

(1) This section applies if:

(a) a *life insurance company becomes a *member of a *consolidated group at a time (the ***joining time***); and

(b) at the joining time, the life insurance company owns, either directly or indirectly through one or more interposed entities, all the *membership interests in yet another entity (the ***life insurance subsidiary***) that becomes a *subsidiary member of the group at that time; and

(c) all the following membership interests are *complying superannuation assets of the life insurance company:

(i) the membership interests (if any) that the life insurance company owns directly in the life insurance subsidiary;

(ii) the membership interests (if any) that the life insurance company owns directly in the interposed entities; and

(d) the *head company of the group makes a *tax loss or *net capital loss under Subdivision 707-A because of a transfer from the life insurance subsidiary.

(2) This Act operates for the purposes of income years ending after the transfer as if:

(a) the *tax loss were of the *complying superannuation class; or

(b) the *net capital loss were from *complying superannuation assets.

(3) Subdivisions 707-B, 707-C and 707-D do not affect the *utilisation of the loss by the *head company of the *consolidated group.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

713-540 Losses of entities whose membership interests are segregated exempt assets of life insurance company

(1) This section applies if:

(a) a *life insurance company becomes a *member of a *consolidated group at a time (the ***joining time***); and

(b) at the joining time, the life insurance company owns, either directly or indirectly through one or more interposed entities, all the *membership interests in yet another entity (the ***life insurance subsidiary***) that becomes a *subsidiary member of the group at that time; and

(c) all the following membership interests are *segregated exempt assets of the life insurance company:

(i) the membership interests (if any) that the life insurance company owns directly in the life insurance subsidiary;

(ii) the membership interests (if any) that the life insurance company owns directly in the interposed entities.

(2) A *tax loss or *net capital loss of the life insurance subsidiary for an income year ending before the joining time cannot be *utilised by the life insurance subsidiary for an income year ending after that time.

Note: This prevents the loss from being transferred to the head company of the consolidated group under Subdivision 707-A (because it means the life insurance subsidiary could not have utilised the loss for the trial year). As a result, section 707-150 prevents any other entity from utilising the loss for an income year ending after the joining time.

Imputation rules for life insurance companies joining consolidated group

713-545 Treatment of franking surplus in franking account of life insurance subsidiary joining group

(1) This section applies if:

(a) a *life insurance company becomes a *member of a *consolidated group at a time (the ***joining time***); and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) at the joining time, the life insurance company owns, either directly or indirectly through one or more interposed entities, *membership interests in yet another entity (the ***life insurance subsidiary***) that becomes a *subsidiary member of the group at that time; and

(c) the life insurance subsidiary's *franking account is in surplus just before the joining time.

(2) Paragraph 709-60(2)(b) does not apply in relation to the life insurance subsidiary.

(3) A *franking credit arises at the joining time in the *franking account of the *head company of the group. The amount of the credit is the amount worked out under subsection (4).

(4) The amount is equal to the amount of the *franking credit that would arise in the *life insurance company's *franking account just before the joining time under item 5 of the table in subsection 219-15(2) if:

(a) the life insurance subsidiary made a *franked distribution to the life insurance company just before the joining time; and

(b) the amount of the franking credit on the distribution were equal to the surplus mentioned in paragraph (1)(c).

(5) The *head company of the group is entitled to a *tax offset for the income year in which the joining time occurs. The amount of the tax offset is:

(a) if all the *membership interests (if any) that the *life insurance company owns directly in the life insurance subsidiary, and all the membership interests (if any) that the life insurance company owns directly in interposed entities, are *segregated exempt assets of the life insurance company—the surplus mentioned in paragraph (1)(c), reduced by the amount worked out under subsection (4); or

(b) if all the membership interests (if any) that the life insurance company owns directly in the life insurance subsidiary, and all the membership interests (if any) that the life insurance company owns directly in interposed entities, are *complying

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

superannuation assets of the life insurance company—the amount worked out under subsection (6); or

(c) otherwise—nil.

(6) The amount is worked out using the following formula (or is nil if it would otherwise be negative):

$$\left(\text{Surplus mentioned in paragraph (1)(c)} - \text{Amount worked out under subsection (4)}\right) \times \frac{\text{Complying superannuation class tax rate}}{\text{Ordinary class tax rate}}$$

where:

complying superannuation class tax rate means the rate of tax in respect of the *complying superannuation class of the taxable income of a *life insurance company for the income year in which the joining time occurs (see paragraph 23A(b) of the *Income Tax Rates Act 1986*).

ordinary class tax rate means the rate of tax in respect of the *ordinary class of the taxable income of a life insurance company for the income year in which the joining time occurs (see paragraph 23A(a) of the *Income Tax Rates Act 1986*).

713-550 Treatment of head company's franking account after joining

Sections 709-70 and 709-75 do not apply in relation to a *subsidiary member of a *consolidated group if:

(a) the subsidiary member is a *life insurance company; or

(b) a life insurance company that is a *member of the group owns *membership interests, either directly or indirectly through one or more interposed entities, in the subsidiary member.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Liabilities for life insurance companies leaving consolidated group

713-565 Treatment of certain liabilities for income year when life insurance company leaves consolidated group

(1) This section affects how paragraph 320-15(1)(h) and section 320-85 apply if:

(a) a *life insurance company ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) at the leaving time, the *life insurance company has one or more liabilities under the *net risk components of life insurance policies.

Note: Paragraph 320-15(1)(h) and section 320-85 both operate on the basis of a comparison of the value of a life insurance company's liabilities under the net risk components of life insurance policies at the end of the current year with the value of those liabilities at the end of the previous year, so that:

(a) that paragraph includes an amount in the company's assessable income for the current year if the value at the end of the current year is less than the value at the end of the previous income year; and

(b) that section allows a deduction for the current year if the value at the end of the current year is more than the value at the end of the previous income year.

(2) The object of this section is to ensure that:

(a) the *head company of the *consolidated group bears the income tax consequences relating to a change in *value of the liabilities before the leaving time; and

(b) the *life insurance company bears the income tax consequences relating to a change in value of the liabilities after the leaving time.

Head company's income or deduction from liabilities

(3) For the head company core purposes set out in section 701-1 (Single entity rule) relating to the income year in which the leaving

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

time occurs (but not later income years), paragraph 320-15(1)(h) and section 320-85 have effect as if:

(a) the *head company of the *consolidated group had the liabilities at the end of that income year; and

(b) the *value of the liabilities at the end of that income year had been the amount that was actually the value of the liabilities (for the *life insurance company) at the leaving time.

Life insurance company's income or deduction from liabilities

(4) For the entity core purposes set out in section 701-1 (Single entity rule) relating to the *life insurance company and the income year in which the leaving time occurs, paragraph 320-15(1)(h) and section 320-85 have effect as if the *value of the liabilities at the end of the previous income year had been the amount that was actually the value of the liabilities (for the life insurance company) at the leaving time.

Losses for life insurance companies leaving consolidated group

713-570 Certain losses transferred to leaving company

(1) This section applies if:

(a) a *life insurance company ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) ignoring section 713-505, at the leaving time, no other *member of the group is a life insurance company that has a *complying superannuation asset pool; and

(c) at the leaving time, the *head company has either:

(i) a *tax loss of the *complying superannuation class; or

(ii) a *net capital loss from *complying superannuation assets.

(2) This Act operates (except so far as the contrary intention appears) for the purposes of income years ending after the leaving time as if:

(a) the *life insurance company had made the loss for the income year in which the leaving time occurs; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the *head company had not made the loss for the income year for which it made the loss.

Note: Section 707-410 (Exit history rule does not treat entity as having made a loss) does not prevent the life insurance company from having the loss under this section, because that section merely states that the company is not taken under section 701-40 (Exit history rule) to have made a loss.

(3) The *life insurance company is not prevented from *utilising the loss for the income year in which the leaving time occurs merely because this Act operates as if the life insurance company had made the loss for that year.

Tax cost setting rules for life insurance companies leaving consolidated group

713-575 Terminating value of certain assets where life insurance company leaves group

(1) This section applies if a *life insurance company (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***).

(2) For the purposes of applying section 711-25 in relation to the leaving entity, the *head company's ***terminating value*** for an asset that it holds at the leaving time because the leaving entity is taken by subsection 701-1(1) to be a part of the head company is the *transfer value of the asset at the leaving time, if the asset is:

(a) a *complying superannuation asset, or a *segregated exempt asset, of the head company; or

(b) held by the head company for the purpose of discharging its liabilities under the *net investment component of ordinary life insurance policies (except policies that provide for *participating benefits or *discretionary benefits under *life insurance business carried on in Australia).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

713-580 Valuing certain liabilities where life insurance company leaves group

(1) Despite section 711-45, if the leaving entity mentioned in step 4 in the table in section 711-20 is a *life insurance company, the leaving entity's liabilities mentioned in this section are to be valued as mentioned in this section.

(2) To avoid doubt, those liabilities are the liabilities that become those of the leaving entity because section 701-1 (Single entity rule) ceases to apply to the leaving entity when it ceases to be a *subsidiary member of the group.

(3) The value of the leaving entity's *complying superannuation liabilities (if any) is the amount worked out under section 320-190 at the leaving time.

(4) The value of the leaving entity's *exempt life insurance policy liabilities (if any) is the amount worked out under section 320-245 at the leaving time.

(5) Subsection (6) applies to a liability of the leaving entity if:
   (a) the liability is under the *net risk component of a *life insurance policy; and
   (b) the leaving entity could deduct under section 320-80 an amount for the *risk component of claims paid under the policy on or after the time it ceased to be a *member of the *consolidated group.

(6) The value of that liability is the *current termination value of the *net risk component of the *life insurance policy at the leaving time (calculated by an *actuary).

(7) The value of the leaving entity's liabilities under the *net investment component of ordinary life insurance policies is the amount worked out for those liabilities under subsection 320-190(2) as if those liabilities were *complying superannuation liabilities.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

713-585 Obligation to value certain assets and liabilities at leaving time

Division 320 has effect as if the time when a *life insurance company ceases to be a *subsidiary member of a *consolidated group were a *valuation time for the purposes of sections 320-175 and 320-230.

Note: This means that there must be a valuation of the complying superannuation assets and complying superannuation liabilities under section 320-175 (with the consequences set out in section 320-180), and a valuation of the segregated exempt assets and exempt life insurance policy liabilities under section 320-230 (with the consequences set out in section 320-235), as at that time.

Subdivision 713-M—General insurance companies

Guide to Subdivision 713-M

713-700 What this Subdivision is about

This Subdivision sets out special rules for a general insurance company becoming or ceasing to be a subsidiary member of a consolidated group.

Table of sections

Tax cost setting rules for general insurance companies joining consolidated group

713-705 Certain assets taken to be retained cost base assets where general insurance company joins group

Liabilities and reserves of general insurance companies joining and leaving consolidated groups

713-710 Treatment of liabilities and reserves for income year when general insurance company joins or leaves group
713-715 If general insurance company joins consolidated group
713-720 If general insurance company leaves consolidated group

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

713-725 Treatment of certain assets and liabilities of general insurance companies

Tax cost setting rules for general insurance companies joining consolidated group

713-705 Certain assets taken to be retained cost base assets where general insurance company joins group

(1) This section applies if:

(a) a *general insurance company becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) that company has demutualised under Division 9AA of Part III of the *Income Tax Assessment Act 1936*; and

(c) in the period starting just after the company demutualises and ending at the joining time, all of the *membership interests in the company were owned by the same group.

(2) A goodwill asset of the company just before the joining time is a ***retained cost base asset***.

(3) The goodwill asset's *tax cost setting amount is its amount (worked out in accordance with subsection 121AN(2) of the *Income Tax Assessment Act 1936*) on the applicable accounting day (see subsection 121AN(4) of that Act).

Liabilities and reserves of general insurance companies joining and leaving consolidated groups

713-710 Treatment of liabilities and reserves for income year when general insurance company joins or leaves group

Sections 713-715 and 713-720 affect how sections 321-10, 321-15, 321-50 and 321-55 (the ***affected sections***) apply in relation to these values (the ***affected values***):

(a) the value of the outstanding claims liability of a *general insurance company under *general insurance policies that is worked out under section 321-20;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the value of the unearned premium reserve of a general insurance company under general insurance policies that is worked out under section 321-60.

Note 1: Sections 321-10 and 321-15 both operate on the basis of a comparison of the value of the outstanding claims liability of a general insurance company at the end of the current year with the value of that liability at the end of the previous income year, so that:

(a) section 321-10 includes an amount in the company's assessable income for the current year if the value at the end of the current year is less than the value at the end of the previous income year; and

(b) section 321-15 allows a deduction for the current year if the value at the end of the current year is more than the value at the end of the previous income year.

Note 2: Sections 321-50 and 321-55 both operate on the basis of a comparison of the value of the unearned premium reserve of a general insurance company at the end of the current year with the value of that reserve at the end of the previous income year, so that:

(a) section 321-50 includes an amount in the company's assessable income for the current year if the value at the end of the current year is less than the value at the end of the previous income year; and

(b) section 321-55 allows a deduction for the current year if the value at the end of the current year is more than the value at the end of the previous income year.

713-715 If general insurance company joins consolidated group

(1) This section applies if a *general insurance company becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***).

(2) The object of this section is to ensure that the *head company of the *consolidated group bears the income tax consequences relating to changes after the joining time in the affected values.

Note: The general insurance company bears the income tax consequences relating to a change in the affected values before the joining time, because section 701-30 ensures that the affected sections apply in relation to a part of the income year before that time when the company was not a subsidiary member of a consolidated group as if that part were an income year.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) The affected sections apply for the head company core purposes set out in section 701-1 (Single entity rule) as if each of the affected values at the end of the last income year ending before the joining time were the amount that would have been that value had that income year ended just before the joining time.

713-720 If general insurance company leaves consolidated group

(1) This section applies if a *general insurance company ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***) in an income year (the ***leaving year***).

(2) The object of this section is to ensure that:

(a) the *head company of the *consolidated group bears the income tax consequences relating to changes before the leaving time in the affected values; and

(b) the *general insurance company bears the income tax consequences relating to changes after the leaving time in the affected values.

Head company's income or deduction

(3) For the head company core purposes set out in section 701-1 (Single entity rule) relating to the leaving year (but not later income years), the affected sections have effect as if each of the affected values at the end of the leaving year for the *head company of the *consolidated group were increased by the relevant value for the *general insurance company at the end of the previous income year worked out under subsection (5).

General insurance company's income or deduction

(4) For the entity core purposes set out in section 701-1 (Single entity rule) relating to the *general insurance company and the leaving year, the affected sections have effect as if each of the affected values for the general insurance company at the end of the previous income year were worked out under subsection (5).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Working out affected values at the end of the previous income year

(5) Work out each of the affected values for the *general insurance company at the end of the previous income year as if it had ended at the leaving time.

713-725 Treatment of certain assets and liabilities of general insurance companies

(1) This section applies if a *general insurance company becomes or ceases to be a *subsidiary member of a *consolidated group.

(2) If the *general insurance company becomes a *subsidiary member of the group:

(a) in working out the step 2 amount for the purposes of the table in section 705-60, reduce that amount by the sum of the amount of each thing mentioned in subsection (4); and

(b) in working out the *tax cost setting amount of a thing mentioned in subsection (4) for the purposes of section 705-35, treat the *market value of the thing as zero.

(3) If the *general insurance company ceases to be a *subsidiary member of the group:

(a) in working out the step 4 amount for the purposes of the table in section 711-20, reduce that amount by the sum of the amount of each thing mentioned in subsection (4); and

(b) for the purposes of section 711-25, treat the *terminating value of a thing mentioned in subsection (4) as zero.

(4) The things are the *general insurance company's:

(a) deferred acquisition costs in relation to the company's unearned premium reserve; and

(b) deferred reinsurance expenses in relation to the company's unearned premium reserve; and

(c) recoveries receivable in relation to the company's *outstanding claims.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 715—Interactions between this Part and other areas of the income tax law

Table of Subdivisions

715-A Treatment of unrealised losses existing when ownership or control of a company changes before or during consolidation
715-B How Subdivision 165-CD applies to consolidated groups and leaving entities
715-C Common rules for the purposes of Subdivisions 715-A and 715-B
715-D Treatment of company's deferred losses under Subdivision 170-D on joining a consolidated group
715-E Interactions with Division 775 (Foreign currency gains and losses)
715-F Interactions with Division 230 (financial arrangements)
715-G How value shifting rules apply to a consolidated group
715-H Cancelling loss on realisation event for direct or indirect interest in a member of a consolidated group
715-J Entry history rule and choices
715-K Exit history rule and choices
715-U Effect on conduit foreign income
715-V Entity ceasing to be exempt from income tax on becoming subsidiary member of consolidated group
715-W Effect on arrangements where CGT roll-overs are obtained

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 715-A—Treatment of unrealised losses existing when ownership or control of a company changes before or during consolidation

Table of sections

Object

715-15 Object of this Subdivision

Effect on Subdivision 165-CC of a company becoming a member of a consolidated group

715-25 Subdivision 165-CC stops applying to earlier changeover time
715-30 Meaning of ***165-CC tagged asset***
715-35 Meaning of ***final RUNL***

165-CC tagged assets that affect tax cost setting amounts

715-50 Step 1 amount is reduced if membership interest in subsidiary member is 165-CC tagged asset and business continuity test is failed
715-55 Step 2 amount is affected if liability of subsidiary member is 165-CC tagged asset of another group member and business continuity test is failed

165-CC tagged assets that form loss denial pools of head company when consolidated group is formed

715-60 Assets that the head company already owns
715-70 Assets of subsidiary member that become those of head company

How Subdivision 165-CC applies to consolidated groups

715-75 Extension of single entity rule and entry history rule

Effect on Subdivision 165-CC of entity leaving consolidated group

715-80 Application of sections 715-85 to 715-110
715-85 First changeover time for leaving company at or after leaving time
715-90 How business continuity test applies if leaving time is changeover time for leaving company
715-95 If ownership and control of leaving entity have ***not*** changed since head company's last changeover time
715-100 First choice: adjustable values of leaving assets reduced to nil

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-105 Second choice: head company's final RUNL applied in reducing adjustable values of leaving assets that are loss assets
715-110 Third choice: loss denial pool of leaving entity

Effect of assets in loss denial pool of head company becoming assets of leaving entity

715-120 What happens
715-125 First choice: adjustable values of leaving assets reduced to nil
715-130 Second choice: pool's loss denial balance applied in reducing adjustable values of leaving assets that are loss assets
715-135 Third choice: loss denial pool of leaving entity created

Effect of first and second choices on various kinds of assets

715-145 Effect of choice on adjustable value of leaving asset

General provisions about loss denial pools

715-155 When asset leaves pool
715-160 How loss denial balance is applied to losses realised on assets in pool
715-165 When pool ceases to exist

Choices under this Subdivision

715-175 When choice must be made
715-180 Head company to notify leaving entity of choice
715-185 Leaving entity may choose to cancel loss denial pool by reducing adjustable values of assets in the pool

Object

715-15 Object of this Subdivision

(1) The object of this Subdivision is to give effect to the purposes of Subdivision 165-CC (about change of ownership or control of a company that has an unrealised net loss) in these cases:

(a) on formation of a *consolidated group, a *CGT asset held directly by the *head company is affected by that Subdivision, and the *business continuity test is failed;

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Authorised Version C2022C00307 registered 22/10/2022

(b) on an entity becoming a *subsidiary member of a consolidated group, an asset consisting of:

(i) a *membership interest that a *member of the group (including a chosen transitional entity under Division 701 of the *Income Tax (Transitional Provisions) Act 1997*) holds in the entity; or

(ii) a liability that the entity owes to such a member;

is affected by that Subdivision, and the business continuity test is failed;

(c) on a company becoming a subsidiary member:

(i) a CGT asset of the company that becomes an asset of the head company is affected by that Subdivision; and

(ii) because the company is a chosen transitional entity, the asset does not have its tax cost reset; and

(iii) the business continuity test is failed;

(d) on an entity ceasing to be a subsidiary member, a CGT asset of the head company that becomes an asset of the entity is affected by that Subdivision, and the business continuity test is failed.

Note: Subdivision 165-CC also affects an entity that has deferred losses under Subdivision 170-D on assets that it formerly owned. Subdivision 715-D gives effect to the purposes of Subdivision 165-CC if such an entity becomes a member of a consolidated group.

(2) This Subdivision achieves its object by supplementing and modifying the application of Subdivision 165-CC to take account of how the rest of this Part treats *members of a *consolidated group (in particular the provisions about entities becoming or ceasing to be members).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Effect on Subdivision 165-CC of a company becoming a member of a consolidated group

715-25 Subdivision 165-CC stops applying to earlier changeover time

(1) At and after the time (the ***membership time***) when a company becomes a *member of a *consolidated group, Subdivision 165-CC does not apply to the company in relation to a *changeover time that happened before the membership time, except for the purposes of section 715-30 (which defines ***165-CC tagged asset***).

Note 1: Subdivision 165-CC is about change of ownership or control of a company that has an unrealised net loss.

Note 2: If the company has 165-CC tagged assets at the membership time, there are further consequences under this Subdivision and Subdivision 715-D.

Also, Subdivision 165-CC can apply to the head company of the group in relation to a changeover time that happens for it at or after the membership time. See section 715-75.

(2) Subsection (1) continues to have effect even if the company later stops being a *member of the group.

715-30 Meaning of *165-CC tagged asset*

A *CGT asset is a ***165-CC tagged asset*** of a company at a particular time if, and only if:

(a) that time is at or after the most recent *changeover time (if any) for the company; and

(b) at that changeover time, the company had an unrealised net loss under section 165-115E; and

(c) the asset is covered by subsection 165-115A(1A) as applying to that changeover time; and

(d) the company would not, at that changeover time, satisfy the maximum net asset value test under section 152-15; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(e) if the company has chosen under subsection 165-115A(1B) in relation to that changeover time—the company *acquired the asset for $10,000 or more.

715-35 Meaning of *final RUNL*

A company's ***final RUNL*** at a particular time (the ***test time***) is the amount that would have been the company's *residual unrealised net loss at the time of:

(a) if no event that subsection 165-115BB(2) refers to as a relevant event actually happens at the test time—a notional event of that kind happening at the test time; or

(b) otherwise—a notional event of that kind that happens at the test time, and that the company determines under paragraph 165-115BB(1)(b) to have happened *later* than each event that actually happened at that time.

Note: This Subdivision reduces a company's final RUNL as amounts of it are applied for various purposes.

165-CC tagged assets that affect tax cost setting amounts

715-50 Step 1 amount is reduced if membership interest in subsidiary member is 165-CC tagged asset and business continuity test is failed

(1) The amount taken into account under subsection 705-65(1) (about the cost of membership interests in the joining entity) for a *membership interest that a *member of the joined group holds in the joining entity at the joining time is reduced if:

(a) apart from this section, the amount would be the membership interest's *reduced cost base (if appropriate, as modified by a later provision of section 705-65); and

(b) the membership interest is at that time a *165-CC tagged asset of that member, and that member owned it at the *changeover time for that member; and

(c) that member's *final RUNL just before the joining time was greater than nil; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(d) that member does *not* satisfy the *business continuity test for:
(i) the period (the ***business continuity test period***) consisting of the *head company's *trial year; and
(ii) the time (the ***test time***) just before the *changeover time.

(2) If at the joining time that *member holds:
(a) 2 or *more membership interests in the joining entity; or
(b) at least one membership interest in the joining entity, and at least one membership interest in another member of the joined group;
this section applies to each such membership interest in whichever order that member determines.

Amount of reduction

(3) The amount taken into account under subsection 705-65(1) is reduced to the *membership interest's *market value at the joining time.

(4) However, if that member's *final RUNL (as reduced by any previous reductions under this section) is *less than* the difference between:
(a) the *reduced cost base referred to in paragraph (1)(a); and
(b) the *market value referred to in subsection (3);
the amount taken into account under subsection 705-65(1) is instead reduced by that final RUNL.

(5) That *final RUNL is reduced by the amount of the reduction under subsection (3) or (4).

Non-membership equity interests

(6) Subsection 705-65(6) (which treats *non-membership equity interests as *membership interests) also applies for the purposes of this section.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-55 Step 2 amount is affected if liability of subsidiary member is 165-CC tagged asset of another group member and business continuity test is failed

(1) The amount (the ***comparison amount***) applicable under the table in subsection 705-75(2) (about reduction of the step 2 amount) for an accounting liability of the joining entity that is owed to a *member of the joined group at the joining time is reduced if:

(a) apart from this section, the comparison amount would be the *reduced cost base (if appropriate, as modified by a later provision of section 705-75) of the asset of that member that is constituted by the accounting liability; and

(b) the asset is at that time a *165-CC tagged asset of that member, and that member owned it at the *changeover time; and

(c) that member's *final RUNL just before the joining time (as reduced by any reductions under section 715-50) was greater than nil; and

(d) that member does *not* satisfy the *business continuity test for:

(i) the period (the ***business continuity test period***) consisting of the *head company's *trial year; and

(ii) the time (the ***test time***) just before the *changeover time.

Note: Paragraph (1)(c) has the effect that if both this section and section 715-50 apply to the same member of the joined group, section 715-50 is applied before this section.

(2) If at the joining time that *member holds:

(a) 2 or *more assets constituted by accounting liabilities of the joining entity; or

(b) at least one asset constituted by an accounting liability of the joining entity, and at least one asset constituted by an accounting liability of another member of the group;

this section applies to each such asset in whichever order that member determines.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Amount of reduction

(3) The comparison amount is reduced to the asset's *market value at the joining time.

(4) However, if that member's *final RUNL (as reduced by any previous reductions under section 715-50 or this section) is *less than* the difference between:

(a) the *reduced cost base referred to in paragraph (1)(a); and

(b) the asset's *market value at the joining time;

the comparison amount is instead reduced by that final RUNL.

(5) That *final RUNL is reduced by the amount of the reduction under subsection (3) or (4).

165-CC tagged assets that form loss denial pools of head company when consolidated group is formed

715-60 Assets that the head company already owns

(1) At the time (the ***formation time***) when a *consolidated group comes into existence under paragraph 703-5(1)(a), a ***loss denial pool*** of the *head company is created if:

(a) the formation time is *not* a *changeover time for the head company; and

(b) at the formation time, the head company owns a *CGT asset:

(i) that is a *165-CC tagged asset of the head company at that time; and

(ii) that it owned at the *changeover time; and

(iii) that is not a *membership interest in a *member of the group; and

(iv) that is not a right or option (including a contingent right or option), created or issued by a member of the group, to acquire such a membership interest; and

(v) that is not constituted by a liability owed to the head company by a member of the group;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

or 2 or more such assets; and

(c) the head company's *final RUNL just before the formation time (as reduced by any reductions under section 715-50 or 715-55) was greater than nil; and

(d) the head company does *not* satisfy the *business continuity test for:

(i) the period (the ***business continuity test period***) consisting of the head company's *trial year; and

(ii) the time (the ***test time***) just before the *changeover time.

Note: Paragraph (1)(c) has the effect that if the head company has 165-CC tagged assets that are affected by section 715-50 or 715-55 (because they are membership interests in, or accounting liabilities owed by, another group member), those sections are applied before this section.

(2) When it is created, the pool consists of the one or more *CGT assets referred to in paragraph (1)(b), and its ***loss denial balance*** is equal to the *final RUNL referred to in paragraph (1)(c).

Note 1: The pool is distinct from any other loss denial pool of the head company, for example, one created at the formation time under section 715-70.

Note 2: 170-D deferred losses on 165-CC tagged assets of the head company may be added to the pool by subsection 715-355(1).

715-70 Assets of subsidiary member that become those of head company

(1) At the time (the ***formation time***) when an entity becomes a *subsidiary member of a *consolidated group, a ***loss denial pool*** of the *head company of the group is created if:

(a) the formation time is *not* a *changeover time for the head company; and

(b) the entity is a chosen transitional entity under Division 701 of the *Income Tax (Transitional Provisions) Act 1997*; and

(c) subsection (2) or (4) of this section is satisfied.

Note 1: If the entity is a chosen transitional entity, section 701-15 of the *Income Tax (Transitional Provisions) Act 1997* prevents:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

- section 701-10 (cost to head company of assets of joining entity); and
- subsection 701-35(4) (setting value of trading stock at tax-neutral amount);

of this Act from applying to the entity's assets in relation to the formation time.

Note 2: The pool is distinct from any other loss denial pool of the head company, for example, one created under this section because another entity becomes a subsidiary member of the group at the formation time.

Joining entity has 165-CC tagged assets

(2) This subsection is satisfied if:

(a) a *CGT asset of the entity, or each of 2 or more CGT assets of the entity:

(i) is a *165-CC tagged asset of the entity at the formation time; and

(ii) was owned by the entity at the *changeover time; and

(iii) is not a *membership interest in a *member of the group; and

(iv) is not a right or option (including a contingent right or option), created or issued by a member of the group, to acquire such a membership interest; and

(v) is not constituted by a liability owed to the entity by a member of the group at the formation time; and

(b) the entity's *final RUNL just before the formation time (as reduced by any reductions under section 715-50 or 715-55) was greater than nil; and

(c) the entity does *not* satisfy the *business continuity test for:

(i) the period (the ***business continuity test period***) consisting of the entity's *trial year; and

(ii) the time (the ***test time***) just before the *changeover time.

Note: Paragraph (2)(b) has the effect that if the entity has 165-CC tagged assets that are affected by section 715-50 or 715-55 (because they are membership interests in, or accounting liabilities owed by, another group member), those sections are applied before this section.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) When it is created because of subsection (2), the pool consists of the one or more *CGT assets referred to in paragraph (2)(a), and its ***loss denial balance*** is equal to the *final RUNL referred to in paragraph (2)(b).

Note: 170-D deferred losses on 165-CC tagged assets of the head company may be added to the pool by subsection 715-355(2).

Entity has loss denial pool

(4) This subsection is satisfied if, just before the formation time, the entity had a *loss denial pool.

(5) When it is created because of subsection (4), the *head company's loss denial pool:

(a) consists of the one or more *CGT assets of which the entity's loss *denial pool consisted; and

(b) has a ***loss denial balance*** equal to the *loss denial balance of the entity's loss denial pool;

just before the formation time.

How Subdivision 165-CC applies to consolidated groups

715-75 Extension of single entity rule and entry history rule

(1) Subsection 701-1(1) (Single entity rule) and section 701-5 (Entry history rule) also have effect for all the purposes of Subdivision 165-CC (about change of ownership or control of a company that has an unrealised net loss).

Note: One consequence of this is that the head company is the only member of a consolidated group that can have a changeover time and be subject to consequences under Subdivision 165-CC. The head company is treated as owning all CGT assets owned by group members, and as making relevant losses.

(2) This section is not intended to limit the effect that subsection 701-1(1) and section 701-5 have apart from this section.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Effect on Subdivision 165-CC of entity leaving consolidated group

715-80 Application of sections 715-85 to 715-110

Sections 715-85 to 715-110 apply if, at a particular time (the ***leaving time***), an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group.

Note 1: If a changeover time happened to the head company at or after the group came into existence and before the leaving time, Subdivision 165-CC does *not* apply to the head company at and after the leaving time, in respect of assets that leave with the leaving entity, in relation to the changeover time.

This is because the head company can no longer make a capital loss, or become entitled to a deduction, in respect of a CGT event happening to any of those assets.

Note 2: If, just before the leaving time, the head company had a loss denial pool, see section 715-120.

715-85 First changeover time for leaving company at or after leaving time

If the leaving entity is a company, its first *changeover time at or after the leaving time is determined:

(a) on the basis that the reference time under subsection 165-115A(2A) is the one that would be used in determining whether the leaving time was a changeover time for the *head company*; and

(b) making the additional assumptions in section 715-290.

Note: If the leaving entity is a trust, it cannot have a changeover time (because Subdivision 165-CC applies only to companies), so section 715-95 applies to it instead: see subsection 715-95(2).

715-90 How business continuity test applies if leaving time is changeover time for leaving company

(1) This section applies if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the leaving entity is a company; and
(b) the leaving time is a *changeover time for the leaving entity.

(2) In applying to the leaving entity for the *changeover time that is the leaving time, subsection 165-115B(3) and paragraph 165-115BA(5)(c) have effect as if they provided that the time just after the changeover time were the ***test time*** for applying section 165-13 to the company.

Note: This ensures that the business continuity test is applied to the business that the leaving entity carries on at the leaving time.

715-95 If ownership and control of leaving entity have *not* changed since head company's last changeover time

(1) This section applies if:
(a) the leaving entity is a company; and
(b) the leaving time is *not* a *changeover time for the leaving entity; and
(c) just before the leaving time, the *head company owned at least one *CGT asset:
(i) that was a *165-CC tagged asset just before the leaving time; and
(ii) that it owned at the latest changeover time for the head company at or after the group came into existence and before the leaving time; and
(d) at least one asset covered by paragraph (c) is an asset (a ***leaving asset***) that becomes an asset of the leaving entity at the leaving time because subsection 701-1(1) (Single entity rule) ceases to apply to the entity; and
(e) the head company's *final RUNL at the leaving time is greater than nil.

(2) This section also applies if the leaving entity is a trust.

(3) If the *head company does *not* satisfy the *business continuity test for:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the period (the ***business continuity test period***) starting at the *earlier* of:

(i) the time 12 months before the leaving time; and

(ii) when the head company came into existence;

and ending just before the leaving time; and

(b) the time (the ***test time***) just before the *changeover time;

the head company must make one of the choices for which sections 715-100, 715-105 and 715-110 provide.

Note: For provisions about making one of these choices, see sections 715-175 to 715-185.

715-100 First choice: adjustable values of leaving assets reduced to nil

The first choice is to reduce the *adjustable value of each leaving asset to nil. The choice has effect accordingly, just before the leaving time. The *head company's *final RUNL is *not* reduced because of it.

Note: The consequences of the choice are worked out under section 715-145.

715-105 Second choice: head company's final RUNL applied in reducing adjustable values of leaving assets that are loss assets

(1) The second choice is to reduce under this section the *adjustable value of each leaving asset (a ***loss asset***) for which the *head company would have had a notional capital loss, or notional revenue loss, under section 165-115F at the time (the ***test time***) just before the leaving time if the test time had been a *changeover time for the head company. The choice has effect accordingly.

Note: The consequences of the choice are worked out under this section and section 715-145.

(2) If:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) 2 or more entities cease to be *subsidiary members of the *consolidated group at the leaving time; and

(b) 2 or more of them make the second choice;

the choices have effect in whichever order the *head company determines.

(3) This section applies to each of the loss assets in order, according to their respective *adjustable values (apart from this section) at the test time: from largest to smallest. (If an asset has more than one such adjustable value, use the greater or greatest of them.)

(4) At the test time, the *adjustable value of the loss asset is reduced to the asset's *market value at that time.

(5) However, if the *head company's *final RUNL at the leaving time (as reduced by any previous reductions under this section) is *less than* the difference between:

(a) the *adjustable value of the loss asset (apart from this section) at the test time; and

(b) the asset's *market value at the test time;

the adjustable value is instead reduced at the test time by that final RUNL.

(6) That *final RUNL is reduced by the amount of the reduction under subsection (4) or (5). If 2 or more such reductions are made for the same asset (because it has 2 or more different characters), that final RUNL is reduced by the greater or greatest of the reductions.

715-110 Third choice: loss denial pool of leaving entity created

(1) The third choice can be made only if every asset covered by paragraph 715-95(1)(c) is a leaving asset. The choice is to have a ***loss denial pool*** of the leaving entity created at the leaving time, consisting of every leaving asset. (To avoid doubt, the choice can be made even if the leaving entity is not a company.)

(2) A choice under this section has effect accordingly. The pool is distinct from any other loss denial pool of the leaving entity.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) When the pool is created, its ***loss denial balance*** is equal to the *head company's *final RUNL at the leaving time.

Note: If the head company makes this choice, the leaving entity can choose to cancel the loss denial pool by reducing reduced cost bases of assets in the pool: see section 715-185.

Effect of assets in loss denial pool of head company becoming assets of leaving entity

715-120 What happens

(1) This section applies if:

(a) at a particular time (the ***leaving time***), an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group; and

(b) just before the leaving time, the *head company had a *loss denial pool; and

(c) at the leaving time, at least one *CGT asset (a ***leaving asset***) that was in the pool just before that time becomes a CGT asset of the leaving entity because subsection 701-1(1) (Single entity rule) ceases to apply to the entity;

(2) Each leaving asset leaves the *loss denial pool at the leaving time.

(3) If:

(a) the leaving entity is a company and the leaving time is *not* a *changeover time for the leaving entity; or

(b) the leaving entity is a trust;

the *head company must make one of the choices for which sections 715-125, 715-130 and 715-135 provide.

For provisions about making one of these choices, see sections 715-175 to 715-185.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-125 First choice: adjustable values of leaving assets reduced to nil

The first choice is to reduce the *adjustable value of each leaving asset to nil. The choice has effect accordingly, just before the leaving time. The *loss denial balance of the *head company's *loss denial pool is *not* reduced because of it.

Note: The consequences of the choice are worked out under section 715-145.

715-130 Second choice: pool's loss denial balance applied in reducing adjustable values of leaving assets that are loss assets

(1) The second choice is to reduce under this section the *adjustable value of each leaving asset (a ***loss asset***) for which the *head company would have had a notional capital loss, or notional revenue loss, under section 165-115F at the time (the ***test time***) just before the leaving time if the test time had been a *changeover time for the head company. The choice has effect accordingly.

Note: The consequences of the choice are worked out under this section and section 715-145.

(2) If:

(a) 2 or more entities cease to be *subsidiary members of the *consolidated group; and

(b) 2 or more of them make the second choice;

the choices have effect in the same order as the entities cease being subsidiary members. If 2 or more of the entities ceased at the same time, their choices have effect in whichever order the *head company determines.

(3) This section applies to each of the loss assets in order, according to their respective *adjustable values (apart from this section) at the test time: from largest to smallest. (If an asset has more than one such adjustable value, use the greater or greatest of them.)

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(4) At the test time, the *adjustable value of the loss asset is reduced to the asset's *market value at that time.

(5) However, if the *loss denial balance (as reduced by any previous reductions under this section or section 715-160) of the *head company's *loss denial pool is *less than* the difference between:

(a) the *adjustable value of the loss asset (apart from this section) at the test time; and

(b) the asset's *market value at the test time;

the adjustable value is instead reduced at the test time by that loss denial balance.

(6) That *loss denial balance is reduced at the leaving time by the amount of the reduction under subsection (3) or (4). If 2 or more such reductions are made for the same asset (because it has 2 or more different characters), that loss denial balance is reduced by the greater or greatest of the reductions.

715-135 Third choice: loss denial pool of leaving entity created

(1) The third choice can be made only if every asset that was in the *loss denial pool just before the leaving time is a leaving asset. The choice is to have a ***loss denial pool*** of the leaving entity created at the leaving time, consisting of every leaving asset. (To avoid doubt, the choice can be made even if the leaving entity is not a company.)

(2) A choice under this section has effect accordingly. The pool is distinct from any other loss denial pool of the leaving entity.

(3) When the leaving entity's loss denial pool is created, its ***loss denial balance*** equals the loss denial balance of the head company's loss denial pool (as reduced by any previous reductions under section 715-130 or 715-160).

Note: If the head company makes this choice, the leaving entity can choose to cancel the loss denial pool by reducing reduced cost bases of assets in the pool: see section 715-185.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(4) The head company's *loss denial pool ceases to exist when the leaving entity's loss denial pool is created.

Effect of first and second choices on various kinds of assets

715-145 Effect of choice on adjustable value of leaving asset

(1) This section has effect for the purposes of determining the consequences of a choice under any of sections 715-100, 715-105, 715-125, 715-130 and 715-185 (the ***choice provisions***) for a leaving asset.

(2) The asset's ***adjustable value*** at the time (the ***test time***) just before the leaving time is worked out under this table. (If the asset is covered by 2 or more items, there are consequences for it under the choice provisions and this section in respect of each of the items.)

Adjustable value **at the test time**		
Item	**If:**	**Its *adjustable value* is:**
1	the asset is a *CGT asset	its *reduced cost base
2	the asset is an item of *trading stock of the *head company at the test time, and became part of the *head company's trading stock in the income year (the ***test year***) in which the test time occurs	its *cost
3	the asset is an item of *trading stock of the *head company at the test time, item 2 does not apply, and at the end of the last income year before the test year, the item was *valued at its *cost	its *cost
4	the asset is an item of *trading stock of the *head company at the test time and neither of items 2 and 3 applies	its *value as trading stock of the head company on hand at the start of the income year in which the test time occurs

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

***Adjustable value* at the test time**		
Item	**If:**	**Its *adjustable value* is:**
5	the asset is a *depreciating asset	worked out under section 40-85
6	the asset is a *revenue asset	the total of the amounts that would be subtracted from the gross disposal proceeds in calculating any profit or loss on disposal of the asset by the head company

(3) If any of the choice provisions reduces at the test time the asset's *adjustable value, the thing identified for the asset under the table in subsection (2) of this section is reduced by the same amount.

(4) Subsection (3) has effect for the purposes of working out under section 711-30 the *head company's *terminating value for the asset at the leaving time.

General provisions about loss denial pools

715-155 When asset leaves pool

A *CGT asset leaves a *loss denial pool:

(a) just after a *realisation event happens to the asset, unless the realisation event is the ending of an income year (in the case of an item of *trading stock); or

(b) as mentioned in subsection 715-120(2) (when it becomes an asset of the leaving entity).

715-160 How loss denial balance is applied to losses realised on assets in pool

(1) If, apart from this section, a loss would be *realised for income tax purposes by a *realisation event that happens to a *CGT asset when it is in a *loss denial pool of an entity, the loss is reduced by the lesser of:

(a) the amount of the loss; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the pool's *loss denial balance (as reduced by any previous reductions under section 715-130 or this subsection);

and the loss denial balance is reduced by the same amount.

(2) Subsection (1) applies to *realisation events in the order in which they happen. If 2 or more happen at the same time, it applies to them in whichever order the entity determines.

(3) Subsection (1) reduces a *loss denial balance after section 715-130 does, unless the *realisation event happens *before* the leaving time referred to in that section.

715-165 When pool ceases to exist

(1) A *loss denial pool of a company ceases to exist when there is a *changeover time for the company.

Note: The CGT assets in the pool then become subject to the application of Subdivision 165-CC (about change of ownership or control of a company that has an unrealised net loss).

(2) A *loss denial pool of any entity ceases to exist:

(a) when there are no *CGT assets, and no *170-D deferred losses, in the pool; or

(b) just after the *loss denial balance becomes nil; or

(c) when the entity becomes a *subsidiary member of a *consolidated group; or

(d) as mentioned in subsection 715-135(4).

Choices under this Subdivision

715-175 When choice must be made

(1) A choice under section 715-95 or 715-120 must be made within 6 months after the leaving time, or within a further period allowed by the Commissioner.

(2) After that 6 months, or that further period, the head company is taken to have made the first choice under section 715-100 or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-125 unless it is established that the head company made a different choice within that 6 months or further period.

715-180 Head company to notify leaving entity of choice

(1) Within one month after making a choice under section 715-95 or 715-120, or within a further period allowed by the Commissioner, the head company must give the leaving entity written notice of the choice.

(2) If the choice is to have a *loss denial pool of the leaving entity created at the leaving time, the notice must also specify the pool's *loss denial balance at that time.

715-185 Leaving entity may choose to cancel loss denial pool by reducing adjustable values of assets in the pool

(1) Within 6 months after a *loss denial pool is created under section 715-110 or 715-135, or within a further period allowed by the Commissioner, the leaving entity may choose to be treated as if the *head company had instead made:

(a) the first choice under section 715-100 or 715-125; or

(b) the second choice under section 715-105 or 715-130;

as specified by the leaving entity in its choice.

(2) If the leaving entity makes a choice under subsection (1):

(a) the *loss denial pool ceases to exist just after the leaving time; and

(b) at the leaving time, the *adjustable value of each *CGT asset in the pool is reduced to what it would have been at that time if the head company had instead made the choice specified by the leaving entity in its choice.

(3) The choice by the leaving entity does not affect how subsection 715-135(4) applies to the *head company.

Note: This means that the head company's loss denial pool still ceases to exist.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 715-B—How Subdivision 165-CD applies to consolidated groups and leaving entities

Table of sections

How Subdivision 165-CD applies to consolidated groups

715-215 Extension of single entity rule and entry history rule
715-225 Working out adjusted unrealised loss using individual asset method
715-230 No reductions or other consequences for interests subject to loss cancellation under Subdivision 715-H

How Subdivision 165-CD applies to leaving entity that is a company

715-240 Application of sections 715-245 to 715-260
715-245 If ownership or control of leaving entity has altered since head company's last alteration time or formation of group
715-250 If head company has had an alteration time but ownership and control of leaving entity have not altered since
715-255 Consequences if leaving entity is a loss company at the leaving time
715-260 If neither of sections 715-245 and 715-250 applies
715-265 Head company does not have relevant equity or debt interest in a loss company if widely held top company does not have such an interest

How Subdivision 165-CD applies to leaving entity that is a trust

715-270 Subdivision 165-CD applies

How Subdivision 165-CD applies to consolidated groups

715-215 Extension of single entity rule and entry history rule

(1) Subsection 701-1(1) (Single entity rule) and section 701-5 (Entry history rule) also have effect for all the purposes of Subdivision 165-CD (about reductions after alterations in ownership or control of loss company).

Note: One consequence of this is that the head company is the only member of a consolidated group that can have an alteration time and be subject to reductions or other consequences under Subdivision 165-CD. The head company is treated as owning all CGT assets owned by group members, and as making relevant losses.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Another consequence is for working out who has a relevant equity interest or relevant debt interest in a company that has an alteration time at which it is a loss company but not a member of a consolidated group. Interests in the loss company that are owned by subsidiary members of the group are treated as being owned by the head company.

(2) This section is not intended to limit the effect that subsection 701-1(1) and section 701-5 have apart from this section.

715-225 Working out adjusted unrealised loss using individual asset method

(1) For the purposes of:

(a) using the *individual asset method to work out whether the *head company of a *consolidated group has an adjusted unrealised loss under section 165-115U at an *alteration time; or

(b) working out under section 165-115W whether the head company of a consolidated group has a trading stock decrease at an alteration time;

step 1 of the method statement in subsection 165-115U(1), or step 2 of the method statement in subsection 165-115W(1), does *not* apply to an amount that was counted in respect of a *CGT asset at an earlier time if:

(c) at the time (the ***joining time***) when an entity became a *subsidiary member of the group, the asset became an asset of the head company because of subsection 701-1(1) (Single entity rule); and

(d) the earlier time is an *alteration time that happened in respect of the entity before the joining time;

unless the entity is a chosen transitional entity under Division 701 of the *Income Tax (Transitional Provisions) Act 1997*.

Note: If the joining entity is a chosen transitional entity, section 701-15 of the *Income Tax (Transitional Provisions) Act 1997* prevents:

- section 701-10 (cost to head company of assets of joining entity); and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

- subsection 701-35(4) (setting value of trading stock at tax-neutral amount);

of this Act from applying to the assets of the joining entity in relation to the joining time.

If the joining entity is *not* a chosen transitional entity, it is assumed that the process of resetting the tax costs of its assets will bring their tax costs into closer alignment to their market values, and so remove the need to consider unrealised losses on those assets that existed before the joining time.

(2) This section has effect despite section 701-5 (Entry history rule).

715-230 No reductions or other consequences for interests subject to loss cancellation under Subdivision 715-H

If section 715-610 reduces a loss that would otherwise be *realised for income tax purposes by a *realisation event that happens to an interest in, or a debt owed by, a company, sections 165-115ZA and 165-115ZB do not apply (and are taken never to have applied) to the interest or debt, in relation to an *alteration time that happened for the company during the ownership period referred to in subsection 715-610(2).

Note 1: Section 715-610 is about cancelling a loss on a realisation event for certain kinds of interests in a member of a consolidated group.

Note 2: Sections 165-115ZA and 165-115ZB are about the consequences that an alteration time for a loss company has for relevant equity interests and relevant debt interests in the company.

How Subdivision 165-CD applies to leaving entity that is a company

715-240 Application of sections 715-245 to 715-260

Sections 715-245 to 715-260 affect how Subdivision 165-CD (about reductions after alterations in ownership or control of loss company) applies to a company (the ***leaving entity***) at and after the time (the ***leaving time***) when it ceases to be a *subsidiary member

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Authorised Version C2022C00307 registered 22/10/2022

of a *consolidated group that came into existence at a particular time (the ***formation time***).

Note: If a trust ceases to be a subsidiary member of a consolidated group: see section 715-270.

715-245 If ownership or control of leaving entity has altered since head company's last alteration time or formation of group

(1) This section applies if the leaving time would be an *alteration time for the leaving entity if:

(a) the reference time under subsection 165-115L(2) or 165-115M(2) were:

(i) if at least one alteration time has occurred in relation to the *head company of the *consolidated group since the formation time and before the leaving time—the time just after the most recent such alteration time; or

(ii) otherwise—the formation time; and

(b) the additional assumptions in section 715-290 were made.

(2) The leaving time is an ***alteration time*** for the leaving entity.

Note: One consequence of this is that the reference time for working out the leaving entity's *next* alteration time is the time just after the leaving time.

(3) The leaving entity is a ***loss company*** at that *alteration time if, and only if, it has an *adjusted unrealised loss at that time. If so, that adjusted unrealised loss is the leaving entity's ***overall loss*** at that time.

Note 1: Subsection (4) affects how the leaving entity works out its adjusted unrealised loss at the leaving time in some cases.

Note 2: If the leaving entity is a loss company at the leaving time, section 715-255 provides for the consequences.

(4) If the leaving entity uses the *individual asset method of working out its *adjusted unrealised loss at that *alteration time, then for the purposes of:

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Authorised Version C2022C00307 registered 22/10/2022

(a) step 1 of the method statement in subsection 165-115U(1); and

(b) the method statement in subsection 165-115W(1);

the leaving entity is taken to have had no earlier alteration time.

715-250 If head company has had an alteration time but ownership and control of leaving entity have not altered since

(1) This section applies if:

(a) at least one *alteration time has occurred in relation to the *head company of the *consolidated group since the formation time and before the leaving time; and

(b) the leaving time is *not* an *alteration time for the leaving entity under subsection 715-245(2).

(2) The leaving time is an ***alteration time*** for the leaving entity.

(3) However, for the purposes of determining when the leaving entity's *next* *alteration time happens, the reference time under subsection 165-115L(2) or 165-115M(2) is the time just after the most recent alteration time for the *head company *before* the leaving time.

(4) The leaving entity is a ***loss company*** at the leaving time if, and only if, the *head company would have had an *adjusted unrealised loss at the most recent *alteration time (the ***head company alteration time***) for the head company before the leaving time if that adjusted unrealised loss (if any) were worked out on the basis that:

(a) the head company chooses whether the *individual asset method or the *global method is used; and

(b) a *CGT asset is taken into account only if:

(i) the head company owned it at the head company alteration time; and

(ii) it becomes a CGT asset of the leaving entity at the leaving time because subsection 701-1(1) (the single entity rule) ceases to apply to the entity; and

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) if the individual asset method is used, then for the purposes of:
(i) step 1 of the method statement in subsection 165-115U(1); and
(ii) the method statement in subsection 165-115W(1);
the head company had no earlier alteration time.

(5) If the leaving entity is a *loss company at the leaving time, its ***overall loss*** at that time is the *adjusted unrealised loss worked out under subsection (4).

715-255 Consequences if leaving entity is a loss company at the leaving time

(1) If:
(a) section 715-245 or 715-250 applies; and
(b) the leaving entity is a *loss company at the leaving time; and
(ba) the *head company has a relevant equity interest under section 165-115X in the leaving entity at the leaving time;
the head company must choose whether subsection (2) or (3) of this section has effect for the purposes of applying, to each *membership interest in the leaving entity, in relation to the time just before the leaving time, whichever of these provisions is appropriate:
(c) subsection 701-55(3) (about trading stock);
(d) subsection 701-55(5), but only so far as it relates to working out the *reduced cost base of a *membership interest that was *acquired on or after 20 September 1985;
(e) subsection 701-55(6) (about revenue assets).

Note: Section 701-55 is about setting the tax cost of an asset.

(1A) For the purposes of paragraph (1)(ba), in determining whether the *head company has the relevant equity interest, disregard the operation of subsection 701-1(1) (the single entity rule) in applying subsections 165-115X(2C) and 165-115X(4).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) If the *head company chooses this subsection, the interest's *tax cost setting amount (apart from this section) just before the leaving time is reduced to nil.

(3) If the *head company chooses this subsection, the interest's *tax cost setting amount (apart from this section) just before the leaving time is reduced by the adjustment amount under section 165-115ZB, which is calculated on the basis that:

(a) just before the leaving time, all the *membership interests in the leaving entity constituted a single relevant equity interest under section 165-115X that the head company had in the leaving entity; and

(b) the adjustment amount is worked out and applied in accordance with subsection 165-115ZB(6), but disregarding the paragraphs of that subsection except paragraphs 165-115ZB(6)(a) and (d).

(4) The *head company's choice must be made within 6 months after the leaving time, or within a further period allowed by the Commissioner.

(5) After that 6 months, or that further period, the head company is taken to have chosen subsection (2) unless it is established that the head company made a different choice within that 6 months or further period.

Non-membership equity interests

(6) Subsection 711-15(2) (which treats *non-membership equity interests as *membership interests) also applies for the purposes of this section, on the basis that the *consolidated group referred to in section 715-240 is the old group referred to in that subsection.

715-260 If neither of sections 715-245 and 715-250 applies

(1) This section applies if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) no *alteration time has occurred in relation to the *head company of the *consolidated group since the formation time and before the leaving time; and

(b) the leaving time is *not* an *alteration time for the leaving entity under subsection 715-245(2).

(2) The leaving entity's first *alteration time after the leaving time is determined:

(a) on the basis that the reference time under subsection 165-115L(2) or 165-115M(2) is the time just after the formation time; and

(b) making the additional assumptions in section 715-290.

(3) If the leaving entity uses the *individual asset method of working out its *adjusted unrealised loss at that first *alteration time, then for the purposes of:

(a) step 1 of the method statement in subsection 165-115U(1); and

(b) the method statement in subsection 165-115W(1);

the leaving entity is taken to have had no earlier alteration time.

715-265 Head company does not have relevant equity or debt interest in a loss company if widely held top company does not have such an interest

(1) For the purposes of Subdivision 165-CD, treat the *head company of a *consolidated group as *not* having a relevant equity interest in a *loss company at a particular time if:

(a) the head company is an *eligible tier-1 company of a *top company at that time; and

(b) the top company is a *widely held company at that time; and

(c) because of subsections 165-115X(2A), (2B) and (2C), the top company does not have a relevant equity interest under section 165-115X in the loss company at that time.

(2) For the purposes of paragraph (1)(c), disregard the operation of subsection 701-1(1) (the single entity rule) in determining whether

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

subsection 165-115X(2C) has the effect that the *top company has the relevant equity interest mentioned in that paragraph.

(3) For the purposes of Subdivision 165-CD, treat the *head company of a *consolidated group as *not* having a relevant debt interest in a *loss company at a particular time if:

(a) the head company is an *eligible tier-1 company of a *top company at that time; and

(b) the top company is a *widely held company at that time; and

(c) because of subsections 165-115Y(3A), (3B) and (3C), the top company does not have a relevant debt interest under section 165-115Y in the loss company at that time.

How Subdivision 165-CD applies to leaving entity that is a trust

715-270 Subdivision 165-CD applies

(1) At and after the time (the ***leaving time***) when a trust ceases to be a *subsidiary member of a *consolidated group, Subdivision 165-CD (about reductions after alterations in ownership or control of loss company) applies to the trust on the basis set out in this section.

(2) The trust is taken to be a company.

(3) The leaving time is the only ***alteration time*** in respect of the trust.

(4) The trust is a ***loss company*** at that time if, and only if, it has an *adjusted unrealised loss at that time. If so, that adjusted unrealised loss is its ***overall loss*** at that time.

(5) If the trust is a *loss company at the leaving time and the *head company has a relevant equity interest under section 165-115X in the leaving entity at the leaving time, the head company must choose whether subsection (6) or (7) of this section has effect for the purposes of applying, to each *membership interest in the trust, in relation to the time just before the leaving time, whichever of these provisions is appropriate:

(a) subsection 701-55(3) (about trading stock);

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Authorised Version C2022C00307 registered 22/10/2022

(b) subsection 701-55(5), but only so far as it relates to working out the *reduced cost base of a *membership interest that was *acquired on or after 20 September 1985;

(c) subsection 701-55(6) (about revenue assets).

Note: Section 701-55 is about setting the tax cost of an asset.

(5A) For the purposes of subsection (5), in determining whether the *head company has the relevant equity interest, disregard the operation of subsection 701-1(1) (the single entity rule) in applying subsections 165-115X(2C) and 165-115X(4).

(6) If the *head company chooses this subsection, the interest's *tax cost setting amount (apart from this section) just before the leaving time is reduced to nil.

(7) If the *head company chooses this subsection, the interest's *tax cost setting amount (apart from this section) just before the leaving time is reduced by the adjustment amount under section 165-115ZB, which is calculated on the basis that:

(a) just before the leaving time:

(i) all the *membership interests in the leaving entity constituted a single relevant equity interest under section 165-115X that the *head company had in the leaving entity; and

(ii) each of those interests was an equity under section 165-115X that the *head company had in the leaving entity; and

(b) the adjustment amount is worked out and applied in accordance with subsection 165-115ZB(6), but disregarding the paragraphs of that subsection except paragraphs 165-115ZB(6)(a) and (d).

(8) The *head company's choice must be made within 6 months after the leaving time, or within a further period allowed by the Commissioner.

(9) After that 6 months, or that further period, the head company is taken to have chosen subsection (6) unless it is established that the

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Authorised Version C2022C00307 registered 22/10/2022

head company made a different choice within that 6 months or further period.

Non-membership equity interests

(10) Subsection 711-15(2) (which treats *non-membership equity interests as *membership interests) also applies for the purposes of this section, on the basis that the *consolidated group is the old group referred to in that subsection.

Subdivision 715-C—Common rules for the purposes of Subdivisions 715-A and 715-B

715-290 Additional assumptions to be made when using reference time

The additional assumptions to be made are that, throughout the period starting at the reference time and ending just before the leaving time:

(a) the leaving entity was in existence; and

(b) the *head company held and beneficially owned all the *membership interests in the leaving entity (instead of whoever actually did); and

(c) those membership interests remained the same; and

(d) the head company directly controlled the voting power in the leaving entity.

Subdivision 715-D—Treatment of company's deferred losses under Subdivision 170-D on joining a consolidated group

Table of sections

Key terminology

715-310 What is a ***170-D deferred loss***, and when it ***revives***

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Deferred loss on 165-CC tagged asset

715-355 Head company's own deferred losses at formation time
715-360 Deferred losses brought in by subsidiary member
715-365 How loss denial balance is applied when 170-D deferred loss revives

Key terminology

715-310 What is a *170-D deferred loss*, and when it *revives*

(1) A *capital loss, deduction, or partner's share of a deduction, that section 170-270 (about transactions within linked groups) requires to be disregarded is a ***170-D deferred loss*** made:

(a) by the company that paragraph 170-255(1)(a) refers to as the originating company; and

(b) at the time of the event that paragraph refers to as the deferral event; and

(c) on the *CGT asset *acquired by the other entity referred to in that paragraph.

(2) The *170-D deferred loss ***revives*** at the time when section 170-275 (as applying in relation to the deferral event) treats the originating company as having made a *capital loss, or having become entitled to a deduction, in respect of that asset.

Deferred loss on 165-CC tagged asset

715-355 Head company's own deferred losses at formation time

(1) This section applies if, at the time (the ***formation time***) when a *consolidated group comes into existence, the *head company has (otherwise than because of section 701-5 (Entry history rule)) a *170-D deferred loss that:

(a) it made on a *CGT asset that is a *165-CC tagged asset of the head company because of paragraph 165-115A(1A)(b) (which covers CGT assets on which it has 170-D deferred losses); and

(b) has not *revived.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) If a *loss denial pool of the *head company is created under section 715-60 at the formation time, each *170-D deferred loss of that kind that the head company has at that time is added to the loss denial pool at that time.

(3) Otherwise, a ***loss denial pool*** of the *head company is created at the formation time if:

(a) the formation time is *not* a *changeover time for the head company; and

(b) the head company's *final RUNL just before the formation time (as reduced by any reductions under section 715-50 or 715-55) was greater than nil; and

(c) the head company does *not* satisfy the *business continuity test for:

(i) the period (the ***business continuity test period***) consisting of the head company's *trial year; and

(ii) the time (the ***test time***) just before the *changeover time.

Note: Paragraph (3)(b) has the effect that if the head company has 165-CC tagged assets that are affected by section 715-50 or 715-55 (because they are membership interests in, or accounting liabilities owed by, another group member), those sections are applied before this section.

(4) When it is created because of subsection (3), the pool consists of each *170-D deferred loss covered by subsection (2), and its ***loss denial balance*** is equal to the *final RUNL referred to in paragraph (3)(b).

Note: The pool is distinct from any other loss denial pool of the head company, for example, one created at the formation time under section 715-360.

715-360 Deferred losses brought in by subsidiary member

(1) This section applies if, just before the time (the ***membership time***) when a company (the ***deferred loss company***) becomes a *subsidiary member of a *consolidated group, it had a *170-D deferred loss that:

(a) it made on a *CGT asset that is a *165-CC tagged asset of the company at the membership time because of

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

paragraph 165-115A(1A)(b) (which covers CGT assets on which it has 170-D deferred losses); and

(b) as at the membership time has not *revived.

(2) If a *loss denial pool of the *head company is created under subsection 715-70(2) because of the deferred loss company becoming a *subsidiary member of the group, each *170-D deferred loss of that kind that the deferred loss company had just before the membership time is added to the loss denial pool at that time.

(3) Otherwise, a ***loss denial pool*** of the *head company is created at the membership time if:

(a) the membership time is *not* a *changeover time for the head company; and

(b) the deferred loss company's *final RUNL just before the membership time (as reduced by any reductions under section 715-50 or 715-55) was greater than nil; and

(c) the deferred loss company does *not* satisfy the *business continuity test for:

(i) the period (the ***business continuity test period***) consisting of the deferred loss company's *trial year; and

(ii) the time (the ***test time***) just before the *changeover time.

Note 1: The 170-D deferred losses become those of the head company at the formation time because of section 701-5 (Entry history rule).

Note 2: Paragraph (3)(b) has the effect that if the deferred loss company has other 165-CC tagged assets affected by section 715-50 or 715-55 (because the membership time is when the group comes into existence, and the other 165-CC tagged assets are membership interests in, or accounting liabilities owed by, another group member), those sections are applied before this section.

(4) When it is created because of subsection (3), the pool consists of each 170-D deferred loss covered by subsection (2), and its ***loss denial balance*** is equal to the *final RUNL referred to in paragraph (3)(b).

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Authorised Version C2022C00307 registered 22/10/2022

Note: The pool is distinct from any other loss denial pool of the head company, for example, one created under this section because another entity becomes a subsidiary member of the group at the membership time.

715-365 How loss denial balance is applied when 170-D deferred loss revives

(1) If a *170-D deferred loss on a *CGT asset is in a *loss denial pool of an entity when the loss *revives, the *capital loss or deduction that section 170-275 would, apart from this section, treat the entity as having made or become entitled to at that time in respect of the asset is reduced by the lesser of:

(a) the amount of the capital loss or deduction; and

(b) the pool's *loss denial balance (as reduced by any previous reductions under section 715-130, subsection 715-160(1) or this subsection);

and the loss denial balance is reduced by the same amount.

(2) Subsection (1) applies to *170-D deferred losses in the order in which they *revive. If 2 or more revive at the same time, it applies to them in whichever order the entity determines.

(3) Subsection (1) reduces a *loss denial balance before section 715-130 does, unless the *realisation event happens *after* the leaving time referred to in that section.

Subdivision 715-E—Interactions with Division 775 (Foreign currency gains and losses)

Table of sections

715-370 Cost setting—reference time for determining currency exchange rate effect

715-370 Cost setting—reference time for determining currency exchange rate effect

(1) This section applies if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and
(b) taking into account the operation of subsection 701-1(1) (the single entity rule), the *head company of the group held an asset at the joining time because the joining entity became a subsidiary member of the group; and
(c) the asset is a reset cost base asset at the joining time (within the meaning of section 705-35); and
(d) in working out the asset's *tax cost setting amount, the currency exchange rate of a particular *foreign currency is taken into account in determining the *market value of the asset.

(2) For the purposes of Division 775, determine the extent of any *currency exchange rate effect after the joining time in relation to the asset, by reference to the currency exchange rate for the *foreign currency at the joining time.

Subdivision 715-F—Interactions with Division 230 (financial arrangements)

Table of sections

715-375 Cost setting on joining—amount of liability that is Division 230 financial arrangement
715-378 Cost setting on joining—head company's right to receive or obligation to provide payment
715-379 Cost setting on leaving—amount of intragroup liability that is Division 230 financial arrangement
715-379A Cost setting on leaving—head company's or leaving entity's right to receive or obligation to provide payment
715-380 Exit history rule not to affect certain matters related to Division 230 financial arrangements
715-385 Exit history rule and elective methods applying to Division 230 financial arrangements

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-375 Cost setting on joining—amount of liability that is Division 230 financial arrangement

(1) Subsection (2) applies if:

(a) an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) a thing (the ***accounting liability***) is, in accordance with *accounting standards, or statements of accounting concepts made by the Australian Accounting Standards Board, a liability of the joining entity at the joining time (disregarding subsection 701-1(1) (the single entity rule)) that can or must be recognised in the entity's statement of financial position; and

(c) the accounting liability is or is part of a *Division 230 financial arrangement of the head company at the joining time (because of subsection 701-1(1) (the single entity rule)).

(2) For the purposes of Division 230 and Schedule 1 to the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009*, treat the *head company of the group as starting to have the accounting liability at the joining time for receiving a payment equal to:

(a) if the liability is or is part of a *Division 230 financial arrangement of the head company at the joining time (because of subsection 701-1(1) (the single entity rule)):

(i) to which Subdivision 230-B (accruals method or realisation method) applies; or

(ii) to which Subdivision 230-E (hedging financial arrangements method) applies;

the amount of the liability, as determined in accordance with:

(iii) the joining entity's *accounting principles for tax cost setting; or

(iv) if the amount of the liability cannot be determined in accordance with the joining entity's accounting principles for tax cost setting—comparable standards for accounting made under a *foreign law; or

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) otherwise—the liability's *Division 230 starting value at the joining time.

715-378 Cost setting on joining—head company's right to receive or obligation to provide payment

(1) This section applies in relation to an asset or a liability if:

(a) an entity (the ***joining entity***) becomes a subsidiary member of a consolidated group at a time (the ***joining time***); and

(b) the asset or liability becomes that of the head company of the group because subsection 701-1(1) (the single entity rule) applies at the joining time; and

(c) in the case of an asset—subsection 701-55(5A) applies in relation to the asset at the joining time; and

(d) in the case of a liability—subsection 715-375(2) applies in relation to the liability at the joining time.

(2) In the case of an asset, for the purposes of section 230-60, assume that the *head company of the group acquired the asset at the joining time (as mentioned in subsection 701-55(5A)) in return for the head company starting to have an obligation to provide the payment mentioned in that subsection.

(3) In the case of a liability, for the purposes of section 230-60, assume that the *head company of the group started to have the liability at the joining time (as mentioned in subsection 715-375(2)) in return for the head company starting to have a right to receive the payment mentioned in that subsection.

715-379 Cost setting on leaving—amount of intragroup liability that is Division 230 financial arrangement

(1) Subsection (2) applies if:

(a) an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) a thing (the ***accounting liability***) is, in accordance with *accounting standards, or statements of accounting concepts made by the Australian Accounting Standards Board:

(i) a liability of the leaving entity at the leaving time that can or must be recognised in the entity's statement of financial position; or

(ii) a liability of the *head company of the group at the leaving time that can or must be recognised in the head company's statement of financial position; and

(c) because subsection 701-1(1) (the single entity rule) ceases to apply to the leaving entity at the leaving time:

(i) if subparagraph (b)(i) applies—the accounting liability becomes a liability of the leaving entity, and an asset (the ***corresponding asset***) that consists of the liability becomes an asset of the head company; or

(ii) if subparagraph (b)(ii) applies—the accounting liability becomes a liability of the head company, and an asset (the ***corresponding asset***) that consists of the liability becomes an asset of the leaving entity; and

(d) the corresponding asset's *tax cost is set at the leaving time under:

(i) if subparagraph (b)(i) applies—section 701-20; or

(ii) if subparagraph (b)(ii) applies—section 701-45; and

(e) the accounting liability is or is part of a *Division 230 financial arrangement.

(2) For the purposes of Division 230 of this Act and Schedule 1 to the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009*:

(a) if subparagraph (1)(b)(i) applies—treat the leaving entity as starting to have the accounting liability at the leaving time for receiving a payment equal to the *tax cost setting amount of the corresponding asset; or

(b) if subparagraph (1)(b)(ii) applies—treat the *head company as starting to have the accounting liability at the leaving time

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

for receiving a payment equal to the tax cost setting amount of the corresponding asset.

Note: The tax cost setting amount of the corresponding asset is determined under sections 701-60 and 701-60A.

715-379A Cost setting on leaving—head company's or leaving entity's right to receive or obligation to provide payment

(1) This section applies in relation to an asset or a liability if:

(a) an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) because subsection 701-1(1) (the single entity rule) ceases to apply to the leaving entity at the leaving time, the asset or liability becomes the asset or liability of:

(i) the leaving entity; or

(ii) the *head company of the group; and

(c) if subparagraph (b)(i) applies:

(i) in the case of an asset—subsection 701-55(5A) applies in relation to the asset at the leaving time because of section 701-45; or

(ii) in the case of a liability—subsection 715-379(2) applies in relation to the liability at the leaving time; and

(d) if subparagraph (b)(ii) applies:

(i) in the case of an asset—subsection 701-55(5A) applies in relation to the asset at the leaving time because of section 701-20; and

(ii) in the case of a liability—subsection 715-379(2) applies in relation to the liability at the leaving time; and

(e) the asset or liability is or is part of a *Division 230 financial arrangement.

(2) If subparagraph (1)(b)(i) applies:

(a) in the case of an asset—for the purposes of section 230-60, assume that the leaving entity acquired the asset (as mentioned in subsection 701-55(5A)) at the leaving time in

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

return for the leaving entity starting to have an obligation to provide the payment mentioned in that subsection; and

(b) in the case of a liability—for the purposes of section 230-60, assume that the leaving entity started to have the liability at the leaving time in return for the leaving entity starting to have a right to receive the payment mentioned in subsection 715-379(2).

(3) If subparagraph (1)(b)(ii) applies:

(a) in the case of an asset—for the purposes of section 230-60, assume that the head company acquired the asset (as mentioned in subsection 701-55(5A)) at the leaving time in return for the head company starting to have an obligation to provide the payment mentioned in that subsection; and

(b) in the case of a liability—for the purposes of section 230-60, assume that the head company started to have the liability at the leaving time in return for the head company starting to have a right to receive the payment mentioned in subsection 715-379(2).

715-380 Exit history rule not to affect certain matters related to Division 230 financial arrangements

Spreading fees gain or loss

(1) Subsection (2) applies if:

(a) an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) but for the cessation of membership and section 701-40 (the exit history rule), the *head company of the group would spread a fees gain or loss mentioned in section 230-160 over a period that ended after the leaving time.

(2) Despite section 701-40 (the exit history rule), the *head company of the *consolidated group continues to spread the fees gain or loss over that period, in accordance with section 230-160.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Assessable income and deductions under section 701-61

(3) Subsection (4) applies if:

(a) an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) but for the cessation of membership and section 701-40 (the exit history rule):

(i) an amount would be included in the assessable income of the *head company of the group under section 701-61 for an income year ending after the leaving time; or

(ii) the head company of the group would be entitled to a deduction under section 701-61 for an income year ending after the leaving time.

(4) Despite section 701-40 (the exit history rule), the amount is included in the assessable income of the *head company for the income year, or the head company is entitled to the deduction for the income year.

715-385 Exit history rule and elective methods applying to Division 230 financial arrangements

(1) Subsection (2) applies if:

(a) an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) the *head company of the group has a *Division 230 financial arrangement at the leaving time because the leaving entity is taken by subsection 701-1(1) (the single entity rule) to be a part of the head company; and

(c) after the leaving time, the leaving entity makes an election of a kind mentioned in section 230-220 (fair value method), 230-265 (foreign exchange retranslation method), 230-325 (hedging method) or 230-410 (reliance on financial reports method).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) For the purposes of determining whether the election applies to the financial arrangement, disregard paragraphs 230-220(1)(d), 230-265(1)(d), 230-325(a) and 230-410(1)(b)).

Subdivision 715-G—How value shifting rules apply to a consolidated group

Table of sections

715-410 Extension of single entity rule and entry history rule
715-450 No reductions or other consequences for interests subject to loss cancellation under Subdivision 715-H

715-410 Extension of single entity rule and entry history rule

(1) Subsection 701-1(1) (Single entity rule) and section 701-5 (Entry history rule) also have effect for all the purposes of Part 3-95 (Value shifting).

Note: One consequence of this for the operation of Division 727 (about indirect value shifting affecting interests in companies and trusts, and arising from non-arm's length dealings) is that economic benefits provided by or to a subsidiary member of a consolidated group are treated as provided by or to the head company of the group. As a result:

- the head company is the only group member that can be a losing entity or gaining entity for an indirect value shift; and
- economic benefits provided by one group member to another are treated as provided by the head company to itself, and so have no relevance to Division 727.

Another consequence is that the head company is treated as owning all interests owned by group members in a losing entity or gaining entity that is not a group member.

(2) This section is not intended to limit the effect that subsection 701-1(1) and section 701-5 have apart from this section.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-450 No reductions or other consequences for interests subject to loss cancellation under Subdivision 715-H

If section 715-610 reduces a loss that would otherwise be *realised for income tax purposes by a *realisation event that happens to an *equity or loan interest in an entity:

(a) the loss is not subject to reduction under Division 723 (Direct value shifting by creating right over non-depreciating asset) or 727 (Indirect value shifting); and

(b) the interest's *adjustable value is not, and is taken never to have been, reduced under Division 725 because of a *direct value shift during the ownership period referred to in subsection 715-610(2); and

(c) the interest's *adjustable value is not, and is taken never to have been, reduced under Division 727 because of an *indirect value shift during that period.

Note: Section 715-610 is about cancelling a loss on a realisation event for certain kinds of interests in a member of a consolidated group.

Subdivision 715-H—Cancelling loss on realisation event for direct or indirect interest in a member of a consolidated group

Table of sections

715-610 Cancellation of loss
715-615 Exception for interests in entity leaving consolidated group
715-620 Exception if loss attributable to certain matters

715-610 Cancellation of loss

(1) This section reduces to nil a loss that would otherwise be *realised for income tax purposes by a *realisation event that happens to an *equity or loan interest (the ***realised interest***) in an entity (the ***first entity***) when it is owned by another entity (the ***owner***), if the conditions in subsections (2) and (4) are met.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) The first condition is that, at some time during the period (the ***ownership period***) when the owner owned the realised interest:

(a) the first entity was a *subsidiary member of a *consolidated group, and the owner was *not* a *member of the group; or

(b) the realised interest was an *external indirect equity or loan interest in a subsidiary member of a consolidated group; or

(c) the realised interest was an *equity or loan interest in an entity that, at that time:

(i) owned an equity or loan interest in a subsidiary member of a consolidated group; and

(ii) was *not* a member of the group; or

(d) the realised interest was an *equity or loan interest in an entity that owned at that time an external indirect equity or loan interest in a subsidiary member of a consolidated group; or

(e) all of these conditions are satisfied at that time:

(i) the realised interest was an equity or loan interest, an *indirect equity or loan interest or an external indirect equity or loan interest, in the *head company of a consolidated group;

(ii) the owner was *not* a member of the group;

(iii) the head company was an *eligible tier-1 company of a *top company.

(3) An *equity or loan interest in an entity (the ***test entity***) is an ***external indirect equity or loan interest*** in a member of a *consolidated group if, and only if, neither the owner of the interest nor the test entity is a member of the group and:

(a) the test entity owns an equity or loan interest in the member; or

(b) the test entity owns an equity or loan interest that is an external indirect equity or loan interest in the member because of one or more other applications of this subsection.

(4) The second condition is that, at the same or a different time during the ownership period:

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the owner was, or *controlled (for value shifting purposes), the *head company of a *consolidated group because of which the first condition is satisfied; or

(b) the owner was an *associate of an entity that, at the same or a different time during the ownership period, was, or controlled (for value shifting purposes), the head company of such a consolidated group.

715-615 Exception for interests in entity leaving consolidated group

Membership interests in leaving entity

(1) If:

(a) the realised interest is a *membership interest; and

(b) during the ownership period the first entity ceased to be a *subsidiary member of a *consolidated group;

the first condition in section 715-610 cannot be satisfied, because of that consolidated group, at a time when the first entity was a member of the group, unless the interest needed to be disregarded under section 703-35 (about employee shares), or section 703-37 (about ADI restructures), in order for the first entity to be a member of the group at that time.

Liabilities owed by leaving entity

(2) If the realised interest:

(a) consists of a liability owed by the first entity to the owner; and

(b) became an asset of the owner because subsection 701-1(1) (the single entity rule) ceased to apply to the first entity when it ceased to be a *subsidiary member of a *consolidated group;

the first condition in section 715-610 cannot be satisfied, because of that consolidated group, at a time when the first entity was a member of the group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-620 Exception if loss attributable to certain matters

(1) The loss is not reduced if all of it can be shown to be attributable to things other than these:

(a) something that would be reflected in what would, apart from this Part, be an overall loss under section 165-115R or 165-115S, of a *member of a *consolidated group (an ***excluded group***) because of which the first condition in section 715-610 is satisfied, at an *alteration time for that member;

(b) an *indirect value shift for which, apart from this Part, a member of an excluded group would be the *losing entity or the *gaining entity.

(2) If only part of the loss can be shown to be attributable to things other than the ones listed in subsection (1), the loss is reduced to the amount of that part.

Subdivision 715-J—Entry history rule and choices

Table of sections

Head company's choice overriding entry history rule

715-660 Head company's choice overriding entry history rule

Choices head company can make ignoring entry history rule to override inconsistencies

715-665 Head company's choice to override inconsistency

Choices with ongoing effect

715-670 Ongoing effect of choices made by entities before joining group
715-675 Head company adopting choice with ongoing effect

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Head company's choice overriding entry history rule

715-660 Head company's choice overriding entry history rule

Application

(1) This section has effect if an entity becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***) and either:

(a) the question whether the entity had made a choice (however described) under a provision (the ***choice provision***) listed in the table was relevant to working out the entity's liability (if any) for income tax, or the entity's loss (if any) of a particular *sort, calculated by reference to an income year starting before the joining time; or

(b) before the joining time, the entity made a choice that:

(i) is described in paragraph (a); and

(ii) would, if the entity had not become a subsidiary member of a consolidated group, have started to have effect for working out the entity's liability (if any) for income tax, or the entity's loss (if any) of a particular *sort, calculated by reference to the first income year starting after the joining time.

List

Item	Provision	Subject of provision
1	A provision of Part X of the *Income Tax Assessment Act 1936* for an irrevocable declaration, election, choice or selection	Attribution of income in respect of controlled foreign companies
2	A provision of Subdivision 420-D that provides for a choice	Valuing *registered emissions units
3	Item 1 of the table in subsection 960-60(1)	Choosing to use an *applicable functional currency

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Section 715-660

List		
Item	**Provision**	**Subject of provision**
3A	section 230-210, 230-255, 230-315 or 230-395	Choice about treatment of gains and losses from *Division 230 financial arrangement
4	A provision that: (a) provides for a choice (however described); and (b) is a provision of regulations made for the purposes of this Act, other than this item; and (c) is prescribed by regulations made for the purposes of this item	Choice about a matter described in the regulations

Note: Declarations, elections and selections made under the choice provision by the entity are all examples of choices under that provision (even though the provision does not call them choices), because the entity has chosen to make them.

Objects

(2) The main objects of this section are:

(a) to override section 701-5 (Entry history rule) in relation to a choice (however described) by the entity under the choice provision or the absence of such a choice; and

(b) to extend, in some cases, the time for the *head company of the *consolidated group to make a choice (however described) under the choice provision after the joining time; and

(c) to modify, in some cases, the time at which such a choice by the head company starts to have effect.

Overriding the entry history rule

(3) For the head company core purposes set out in section 701-1 (Single entity rule), ignore a choice (however described) made by

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

the entity under the choice provision or the absence of such a choice.

Extension of time for head company to make choice

(4) If:

(a) because of:

(i) the fact that the entity became a *subsidiary member of the *consolidated group; and

(ii) section 701-1 (Single entity rule);

the question whether the *head company of the group has made a choice (however described) under the choice provision becomes relevant for the head company core purposes set out in that section; and

(b) there is a limit (outside this section) on the period within which the head company may make such a choice;

the head company has until the later of these times to make such a choice:

(c) the last time the head company may make the choice (apart from this subsection);

(d) the end of 90 days after the Commissioner is given notice under Division 703 that the entity has become a *member of the group or, if the Commissioner allows a later time for the purposes of this paragraph, that later time.

When head company's choice starts to have effect

(5) If the *head company of the *consolidated group makes a choice (however described) under the choice provision as a result of becoming able to make the choice because the entity became a *subsidiary member of the group at the joining time, the choice starts to have effect:

(a) at the joining time; or

(b) if the choice relates (explicitly or implicitly) to one or more whole income years—for the income year in which the joining time occurs.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: Subsection (5) has effect whether or not subsection (4) contributed to the head company becoming able to make the choice.

Relationship with other provisions

(6) Section 701-5 (Entry history rule) and the choice provision have effect subject to this section.

Choices head company can make ignoring entry history rule to override inconsistencies

715-665 Head company's choice to override inconsistency

Application

(1) This section has effect if:

(a) an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) for each of the following entities, the question whether the entity had made a choice (however described) under a provision (the ***choice provision***) listed in the table was relevant to working out the entity's liability (if any) for income tax, or the entity's loss (if any) of a particular *sort, calculated by reference to an income year starting before the joining time:

(i) the joining entity;

(ii) another entity that was a *member of the group at the joining time; and

(c) there was an inconsistency because, just before the joining time, such a choice had effect for one of the entities but not for the other.

List

Item	Provision	Subject of provision
1	Section 148 of the *Income Tax Assessment Act 1936*	Reinsurance with non-residents

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

List

Item	Provision	Subject of provision
1A	section 230-210, 230-255, 230-315 or 230-395	Choice about treatment of gains and losses from *Division 230 financial arrangement
2	Section 775-80	Choosing not to have sections 775-70 and 775-75 apply to deal with *forex realisation gains and *forex realisation losses
3	A provision that: (a) provides for a choice (however described); and (b) is a provision of regulations made for the purposes of this Act, other than this item; and (c) is prescribed by regulations made for the purposes of this item	Choice about a matter described in the regulations

Note 1: The other entity mentioned in subparagraph (1)(b)(ii) may have become a member of the group either before or at the joining time. That other entity may be either another subsidiary member of the group or the head company of the group.

Note 2: An election by an entity under section 148 of the *Income Tax Assessment Act 1936* is an example of a choice under that provision (even though that section does not call the election a choice) because the entity has chosen to make the election.

Object

(2) The main objects of this section are:

(a) to override the inconsistency; and

(b) to displace section 701-5 (Entry history rule), so far as it relates to the inconsistency; and

(c) to allow the *head company of the *consolidated group to make a choice (however described) under the choice provision.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Overriding the inconsistency

(3) Neither of these things relating to an entity that becomes a *member of the *consolidated group at the joining time has effect for the head company core purposes set out in section 701-1 (Single entity rule):

(a) a choice (however described) by the entity having effect under the choice provision before that time;

(b) the absence of such a choice.

Note: This affects all entities that become members of the consolidated group at the joining time, including the head company if the joining time is the time at which the group comes into existence.

(4) However, if the choice provision is section 148 of the *Income Tax Assessment Act 1936* (Reinsurance with non-residents):

(a) subsection (3) of this section does not apply in relation to reinsurance under contracts made before the joining time (but does apply in relation to reinsurance under contracts made at or after that time); and

(b) that section applies for the head company core purposes in relation to reinsurance under a contract made before the joining time by an entity (the ***contracting party***) that became a *member of the *consolidated group at or before the joining time:

(i) as if the *head company of the consolidated group had made an election under that section, if the contracting party had made such an election that was relevant to working out the party's liability (if any) for income tax, or the party's *tax loss (if any), for an income year in connection with the contract; or

(ii) as if the head company had not made such an election, if the contracting party had not made such an election that was relevant to working out the party's liability (if any) for income tax, or the party's tax loss (if any), for an income year in connection with the contract.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Choice replacing inconsistency

(5) If:

(a) the question whether the *head company of the *consolidated group has made a choice (however described) under the choice provision is relevant for the head company core purposes set out in section 701-1 (Single entity rule); and

(b) there is a limit (outside this section) on the period within which the head company may make such a choice;

the head company has until the later of these times to make such a choice:

(c) the last time the head company may make the choice (apart from this subsection);

(d) the end of 90 days after the Commissioner is given notice under Division 703 that the joining entity has become a *member of the group or, if the Commissioner allows a later time for the purposes of this paragraph, that later time.

Note: If the joining time is when the consolidated group is formed, the Commissioner should be given notice under Division 703 that the joining entity has become a member of the group when the approved form of the choice to form the group is given to the Commissioner.

When head company's choice starts to have effect

(6) If the *head company of the *consolidated group makes a choice (however described) under the choice provision as a result of becoming able to make the choice because the joining entity became a *member of the group, the choice starts to have effect:

(a) at the joining time; or

(b) if the choice relates (explicitly or implicitly) to one or more whole income years—for the income year in which the joining time occurs.

(7) However, if:

(a) the *head company of the *consolidated group makes a choice as described in subsection (6); and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the choice is an election under section 148 of the *Income Tax Assessment Act 1936* (Reinsurance with non-residents);

the election has effect only for the purposes of that section applying in relation to reinsurance under contracts made after the joining time and in an income year for which the election applies under that section.

Note: Subsection (4) explains how section 148 of the *Income Tax Assessment Act 1936* applies in relation to reinsurance under contracts made before the joining time.

Relationship with other provisions

(8) Section 701-5 (Entry history rule) and the choice provision have effect subject to this section.

Choices with ongoing effect

715-670 Ongoing effect of choices made by entities before joining group

(1) This section has effect if the question whether the *head company of a *consolidated group has made a choice (however described) under a provision listed in the table is relevant for the head company core purposes set out in section 701-1 (Single entity rule) because of something happening in relation to a thing:

(a) that is an asset, right, liability or obligation of the head company; and

(b) that the head company started to have, at the time (the ***joining time***) an entity (the ***joining entity***) became a *subsidiary member of the group, because of that section and the fact that (ignoring that section) the entity had the thing at the joining time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

List		
Item	**Provision**	**Subject of provision**
1	Section 775-150	Choice to apply rules about disregarding certain *forex realisation gains and *forex realisation losses

(2) The *head company is taken to have made such a choice if the joining entity had one in effect before the joining time.

(3) The *head company is taken not to have made the choice if the joining entity did not have one in effect before the joining time.

715-675 Head company adopting choice with ongoing effect

(1) This section has effect, despite section 715-670, if:

(a) an entity that becomes a *member of a *consolidated group had a choice (however described) in effect under a provision (the ***choice provision***) listed in that section before becoming a member of the group; and

(b) the time at which the entity becomes a member of the group is the first time at which an entity that had a choice (however described) in effect under the choice provision before becoming a member of the group became a member of the group; and

(c) the *head company of the group chooses in writing, before:

(i) the end of 90 days after the Commissioner is given notice under Division 703 that the entity has become a member of the group; or

(ii) a later time allowed by the Commissioner;

to be treated as if the head company had made a choice under the choice provision.

(2) The *head company is taken to have made a choice under the choice provision for these purposes:

(a) the head company core purposes set out in section 701-1 (Single entity rule);

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the purposes of the application of section 715-670 and paragraph (1)(a) in relation to another *consolidated group of which the company later becomes a *subsidiary member.

Subdivision 715-K—Exit history rule and choices

Table of sections

Choices leaving entity can make ignoring exit history rule

715-700 Choices leaving entity can make ignoring exit history rule

Choices leaving entity can make ignoring exit history rule to overcome inconsistencies

715-705 Choices leaving entity can make ignoring exit history rule to overcome inconsistencies

Choices leaving entity can make ignoring exit history rule

715-700 Choices leaving entity can make ignoring exit history rule

Application

(1) This section has effect if:

(a) an entity ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) the question whether the *head company of the group had made a choice (however described) under a provision (the ***choice provision***) listed in the table in subsection 715-660(1) was relevant to working out that company's liability (if any) for income tax, or the entity's loss (if any) of a particular *sort, calculated by reference to an income year starting before the leaving time.

Note: Declarations, elections and selections made under the choice provision at the option of a company are all examples of choices under that provision (even though it does not call them choices) because the company has chosen to make them.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Objects

(2) The main objects of this section are:

(a) to override section 701-40 (Exit history rule) and let the entity make a choice (however described) under the choice provision with effect after the leaving time; and

(b) to extend, in some cases, the time for the entity to make such a choice after the leaving time; and

(c) to modify, in some cases, the rules about when such a choice by the entity starts to have effect.

Overriding the exit history rule

(3) For the entity core purposes set out in section 701-1 (Single entity rule) relating to income years ending after the leaving time, ignore a choice (however described) made by the *head company of the *consolidated group under the choice provision or the absence of such a choice.

Fresh choice by the entity

(4) The entity may make a choice (however described) under the provision if the question whether the entity has made such a choice is relevant to working out the entity's liability (if any) for income tax, or loss (if any) of a particular *sort, calculated by reference to an income year ending after the leaving time.

Extension of time for fresh choice by the entity

(5) If there is a time limit (apart from this subsection) on the entity making such a choice, the entity has until the later of these times to make the choice:

(a) the last time it may make the choice under the provision (apart from this section);

(b) the end of 90 days after the leaving time or, if the Commissioner allows a later time for the purposes of this paragraph, that later time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Start of effect of choice

(6) If the entity makes a choice because of this section, the choice starts to have effect:
  (a) at the leaving time; or
  (b) if the choice relates (explicitly or implicitly) to one or more whole income years—for the income year in which the leaving time occurs.

Relationship with other provisions

(7) Section 701-40 (Exit history rule) and the choice provision have effect subject to this section.

Choices leaving entity can make ignoring exit history rule to overcome inconsistencies

715-705 Choices leaving entity can make ignoring exit history rule to overcome inconsistencies

Application

(1) This section has effect if an entity ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***) and there is an inconsistency because either:
  (a) both of these conditions are met:
    (i) a choice (however described) under a provision (the ***choice provision***) listed in the table in subsection 715-665(1) by the entity had effect just before the entity became a *member of the group;
    (ii) there was not such a choice by the *head company of the group having effect just before the leaving time; or
  (b) both of these conditions are met:
    (i) there was not a choice (however described) under the choice provision by the entity having effect just before the entity became a member of the group;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(ii) such a choice by the head company had effect just before the leaving time.

Note: An election by the entity or head company under the choice provision is an example of a choice under that provision (even though the provision does not call the election a choice) because the entity or company has chosen to make the election.

Object

(2) The main objects of this section are:

(a) to displace section 701-40 (Exit history rule), so far as it relates to the inconsistency; and

(b) to allow the entity to make a choice (however described) under the choice provision with effect after the leaving time.

Displacing the exit history rule

(3) For the entity core purposes set out in section 701-1 (Single entity rule) relating to income years ending after the leaving time, ignore a choice (however described) made by the *head company of the *consolidated group under the choice provision or the absence of such a choice.

(4) However, if the choice provision is section 148 of the *Income Tax Assessment Act 1936* (Reinsurance with non-residents):

(a) subsection (3) of this section does not apply in relation to reinsurance under contracts made before the leaving time (but does apply in relation to reinsurance under contracts made at or after that time); and

(b) that section applies, for the entity core purposes relating to income years ending after the leaving time, in relation to reinsurance under a contract made before the leaving time:

(i) as if the entity had made an election under that section, if the *head company of the *consolidated group made, or was treated as having made, such an election that was relevant to working out that company's liability (if any) for income tax, or that company's *tax loss (if any), for an income year in connection with the contract; or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(ii) as if the entity had not made such an election, if the head company had not made, and was not treated as having made, such an election that was relevant to working out that company's liability (if any) for income tax, or that company's tax loss (if any), for an income year in connection with the contract.

Note: In some cases, subsection 715-665(4) treats the head company of a consolidated group as having made an election under section 148 of the *Income Tax Assessment Act 1936* in relation to reinsurance under contracts made before an entity becomes a member of the group.

Fresh choice by the entity

(5) The entity may make a choice (however described) under the choice provision if the question whether the entity has made such a choice is relevant to working out the entity's liability (if any) for income tax, or loss (if any) of a particular *sort, calculated by reference to an income year ending after the leaving time.

Extension of time for fresh choice by the entity

(6) If there is a time limit (apart from this subsection) on the entity making such a choice, the entity has until the later of these times to make the choice:

(a) the last time it may make the choice under the choice provision (apart from this section);

(b) the end of 90 days after the leaving time or, if the Commissioner allows a later time for the purposes of this paragraph, that later time.

Start of effect of choice

(7) If the entity makes a choice because of this section, the choice starts to have effect:

(a) at the leaving time; or

(b) if the choice relates (explicitly or implicitly) to one or more whole income years—for the income year in which the leaving time occurs.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(8) However, if:

(a) the entity makes a choice because of this section; and

(b) the choice is an election under section 148 of the *Income Tax Assessment Act 1936* (Reinsurance with non-residents);

the election has effect only for the purposes of that section applying in relation to reinsurance under contracts made at or after the leaving time and in an income year for which the election applies under that section.

Note: Subsection (4) explains how section 148 of the *Income Tax Assessment Act 1936* applies in relation to reinsurance under contracts made before the joining time.

Relationship with other provisions

(9) Section 701-40 (Exit history rule) and the choice provision have effect subject to this section.

Subdivision 715-U—Effect on conduit foreign income

Table of sections

715-875 Extension of single entity rule and entry history rule
715-880 No CFI for leaving entity

715-875 Extension of single entity rule and entry history rule

(1) Subsection 701-1(1) (Single entity rule) and section 701-5 (Entry history rule) also have effect for all the purposes of Subdivision 802-A (about conduit foreign income).

(2) This section is not intended to limit the effect that subsection 701-1(1) and section 701-5 have apart from this section.

715-880 No CFI for leaving entity

Despite section 701-40 (the exit history rule), an entity that ceases to be a *subsidiary member of a *consolidated group at a time has no *conduit foreign income at that time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 715-V—Entity ceasing to be exempt from income tax on becoming subsidiary member of consolidated group

Table of sections

715-900 Transition time taken to be just before joining time

715-900 Transition time taken to be just before joining time

(1) This section has effect if:

(a) an entity becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) the entity's *ordinary income and *statutory income were not (to any extent) assessable income just before the joining time.

(2) Division 57 in Schedule 2D to the *Income Tax Assessment Act 1936* and Division 58 of this Act have effect as if the entity's *ordinary income or *statutory income had become to some extent assessable income just before the joining time.

Note 1: Those Divisions deal with entities whose ordinary income and statutory income were previously exempt from income tax.

Note 2: The operation of Division 58 just before the joining time can affect the basis on which the tax cost is set for a depreciating asset that becomes an asset of the head company of the consolidated group at the joining time because of section 701-1 (the single entity rule). That Division provides the basis for working out under Division 40 the asset's adjustable value. This is the entity's terminating value for the asset, which in turn can affect the tax cost setting amount for the asset under sections 705-40, 705-45 and 705-47.

Subdivision 715-W—Effect on arrangements where CGT roll-overs are obtained

Table of sections

715-910 Effect on restructures—original entity becomes a subsidiary member
715-915 Effect on restructures—original entity is a head company

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-920 Effect on restructures—original entity is a head company that becomes a subsidiary member of another group
715-925 Effect on restructures—original entity ceases being a subsidiary member

715-910 Effect on restructures—original entity becomes a subsidiary member

(1) This section applies if:

(a) as a result of an *arrangement to which section 124-784A applies, an original entity (within the meaning of that section) becomes a *subsidiary member of a *consolidated group; and

(b) section 715-920 does not apply.

Note 1: Section 715-920 applies if the original entity was the head company of another consolidated group before the arrangement was completed.

Note 2: Sections 124-784A and 124-784B apply to arrangements for restructures.

(2) For the purposes of section 124-784B:

(a) the completion time (within the meaning of that section) for the *arrangement is taken to be the time the original entity becomes a member of the group; and

(b) disregard Division 701 (Core rules) in relation to the original entity becoming a member of the group.

(3) The *head company of the group may choose for:

(a) section 701-10 (cost to head company of assets of joining entity); and

(b) subsection 701-35(4) (setting value of trading stock at tax-neutral amount); and

(c) subsection 701-35(5) (setting value of registered emissions unit at tax-neutral amount);

not to apply to the original entity's assets in respect of the original entity becoming a *subsidiary member of the group.

Note: This subsection does not affect the application of subsection 701-1(1) (the single entity rule).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-915 Effect on restructures—original entity is a head company

If:

(a) section 124-784A applies in relation to an *arrangement; and

(b) the original entity (within the meaning of that section) for the arrangement is the *head company of a *consolidated group just before the arrangement was completed; and

(c) section 715-920 does not apply;

then, for the purposes of section 124-784B, subsection 701-1(1) (the single entity rule) and section 701-5 (the entry history rule) apply in respect of the group.

Note 1: This section does not otherwise affect the application of subsection 701-1(1) or section 701-5.

Note 2: Sections 124-784A and 124-784B apply to arrangements for restructures.

715-920 Effect on restructures—original entity is a head company that becomes a subsidiary member of another group

(1) This section applies if:

(a) section 124-784A applies in relation to an *arrangement; and

(b) the original entity (within the meaning of that section) for the arrangement is the *head company of a *consolidated group (the ***acquired group***) just before the arrangement was completed; and

(c) as a result of the arrangement:

(i) the original entity; and

(ii) the *subsidiary members of the acquired group just before the arrangement was completed;

become subsidiary members of another consolidated group.

Note: Sections 124-784A and 124-784B apply to arrangements for restructures.

(2) For the purposes of section 124-784B:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the original entity is taken to be the *head company of the acquired group at the completion time (within the meaning of that section) for the *arrangement; and

(b) the operation of this Part for the head company core purposes (mentioned in subsection 701-1(2)) in relation to:

(i) the original entity; and

(ii) the entities that were *subsidiary members of the acquired group just before the arrangement was completed;

continue to have effect at the completion time for the arrangement; and

(c) the completion time for the arrangement is taken to be the time the original entity becomes a member of the other group; and

(d) disregard Division 701 (Core rules) in relation to the original entity becoming a member of the other group.

Note: Paragraph (b) means that, for the purposes of section 124-784B, the subsidiary members of the acquired group are treated as part of the original entity.

(3) The *head company of the other group may choose for:

(a) section 701-10 (cost to head company of assets of joining entity); and

(b) subsection 701-35(4) (setting value of trading stock at tax-neutral amount); and

(c) subsection 701-35(5) (setting value of registered emissions unit at tax-neutral amount);

not to apply to the original entity's assets in respect of the original entity becoming a *subsidiary member of the other group.

Note: This subsection does not affect the application of subsection 701-1(1) (the single entity rule).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

715-925 Effect on restructures—original entity ceases being a subsidiary member

If, as a result of an *arrangement to which section 124-784A applies, an original entity (within the meaning of that section):

(a) ceases to be a *subsidiary member of a *consolidated group after the completion time (within the meaning of that section) for the arrangement; and

(b) does not become a member of another consolidated group;

then, for the purposes of section 124-784B, the completion time for the arrangement is taken to happen at the time of the cessation.

Note: Sections 124-784A and 124-784B apply to arrangements for restructures.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 716—Miscellaneous special rules

Table of Subdivisions

716-A Assessable income and deductions spread over several membership or non-membership periods
716-E Tax cost setting for exploration and prospecting assets
716-G Low-value and software development pools
716-S Miscellaneous consequences of tax cost setting
716-V Research and Development
716-Z Other

Subdivision 716-A—Assessable income and deductions spread over several membership or non-membership periods

Guide to Subdivision 716-A

716-1 What this Division is about

Some items of assessable income, and some deductions, are in effect spread over 2 or more income years. This Division apportions the assessable income or deduction for each of those income years among periods within the income year when an entity is, or is not, a subsidiary member of a consolidated group.

This Division also apportions in a similar way some items of assessable income, and some deductions, for a single income year.

Table of sections

Operative provisions

716-15 Assessable income spread over 2 or more income years
716-25 Deductions spread over 2 or more income years

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

716-70 Capital expenditure that is fully deductible in one income year

Assessable income and deductions arising from share of net income of a partnership or trust, or from share of partnership loss

716-75 Application
716-80 Head company's assessable income and deductions
716-85 Entity's assessable income and deductions for a non-membership period
716-90 Entity's share of assessable income or deductions of partnership or trust
716-95 Special rule if not all partnership or trust's assessable income or deductions taken into account in working out amount
716-100 Spreading period

Operative provisions

716-15 Assessable income spread over 2 or more income years

(1) This section applies if, apart from this Part, a provision of this Act would spread an amount (the ***original amount***) over 2 or more income years (whether or not because of a choice) by including part of the original amount in the same entity's assessable income for each of those income years.

Head company's assessable income

(2) If:

(a) for some but not all of an income year, an entity is a *subsidiary member of a *consolidated group; and

(b) a part of the original amount:

(i) would have been included in the assessable income of the *head company of the group for that income year if the entity had been a subsidiary member of the group throughout that income year; but

(ii) would have been included in the entity's assessable income for that income year if throughout that income year the entity had not been a subsidiary member of any *consolidated group;

the head company's assessable income for that income year includes a proportion of that part.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note 1: Examples of when paragraph (2)(b) could be satisfied are:

- the head company is the entity referred to in subsection (1), but its connection with the original amount passes to the entity when the entity ceases to be a subsidiary member of the group (see section 701-40 (Exit history rule));
- the entity is the entity referred to in subsection (1) but joins a consolidated group part way through the income year, so that its connection with the original amount passes to the head company of the group (see section 701-5 (Entry history rule)).

Note 2: If the entity is a subsidiary member of the group throughout the income year, the part of the original amount will be included in the head company's assessable income for the income year, either:

- because the head company is the entity referred to in subsection (1); or
- because of section 701-1 (Single entity rule); or
- because of section 701-5 (Entry history rule).

(3) The proportion is worked out by multiplying that part of the original amount by:

- the number of days that are in both the income year and the *spreading period, and on which the entity was a *subsidiary member of the group;

divided by:

- the number of days that are in both the income year and the spreading period.

Entity's assessable income for a non-membership period

(4) If:

(a) for some but not all of an income year, an entity is a *subsidiary member of a *consolidated group; and

(b) a part of the original amount would have been included in the entity's assessable income for that income year if throughout that income year the entity had *not* been a subsidiary member of any *consolidated group;

the assessable income of the entity for a part of the income year that is a non-membership period for the purposes of section 701-30 includes a proportion of that part.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note 1: Section 701-30 is about working out an entity's tax position for a period when it is not a subsidiary member of any consolidated group.

Note 2: If throughout the income year the entity is not a subsidiary member of any consolidated group, this section does not affect the part of the original amount that is assessable income of the entity for the income year either:

- because the entity is the entity referred to in subsection (1); or
- because of section 701-40 (Exit history rule).

(5) The proportion is worked out by multiplying that part of the original amount by:

- the number of days that are in both the non-membership period and the *spreading period;

divided by:

- the number of days that are in both the income year and the spreading period.

Spreading period

(6) The ***spreading period*** for the original amount is the period by reference to which the respective parts of the original amount that, apart from this Part, would be included in an entity's assessable income for the 2 or more income years are worked out.

716-25 Deductions spread over 2 or more income years

(1) This section applies if, apart from this Part, a provision of this Act would spread an amount (the ***original amount***) over 2 or more income years (whether or not because of a choice) by entitling the same entity to deduct part of the original amount for each of those income years.

(2) However, this section does not apply if the deductions would be for the decline in value of a *depreciating asset.

Note: Such deductions arise under Division 40 (Capital allowances) and Division 328 (Small business entities).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Head company's deduction

(3) If for some but not all of an income year an entity is a *subsidiary member of a *consolidated group, and:

(a) the *head company of the group could have deducted for that income year a part of the original amount if the entity had been a subsidiary member of the group throughout that income year; but

(b) the entity could have deducted that part for that income year if throughout that income year the entity had not been a subsidiary member of any *consolidated group;

the head company can deduct for that income year a proportion of that part.

Note 1: Examples of when paragraphs (3)(a) and (b) could be satisfied are set out in note 1 to subsection 716-15(2).

Note 2: If the entity is a subsidiary member of the group throughout the income year, the head company can deduct that part for the income year, either:

- because the head company is the entity referred to in subsection (1) of this section; or
- because of section 701-1 (Single entity rule); or
- because of section 701-5 (Entry history rule).

(4) The proportion is worked out by multiplying that part of the original amount by:

- the number of days that are in both the income year and the *spreading period, and on which the entity was a *subsidiary member of the group;

divided by:

- the number of days that are in both the income year and the spreading period.

Entity's deduction for a non-membership period

(5) If:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) for some but not all of an income year, an entity is a *subsidiary member of a *consolidated group; and

(b) the entity could have deducted for that income year a part of the original amount if throughout that income year the entity had *not* been a subsidiary member of any *consolidated group;

the entity can deduct a proportion of that part for a part of the income year that is a non-membership period for the purposes of section 701-30.

Note 1: Section 701-30 is about working out an entity's tax position for a period when it is not a subsidiary member of any consolidated group.

Note 2: If throughout the income year the entity is not a subsidiary member of any consolidated group or MEC group, this section does not affect the part of the original amount that the entity can deduct for the income year either:

- because the entity is the entity referred to in subsection (1); or
- because of section 701-40 (Exit history rule).

(6) The proportion is worked out by multiplying that part of the original amount by:

- the number of days that are in both the non-membership period and the *spreading period;

divided by:

- the number of days that are in both the income year and the spreading period.

Spreading period

(7) The ***spreading period*** for the original amount is the period by reference to which the respective parts of the original amount that, apart from this Part, an entity could deduct for the 2 or more income years are worked out.

Note: For example, under section 82KZMD of the *Income Tax Assessment Act 1936* an item of expenditure on something is spread over the period over which that thing is to be provided, which is called the eligible service period. Deductions for the item for a sequence of

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

income years are worked out by reference to how much of that period falls within each of those income years.

716-70 Capital expenditure that is fully deductible in one income year

(1) This section applies if, apart from this Part, an entity could deduct for a single income year the whole of an amount (the ***original amount***) of capital expenditure by the entity.

(2) If for some but not all of an income year an entity is a *subsidiary member of a *consolidated group or *MEC group, and:

(a) the *head company of the group could have deducted the original amount for that income year if the entity had been a subsidiary member of the group throughout that income year; but

(b) the entity could have deducted the original amount for that income year if throughout that income year the entity had *not* been a subsidiary member of any consolidated group or MEC group;

the head company can deduct for that income year a proportion of the original amount.

Note 1: Examples of when paragraphs (2)(a) and (b) could be satisfied are set out in note 1 to subsection 716-15(2).

Note 2: If the entity is a subsidiary member of the group throughout the income year, the head company can deduct the original amount for the income year, either:

- because the head company is the entity referred to in subsection (1) of this section; or
- because of section 701-1 (Single entity rule); or
- because of section 701-5 (Entry history rule).

(3) The proportion is worked out by multiplying the original amount by:

- the number of days that are in the *spreading period, and on which the entity was a *subsidiary member of the group;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

divided by:

- the number of days that are in the spreading period.

Entity's deduction for a non-membership period

(4) If:

(a) for some but not all of an income year, an entity is a *subsidiary member of a *consolidated group or *MEC group; and

(b) the entity could have deducted the original amount for that income year if throughout that income year the entity had *not* been a subsidiary member of any consolidated group or MEC group;

the entity can deduct a proportion of the original amount for a part of the income year that is a non-membership period for the purposes of section 701-30.

Note 1: Section 701-30 is about working out an entity's tax position for a period when it is not a subsidiary member of any consolidated group.

Note 2: If throughout the income year the entity is not a subsidiary member of any consolidated group or MEC group, this section does not affect the entity's ability to deduct the original amount for the income year either:

- because the entity is the entity referred to in subsection (1); or
- because of section 701-40 (Exit history rule).

(5) The proportion is worked out by multiplying the original amount by:

- the number of days that are in both the non-membership period and the *spreading period;

divided by:

- the number of days that are in the spreading period.

Spreading period

(6) The ***spreading period*** for the original amount:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) starts when, apart from this Part, an entity would become entitled to deduct the amount for an income year; and
(b) ends at the end of the income year.

Assessable income and deductions arising from share of net income of a partnership or trust, or from share of partnership loss

716-75 Application

Sections 716-80 to 716-100 apply if, apart from this Part:

(a) an amount would be included in an entity's assessable income for an income year under section 92 (about income and deductions of partner) of the *Income Tax Assessment Act 1936* in respect of a partnership; or
(b) an entity could deduct an amount for an income year under section 92 of that Act in respect of a partnership; or
(c) an amount would be included in an entity's assessable income for an income year under section 97 (Beneficiary of a trust estate who is not under a legal disability) of that Act in respect of a trust; or
(d) an amount would be included in an entity's assessable income for an income year under section 98A (Non-resident beneficiaries assessable in respect of certain income) of that Act in respect of a trust.

716-80 Head company's assessable income and deductions

(1) If for some but not all of the income year the entity is a *subsidiary member of a *consolidated group or *MEC group:

(a) the assessable income for that income year of the head company of the group includes the entity's share (worked out under section 716-90) of each of these:

(i) the total assessable income of the partnership or trust for the income year so far as it is reasonably attributable to a period, during the income year, throughout which the

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

entity was a *subsidiary member of the group but the partnership or trust was *not*;

(ii) a proportion (worked under subsection (2) of this section) of the total assessable income of the partnership or trust for the income year so far as it is *not* reasonably attributable to a particular period within the income year; and

(b) the head company of the group can deduct for that income year the entity's share (worked out under section 716-90) of each of these:

(i) the total deductions of the partnership or trust for the income year so far as they are reasonably attributable to a period covered by subparagraph (a)(i) of this subsection;

(ii) a proportion (worked under subsection (2) of this section) of the total deductions of the partnership or trust for the income year so far as they are *not* reasonably attributable to a particular period within the income year.

Note 1: If the entity is a subsidiary member of the group throughout the income year, the amount referred to in section 716-75 will be included in the head company's assessable income, or the head company can deduct that amount, for the income year because of section 701-1 (Single entity rule).

Note 2: While the entity, and the partnership or trust, are both subsidiary members of the group, section 701-1 (Single entity rule) attributes to the head company all assessable income and deductions giving rise to the amount referred to in section 716-75.

(2) The proportion is worked out by multiplying the amount concerned by:

- the number of days that are in the *spreading period, and on which the entity was a *subsidiary member of the group but the partnership or trust was *not*;

divided by:

- the number of days that are in the spreading period.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

716-85 Entity's assessable income and deductions for a non-membership period

(1) The assessable income of the entity for a part of the income year that is a non-membership period for the purposes of section 701-30 includes the entity's share (worked out under section 716-90) of each of these:

(a) the total assessable income of the partnership or trust for the income year so far as it is reasonably attributable to the non-membership period;

(b) a proportion (worked under subsection (3) of this section) of the total assessable income of the partnership or trust for the income year so far as it is *not* reasonably attributable to a particular period within the income year.

Note 1: Section 701-30 is about working out an entity's tax position for a period when it is not a subsidiary member of any consolidated group.

Note 2: If throughout the income year the entity is not a subsidiary member of any consolidated group or MEC group, this section does not affect the amount referred to in section 716-75 being assessable income of the entity for the income year.

(2) For a part of the income year that is a non-membership period for the purposes of section 701-30, the entity can deduct the entity's share (worked out under section 716-90) of each of these:

(a) the total deductions of the partnership or trust for the income year so far as they are reasonably attributable to the non-membership period;

(b) a proportion (worked under subsection (3) of this section) of the total deductions of the partnership or trust for the income year so far as they are *not* reasonably attributable to a particular period within the income year.

Note: If throughout the income year the entity is not a subsidiary member of any consolidated group or MEC group, this section does not affect the entity's ability to deduct for the income year the amount referred to in section 716-75.

(3) The proportion is worked out by multiplying the amount concerned by:

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

- the number of days that are in both the non-membership period and the *spreading period;

divided by:

- the number of days that are in the spreading period.

716-90 Entity's share of assessable income or deductions of partnership or trust

(1) If paragraph 716-75(a) or (b) applies, the entity's share is worked out by dividing:

- the entity's individual interest as a partner in the net income of the partnership or in the partnership loss;

by:

- the amount of that net income or partnership loss;

and expressing the result as a percentage.

(2) If paragraph 716-75(c) or (d) applies, the entity's share is worked out by dividing:

- the share of the income of the trust to which the entity is presently entitled;

by:

- the amount of that income;

and expressing the result as a percentage.

716-95 Special rule if not all partnership or trust's assessable income or deductions taken into account in working out amount

(1) To the extent that the assessable income of the partnership or trust for the income year was *not* taken into account in working out the amount referred to in section 716-75, it is disregarded in applying paragraph 716-80(1)(a) or subsection 716-85(1).

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: For example, if a trust's net income for an income year must be worked out under section 268-45 in Schedule 2F to the *Income Tax Assessment Act 1936*, the trust's assessable income attributed to a period (in the income year) for which it has a notional loss under section 268-30 of that Act is not taken into account.

(2) To the extent that the deductions of the partnership or trust for the income year were *not* taken into account in working out the amount referred to in section 716-75, they are disregarded in applying paragraph 716-80(1)(b) or subsection 716-85(2).

Note: For example, in the case described in the note to subsection (1) of this section, the trust's deductions attributed to that period are not taken into account in working out the trust's net income for the income year.

716-100 Spreading period

The ***spreading period*** for the amount referred to in section 716-75 is made up of each period:

(a) that is all or part of the income year; and

(b) throughout which the entity is a partner in the partnership or a beneficiary of the trust, as appropriate.

Subdivision 716-E—Tax cost setting for exploration and prospecting assets

Table of sections

716-300 Prime cost method of working out decline in value

716-300 Prime cost method of working out decline in value

(1) This section has effect if:

(a) an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) because of subsection 40-80(1), the joining entity could (or did) deduct for a period before the joining time the *cost of a *depreciating asset that became an asset of the *head company of the group at the joining time because

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

section 701-1 (Single entity rule) applied to the joining entity; and

(c) the joining entity could not deduct an amount under Subdivision 40-B (except because of subsection 40-80(1)) for the income year that includes the joining time for that cost.

Note: Subdivision 40-B allows deductions for the decline in value of depreciating assets. Subsection 40-80(1), which is in that Subdivision, provides that the decline in value of certain assets used for exploration and prospecting equals their cost.

(2) Subsection 701-55(2) has effect as if the *prime cost method for working out the decline in value of the *depreciating asset applied just before the joining time.

Note: This may affect both the method of working out the decline in value of the asset and the asset's effective life.

Subdivision 716-G—Low-value and software development pools

Table of sections

Assets in joining entity's low-value pool

716-330 Head company's deductions for decline in value of assets in joining entity's low-value pool

Entity leaving group with asset allocated to head company's low-value pool

716-335 Entity leaving group with asset allocated to head company's low-value pool

Depreciating assets arising from expenditure in joining entity's software development pool

716-340 Depreciating assets arising from expenditure in joining entity's software development pool

Software development pools if entity leaves consolidated group

716-345 Head company taken not to have incurred expenditure

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Assets in joining entity's low-value pool

716-330 Head company's deductions for decline in value of assets in joining entity's low-value pool

(1) This section modifies the operation of sections 40-430, 40-435, 40-440, 40-445, 701-10 and 701-60 and Division 705 for the head company core purposes mentioned in section 701-1 if:

(a) an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) there are one or more *depreciating assets (the ***previous pool assets***) that:

(i) were allocated to the joining entity's low-value pool; and

(ii) become assets of the *head company of the group at the joining time because section 701-1 applies to the joining entity; and

(c) *none* of the previous pool assets was an asset to which Division 58 applied to affect the joining entity's deductions relating to the asset.

Note 1: Sections 40-430, 40-435 and 40-440 are relevant to allocating depreciating assets to a low-value pool and to working out the decline in value of assets allocated to a low-value pool. Section 40-445 affects the closing pool balance, and may give rise to assessable income, if a balancing adjustment event happens to such an asset.

Note 2: Section 701-10 provides that, for each asset the joining entity has at the joining time, the asset's tax cost is set at the joining time at the asset's tax cost setting amount, which is defined by section 701-60 as the amount worked out under Division 705.

Note 3: Division 58 is about capital allowances for depreciating assets previously owned by an exempt entity.

Objects

(2) The main objects of this section are:

(a) to clarify how sections 40-430, 40-435 and 40-440 operate in relation to the previous pool assets; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) to reduce compliance costs by providing that the *tax cost is set for all the previous pool assets in one operation, rather than individually for each such asset.

Time of allocation of assets to head company's low-value pool

(3) Sections 40-430, 40-435, 40-440 and 40-445 operate as if the *head company of the *consolidated group allocated the previous pool assets to a low-value pool for the income year that includes the joining time. Section 701-5 has effect subject to this subsection.

Note 1: Under section 40-435, the head company must make a reasonable estimate of the taxable use percentage for each asset.

Note 2: This subsection affects the percentages and amounts to be taken into account for working out under section 40-440 the decline in value of assets in the pool and the closing pool balance.

Allocating other low-cost assets to head company's low-value pool

(4) Subsection 40-430(1) operates as if the previous pool assets were *low-cost assets.

Note: This has the effect that the head company must allocate to the low-value pool each low-cost asset it starts to hold in the income year that includes the joining time or a later income year, whether or not the head company starts to hold the asset because of section 701-1.

If joining time was in first day of joining entity's income year

(5) If the joining time was in the first day of the joining entity's income year, section 40-440 operates as if:

(a) all the previous pool assets were *low-value assets; and

(b) the sum of the previous pool assets' *opening adjustable values for the income year that includes the joining time equalled the *tax cost setting amount for the hypothetical asset worked out on the basis described in subsections (7), (8) and (9) of this section.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

If joining time was not in first day of joining entity's income year

(6) If the joining time was *not* in the first day of the joining entity's income year, section 40-440 operates as if:

(a) all the previous pool assets were *low-cost assets; and

(b) the sum of the previous pool assets' *costs equalled the total of:

(i) the *tax cost setting amount for the hypothetical asset worked out on the basis described in subsections (7), (8) and (9) of this section; and

(ii) the expenditure (if any) that was incurred after the joining time (but in the income year that includes that time) and included in the second element of the costs (ignoring this paragraph) of the previous pool assets.

Tax cost is set for assets collectively not individually

(7) Sections 701-10 and 701-60 and Division 705 operate as if all the previous pool assets formed a single *depreciating asset (the ***hypothetical asset***), and were not separate assets.

Modified operation of Division 705 for hypothetical asset

(8) Sections 705-40 and 705-57 operate as if the joining entity's *terminating value for the hypothetical asset were the amount worked out using the table:

Modification of basis on which sections 705-40 and 705-57 operate

	If the joining time is:	Sections 705-40 and 705-57 operate as if the joining entity's terminating value for the hypothetical asset were:
1	In the first day of an income year of the joining entity	The *closing pool balance for the joining entity's low-value pool for the previous income year
2	In another day	The *closing pool balance for the joining entity's low-value pool for the non-membership period described in section 701-30 that ends just before the joining time

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: Sections 705-40 and 705-57 are about reduction of an asset's tax cost setting amount to an amount that may be affected by the joining entity's terminating value for the asset.

Entity leaving group with asset allocated to head company's low-value pool

716-335 Entity leaving group with asset allocated to head company's low-value pool

(1) This section sets out rules affecting the *head company of a *consolidated group and an entity (the ***leaving entity***) that ceases to be a *subsidiary member of the group at a time (the ***leaving time***) in an income year (the ***leaving year***), if:

(a) a *depreciating asset becomes an asset of the leaving entity at the leaving time because section 701-1 (Single entity rule) ceases to apply to the leaving entity; and

(b) the asset was in the head company's low-value pool.

Note: Section 701-40 (Exit history rule) treats the asset as having been allocated to the leaving entity's low-value pool, with the taxable use percentage estimated by the head company, for the income year for which the head company allocated the asset to the head company's low-value pool.

Objects

(2) The main objects of this section are:

(a) to ensure that the decline in value of assets in the *head company's low-value pool and the decline in value of assets in the leaving entity's low-value pool are worked out so that:

(i) for the leaving year, the *depreciating asset is taken into account in working out the decline in value of assets in the *head company's* low-value pool only; and

(ii) for later income years, the depreciating asset is taken into account in working out the decline in value of assets in the *leaving entity's* low-value pool only; and

(b) to specify the *adjustable value of the depreciating asset just before and at the leaving time.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Reduced decline in value for leaving entity for leaving year

(3) The decline in value worked out for the leaving year under subsection 40-440(1) for assets in the leaving entity's low-value pool is reduced by such amount as is reasonable to prevent duplication of deductions for the leaving year in respect of the *depreciating asset by the *head company and the leaving entity.

Reduced closing pool balance for head company's pool for leaving year

(4) The *closing pool balance of the *head company's low-value pool for the leaving year is reduced by so much of the balance as reasonably relates to the *depreciating asset.

Cost of head company's membership interests in leaving entity etc.

(5) Sections 701-15, 701-40 and 701-60 and Division 711 have effect as if the *adjustable value of the *depreciating asset for the *head company just before and at the leaving time were such amount as is reasonable, having regard to:

(a) the reduction described in subsection (4) of this section; and

(b) the taxable use percentage estimated for the depreciating asset by the head company under section 40-435.

Note 1: Section 701-15 provides that, for each membership interest the head company holds in the leaving entity, the interest's tax cost is set just before the leaving time at the interest's tax cost setting amount, which is defined by section 701-60 as the amount worked out under certain sections of Division 711.

Note 2: Division 711 sets the interest's tax cost setting amount by reference to the head company's terminating value of the asset, which is to be worked out under section 711-30 by reference to the adjustable value of the asset for the head company just before the leaving time.

Note 3: Section 701-40 has the effect that the adjustable value of the asset for the leaving entity at the leaving time is the same as the adjustable value of the asset for the head company then.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Depreciating assets arising from expenditure in joining entity's software development pool

716-340 Depreciating assets arising from expenditure in joining entity's software development pool

(1) This section modifies the basis on which Subdivision 40-B and sections 40-455, 701-10, 701-55 and 701-60 and Division 705 operate if:

(a) an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) the joining entity had incurred before the joining time expenditure that it allocated to a software development pool; and

(c) some or all of the expenditure is reasonably related to *in-house software that:

(i) is a *depreciating asset; and

(ii) became an asset of the *head company of the consolidated group at the joining time because section 701-1 (Single entity rule) applied to the joining entity.

Note 1: Subdivision 40-B allows deductions for the decline in value of a depreciating asset, but only if expenditure on the asset has not been allocated to a software development pool. Section 40-455 provides for deduction of expenditure allocated to such a pool. Section 701-5 (Entry history rule) treats the head company as having incurred the expenditure that was allocated to the pool.

Note 2: Section 701-10 provides that, for each asset the joining entity has at the joining time, the asset's tax cost is set at the joining time at the asset's tax cost setting amount, which is defined by section 701-60 as the amount worked out under Division 705, which in turn depends on the adjustable value of the asset worked out under section 40-85.

Note 3: Section 701-55 affects matters relevant to working out the head company's deductions for the decline in value of depreciating assets that became assets of the head company at the joining time because section 701-1 (Single entity rule) applied to the joining entity.

Note 4: This section operates whether or not the joining entity's deductions under section 40-455 for the period before the joining time for

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

expenditure allocated to the pool total 100% of the expenditure allocated to the pool.

Object

(2) The main object of this section is to ensure that:

(a) the *head company's deductions for the *in-house software:

(i) are *not* worked out under section 40-455 on the basis of section 701-5 (Entry history rule) treating the expenditure relating to the software as being the head company's expenditure; and

(ii) are instead worked out under Subdivision 40-B, using the *prime cost method with the *effective life given by subsection 40-95(7) and taking account of the *tax cost setting amount for the software; and

(b) the tax cost setting amount is worked out in a way that takes account of deductions for the period before the joining time for the expenditure reasonably related to the in-house software.

Joining entity taken not to have incurred certain expenditure

(3) Subdivision 40-B and section 40-455 operate for the head company core purposes mentioned in section 701-1 (Single entity rule) as if the expenditure reasonably related to the *in-house software had not been incurred by the joining entity.

Note 1: This has the effects that:

(a) subsection 40-50(2) does not apply because of section 701-5 (Entry history rule) to deny the head company deductions under Subdivision 40-B for the decline in value of the software; and

(b) the head company cannot deduct the expenditure under section 40-455 as it operates because of section 701-5.

Note 2: This does not prevent the head company from deducting under section 40-455 expenditure that is *not* reasonably related to the in-house software and that the head company is treated by section 701-5 as having incurred and allocated to a software development pool because the joining entity did.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Prime cost method of working out decline in value of software

(4) Subsection 701-55(2) operates as if the *prime cost method of working out the decline in value of the *in-house software applied just before the joining time.

Note: This affects the method of working out the decline in value of the software for the head company of the consolidated group.

Effective life of software

(5) Subdivision 40-B operates as if the *effective life of the *in-house software were the period specified for in-house software in subsection 40-95(7). Subsection 701-55(2) is subject to this subsection.

Cost of in-house software

(6) Sections 701-10 and 701-60 and Division 705 (and section 40-85, so far as it affects that Division) operate as if the *cost of the *in-house software were the total amount of the joining entity's expenditure that reasonably related to the software and was allocated to a software development pool.

Earlier decline in value of the in-house software

(7) Sections 701-10 and 701-60 and Division 705 (and section 40-85, so far as it affects that Division) operate as if the decline in value, and deductions for the decline in value, of the *in-house software for a period before the joining time were the amount worked out under subsection (8).

(8) Work out the amount by:

(a) working out, for each software development pool to which expenditure relating to the *in-house software was allocated, the amount of the joining entity's deductions under section 40-455 that reasonably relates to the software; and

(b) adding up each of those amounts if there are 2 or more such pools.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: Subsections (6), (7) and (8) can affect the working out of the tax cost setting amount for the in-house software, by affecting the joining entity's terminating value for the software, which section 705-30 defines as being the adjustable value of the software just before the joining time, and which is relevant to sections 705-40 and 705-57 (which may reduce the tax cost setting amount for the software).

Software development pools if entity leaves consolidated group

716-345 Head company taken not to have incurred expenditure

(1) This section has effect if:

(a) an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group at a time in an income year (the ***leaving year***); and

(b) under section 701-40 (Exit history rule), expenditure is taken to have been allocated by the leaving entity to a software development pool.

Note: Section 701-40 treats expenditure incurred by the head company of the consolidated group and allocated by that company to a software development pool as having been incurred by the leaving entity and allocated by it to a software development pool.

(2) Work out deductions of the *head company of the *consolidated group for income years after the leaving year as if the head company had not incurred the expenditure.

(3) The leaving entity cannot deduct an amount for the leaving year for the expenditure it is taken to have allocated to the software development pool.

Subdivision 716-S—Miscellaneous consequences of tax cost setting

Table of sections

716-400 Tax cost setting and bad debts
716-440 Membership interests in joining entity not subject to CGT under Division 855—foreign entity ceasing to hold interests

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

716-400 Tax cost setting and bad debts

(1) The object of this section is to clarify the effect of section 701-5 (entry history rule) and subsection 701-55(6) in relation to an asset that may give rise to a bad debt. It achieves this object by clarifying that certain things are taken to have happened in relation to the asset through the operation of section 701-5 and subsection 701-55(6).

(2) This section applies if:

(a) the tax cost of an asset was set at the time (the ***joining time***) an entity (the ***joining entity***) became a subsidiary member of a *consolidated group at the asset's tax cost setting amount; and

(b) the asset is a debt; and

(c) any of the following apply:

(i) the debt was included in the joining entity's assessable income before the joining time;

(ii) the debt was in respect of money that the joining entity lent before the joining time in the ordinary course of a business of lending money;

(iii) the joining entity bought the debt before the joining time in the ordinary course of a business of lending money; and

(d) the requirements in subsection 701-58(1) (intra-group assets) are *not* satisfied in relation to the asset.

(3) To avoid doubt, in determining the extent to which the *head company of the group can deduct an amount under section 25-35 (bad debts) in relation to the asset, section 701-5 (entry history rule) and subsection 701-55(6) have the effect that, before the joining time:

(a) in a case covered by subparagraph (2)(c)(i)—the head company included an amount equal to the tax cost setting amount in its assessable income in respect of the debt; or

(b) in a case covered by subparagraph (2)(c)(ii)—the head company lent an amount of money in respect of the debt

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Authorised Version C2022C00307 registered 22/10/2022

equal to the tax cost setting amount in the ordinary course of a business of lending money; or

(c) in a case covered by subparagraph (2)(c)(iii)—the head company incurred expenditure equal to the tax cost setting amount in buying the debt in the ordinary course of a business of lending money.

716-440 Membership interests in joining entity not subject to CGT under Division 855—foreign entity ceasing to hold interests

(1) Subsection (3) applies if:

(a) an entity (the ***joining entity***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) another entity (the ***disposing entity***) ceased to hold *membership interests in the joining entity during the period that:

(i) started 12 months before the joining time; and

(ii) ended immediately after the joining time; and

(c) a *CGT event happened because the disposing entity ceased to hold the membership interests; and

(d) either:

(i) a *capital gain or *capital loss of the disposing entity from the CGT event was disregarded because of the operation of Division 855; or

(ii) if there had been a capital gain or capital loss of the disposing entity from the CGT event, the capital gain or capital loss would have been disregarded because of the operation of Division 855; and

(e) section 701-10 (cost to head company of assets of joining entity) applies to the joining entity's assets in respect of the joining entity becoming a subsidiary member of the group (disregarding subsection (3) of this section); and

(f) it is reasonable to conclude that, throughout the period mentioned in paragraph (b), the sum of the *total

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

participation interests held by an entity (the ***control entity***) and its *associates in the joining entity was 50% or more; and

(g) in a case where the control entity is *not* the disposing entity—it is reasonable to conclude that the sum of the total participation interests held by the control entity and its associates in the disposing entity was 50% or more at the time the CGT event happened.

(2) For the purposes of paragraphs (1)(f) and (g), in working out the sum of the *total participation interests held by the control entity and its *associates in another entity, take into account:

(a) a particular *direct participation interest; or

(b) a particular *indirect participation interest;

held in the other entity only once if it would otherwise be counted more than once because the entity holding it is an associate of the control entity.

(3) The following provisions do not apply to the joining entity's assets in respect of the joining entity becoming a *subsidiary member of the group:

(a) section 701-10 (cost to head company of assets of joining entity);

(b) subsection 701-35(4) (setting value of trading stock at tax-neutral amount);

(c) subsection 701-35(5) (setting value of registered emissions unit at tax-neutral amount).

Note: This subsection does not affect the application of subsection 701-1(1) (the single entity rule).

(4) Subsection (5) applies if:

(a) an entity (the ***higher level entity***) holds *membership interests in the joining entity (whether directly or through one or more interposed entities) at a time during the period mentioned in paragraph (1)(b); and

(b) the higher level entity becomes a *subsidiary member of the *consolidated group at the joining time; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) the requirement in paragraph (1)(b) is not satisfied (disregarding subsection (5)); and

(d) the requirement in paragraph (1)(b) would be satisfied if the reference in paragraph (1)(b) to membership interests in the joining entity included a reference to membership interests in the higher level entity.

(5) Treat the reference in paragraph (1)(b) to *membership interests in the joining entity as including a reference to membership interests in the higher level entity.

Subdivision 716-V—Research and Development

Table of sections

716-500 Head company bound by agreements binding on subsidiary members
716-505 History for entitlement to tax offset: joining entity
716-510 History for entitlement to tax offset: leaving entity

716-500 Head company bound by agreements binding on subsidiary members

Section 355-220 (about R&D activities conducted for a foreign entity) applies to the *head company of a *consolidated group as if the head company were bound by an agreement during any period that a *subsidiary member of the group is bound by the agreement.

716-505 History for entitlement to tax offset: joining entity

If:

(a) a company becomes a *subsidiary member of a *consolidated group; and

(b) apart from this section, things happening in relation to the company before it became a subsidiary member would, because of section 701-5 (the entry history rule), be taken into account as things happening in relation to the *head company for working out the head company's *aggregated

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

turnover for the purposes of section 355-100 (tax offsets for R&D);

the things happening are not to be taken into account as mentioned in paragraph (b).

716-510 History for entitlement to tax offset: leaving entity

If:

(a) a company ceases to be a *subsidiary member of a *consolidated group; and

(b) while the company was a subsidiary member, things happened in relation to an entity which, if section 701-1 (the single entity rule) were disregarded:

(i) would be *connected with the company; or

(ii) would be an *affiliate of the company; or

(iii) would have the company as an affiliate; and

(c) those things would, if section 701-1 were disregarded, have been taken into account in working out the company's *aggregated turnover for the purposes of section 355-100 (tax offsets for R&D); and

(d) the things are not also things that, because of section 701-40 (the exit history rule), are taken into account as things happening in relation to an eligible asset etc. (within the meaning of that section) of the company in working out for the entity core purposes the company's aggregated turnover for the purposes of section 355-100;

the things are to be taken into account in working out the company's aggregated turnover for the purposes of section 355-100.

Subdivision 716-Z—Other

Table of sections

716-800 Allocating amounts to periods if head company and subsidiary member have different income years

716-850 Grossing up threshold amounts for periods of less than 365 days

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

716-855 Working out the cost base or reduced cost base of a pre-CGT asset after certain roll-overs
716-860 CGT event straddling joining or leaving time

716-800 Allocating amounts to periods if head company and subsidiary member have different income years

(1) The principles in this section apply if:

(a) an entity becomes, or stops being, a *subsidiary member of a *consolidated group; and

(b) the entity has an income year that starts and ends at a different time from when the income year of the *head company of the group starts and ends.

(2) Items are to be allocated to, or apportioned among, periods (whether consisting of all or part of an income year of the entity or *head company):

(a) in the most appropriate way having regard to the objects of this Part, and of particular provisions of this Part; and

(b) in particular, so as to ensure that what is in substance the same item is recognised only once for what is in substance the same purpose.

716-850 Grossing up threshold amounts for periods of less than 365 days

(1) Under some provisions of this Act, something that is relevant to working out:

(a) an entity's taxable income (if any); or

(b) the income tax (if any) payable on an entity's taxable income; or

(c) an entity's loss (if any) of a particular *sort;

is determined on the basis of a comparison between an amount worked out for an income year, or an amount *derived from 2 or more such amounts, and another amount.

Note: The other amount assumes an income year of 365 days.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) This section affects how such a provision (the ***threshold provision***) operates for the purposes of subsection 701-30(3), which requires each thing covered by paragraph (1)(a), (b) or (c) of this section to be worked out for an entity for a non-membership period (under section 701-30) during an income year.

Note: A non-membership period is a period (of less than an income year) when the entity is not a subsidiary member of any consolidated group.

(3) An amount that would otherwise be worked out for the non-membership period, for the purposes of the comparison under the threshold provision, is instead:

(a) to be worked out by reference to the period (the ***reference period***) starting at the start of the income year and ending at the end of the non-membership period; and

(b) then to be grossed up by multiplying it by this fraction:

$$\frac{365}{\text{Number of days in reference period}}$$

716-855 Working out the cost base or reduced cost base of a pre-CGT asset after certain roll-overs

If:

(a) it is necessary for the purposes of this Part to work out the *cost base or *reduced cost base of a *pre-CGT asset owned at a particular time; and

(b) before that time:

(i) the owner was the recipient company involved in a roll-over under Subdivision 126-B in relation to a *CGT event that happened in relation to the CGT asset; or

(ii) the owner was the transferee in relation to a disposal of the CGT asset to which former section 160ZZO of the *Income Tax Assessment Act 1936* applied;

the cost base or reduced cost base is worked out as if, in applying Subdivision 126-B or former section 160ZZO in relation to the CGT event or the disposal, the provisions of that Subdivision or section applying to CGT assets *acquired on or after 20 September

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

1985 replaced those that applied to CGT assets acquired on or before that date.

Note: The effect is that the owner's cost base or reduced cost base will be the same as that of the originating company or transferor, as is the case with post-CGT assets.

716-860 CGT event straddling joining or leaving time

(1) This section applies if:

(a) an entity (the ***joining entity***) becomes a subsidiary member of a *consolidated group at a particular time (the ***joining time***); and

(b) disregarding the operation of subsection 701-1(1) (the single entity rule), the joining entity held a *CGT asset at the joining time; and

(c) taking into account the operation of subsection 701-1(1) (the single entity rule), the *head company of the group held the CGT asset at the joining time; and

(d) a *CGT event happened in relation to the asset at a time before the joining time (disregarding this section), but the circumstances that gave rise to the CGT event first existed at a time on or after the joining time.

(2) This section also applies if:

(a) an entity (the ***leaving entity***) ceases to be a *subsidiary member of a *consolidated group at a particular time (the ***leaving time***); and

(b) taking into account the operation of subsection 701-1(1) (the single entity rule), the *head company of the group held a *CGT asset at the leaving time; and

(c) disregarding the operation of subsection 701-1(1) (the single entity rule), the leaving entity held the CGT asset at the leaving time; and

(d) a *CGT event happened in relation to the asset at a time before the leaving time (disregarding this section), but the circumstances that gave rise to the CGT event first existed at a time on or after the leaving time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) For the purposes of this Act, treat the *CGT event as happening at the time when the circumstances that gave rise to the CGT event first existed.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 717—International tax rules

Table of Subdivisions

717-A Foreign income tax offsets

717-D Transfer of certain surpluses under CFC provisions and former FIF and FLP provisions: entry rules

717-E Transfer of certain surpluses under CFC provisions and former FIF and FLP provisions: exit rules

717-O Offshore banking units

Subdivision 717-A—Foreign income tax offsets

717-1 What this Subdivision is about

If an entity becomes a subsidiary member of a consolidated group, the head company receives any tax offsets under section 770-10 that arise because the entity pays foreign income tax while it is a subsidiary member of the group.

Table of sections

Object

717-5 Object of this Subdivision

Foreign income tax on amounts in head company's assessable income

717-10 Head company taken to be liable for subsidiary member's foreign income tax

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Object

717-5 Object of this Subdivision

The object of this Subdivision is to allow the *head company of a *consolidated group to get the benefit of *foreign income tax paid in respect of amounts included in the head company's assessable income because another entity is or was a *subsidiary member of the group.

Foreign income tax on amounts in head company's assessable income

717-10 Head company taken to be liable for subsidiary member's foreign income tax

(1) This section operates if:

(a) an entity was a *subsidiary member of a *consolidated group for all or part of an income year; and

(b) an amount was included in the *ordinary income or *statutory income of the *head company of the group for that income year; and

(c) the entity paid *foreign income tax (except *credit absorption tax or *unitary tax) in respect of the amount.

(2) Division 770 operates as if:

(a) the *head company had paid the *foreign income tax; and

(b) the entity had not paid the foreign income tax.

Note: Division 770 provides a tax offset for foreign income tax paid.

(3) This section does not limit the operation of Division 770.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 717-D—Transfer of certain surpluses under CFC provisions and former FIF and FLP provisions: entry rules

Guide to Subdivision 717-D

717-200 What this Subdivision is about

Each attribution surplus and post FIF abolition surplus relating to a company that becomes a subsidiary member of a consolidated group is transferred to the head company of the group.

Table of sections

Object

717-205 Object of this Subdivision

Transfers

717-210 Attribution surpluses
717-220 FIF surpluses
717-227 Deferred attribution credits

Object

717-205 Object of this Subdivision

The main object of this Subdivision is to avoid double taxation by transferring from a company (the ***joining company***) that becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***) to the *head company of the group the benefit of each of these:

(a) the attribution surplus (if any) for an attribution account entity (within the meaning of Part X of the *Income Tax Assessment Act 1936*) in relation to the joining company just before the joining time;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the post FIF abolition surplus (if any) (within the meaning of the *Income Tax Assessment Act 1936*) for a FIF attribution account entity (within the meaning of former Part XI of that Act) in relation to the joining company just before the joining time.

Transfers

717-210 Attribution surpluses

(1) This section operates for the purposes of Part X of the *Income Tax Assessment Act 1936* if:

(a) a company (the ***joining company***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) just before the joining time there was an attribution surplus for an attribution account entity in relation to the joining company for the purposes of that Part; and

(c) just before the joining time the joining company's attribution account percentage in relation to the attribution account entity for the purposes of that Part was more than nil.

Credit in relation to the head company

(2) An attribution credit arises at the joining time for the attribution account entity in relation to the *head company of the group. The credit is equal to the attribution surplus.

Debit in relation to the joining company

(3) An attribution debit arises at the joining time for the attribution account entity in relation to the joining company. The debit is equal to the attribution surplus.

717-220 FIF surpluses

(1) This section operates for the purposes of sections 23AK and 23B of the *Income Tax Assessment Act 1936* if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) a company (the ***joining company***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and
(b) just before the joining time there was a post FIF abolition surplus for a FIF attribution account entity in relation to the joining company for the purposes of those sections; and
(c) just before the joining time, the joining company's FIF attribution account percentage in relation to the FIF attribution account entity for the purposes of those sections was more than nil.

Credit in relation to the head company

(2) A post FIF abolition credit arises at the joining time for the FIF attribution account entity in relation to the *head company of the group. The credit is equal to the post FIF abolition surplus.

Debit in relation to the joining company

(3) A post FIF abolition debit arises at the joining time for the FIF attribution account entity in relation to the joining company. The debit is equal to the post FIF abolition surplus.

Definitions

(4) In this section:

FIF attribution account entity has the same meaning as in former Part XI of the *Income Tax Assessment Act 1936*.

FIF attribution account percentage has the same meaning as in former Part XI of the *Income Tax Assessment Act 1936*.

post FIF abolition credit has the same meaning as in the *Income Tax Assessment Act 1936*.

post FIF abolition debit has the same meaning as in the *Income Tax Assessment Act 1936*.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

post FIF abolition surplus has the same meaning as in the *Income Tax Assessment Act 1936*.

717-227 Deferred attribution credits

(1) This section operates for the purposes of Part X of the *Income Tax Assessment Act 1936* if:

(a) a company (the ***joining company***) becomes a *subsidiary member of a *consolidated group at a time (the ***joining time***); and

(b) assuming the joining company had not done so, an attribution credit would have arisen under subsection 371(8) of that Act at a later time for an attribution account entity in relation to the joining company for the purposes of that Part.

Credit in relation to the head company

(2) The attribution credit arises instead at the later time for the attribution account entity in relation to the *head company of the group.

Subdivision 717-E—Transfer of certain surpluses under CFC provisions and former FIF and FLP provisions: exit rules

Guide to Subdivision 717-E

717-235 What this Subdivision is about

Each attribution surplus and post FIF abolition surplus relating to a company that ceases to be a subsidiary member of a consolidated group is transferred to that company from the head company of the group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Table of sections

Object

717-240 Object of this Subdivision

Transfers

717-245 Attribution surpluses
717-255 FIF surpluses
717-262 Deferred attribution credits

Object

717-240 Object of this Subdivision

The main object of this Subdivision is to avoid double taxation by transferring from the *head company of a *consolidated group to a company (the ***leaving company***) that ceases to be a *subsidiary member of the group at a time (the ***leaving time***) the benefit of each of these surpluses (to the extent that each surplus can be attributed to the leaving company):

(a) the attribution surplus (if any) for an attribution account entity (within the meaning of Part X of the *Income Tax Assessment Act 1936*) in relation to the head company just before the leaving time;

(b) the post FIF abolition surplus (if any) (within the meaning of the *Income Tax Assessment Act 1936*) for a FIF attribution account entity (within the meaning of former Part XI of that Act) in relation to the head company just before the leaving time.

Transfers

717-245 Attribution surpluses

(1) This section operates for the purposes of Part X of the *Income Tax Assessment Act 1936* if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) a company (the ***leaving company***) ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) just before the leaving time there was, for the purposes of that Part, an attribution surplus for an attribution account entity in relation to the *head company of the group; and

(c) at the leaving time the leaving company's attribution account percentage in relation to the attribution account entity for the purposes of that Part is more than nil.

Credit in relation to leaving company

(2) An attribution credit arises at the leaving time for the attribution account entity in relation to the leaving company. The credit is the amount worked out under subsection (4).

Debit in relation to head company

(3) An attribution debit arises at the leaving time for the attribution account entity in relation to the company that was the *head company of the group just before the leaving time. The debit is the amount worked out under subsection (4).

Amount of credit and debit

(4) The amount of the credit and debit is worked out using the formula:

$$\frac{\text{Leaving company's attribution account percentage in relation to the attribution account entity at the leaving time}}{\text{*Head company's attribution account percentage in relation to the attribution account entity just before the leaving time}} \times \text{Attribution surplus for the attribution account entity in relation to the *head company just before the leaving time}$$

717-255 FIF surpluses

(1) This section operates for the purposes of sections 23AK and 23B of the *Income Tax Assessment Act 1936* (the ***1936 Act***) if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) a company (the ***leaving company***) ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) just before the leaving time, there was a post FIF abolition surplus for a FIF attribution account entity in relation to the *head company of the group for the purposes of those sections; and

(c) at the leaving time, the leaving company's FIF attribution account percentage in relation to the FIF attribution account entity for the purposes of those sections is more than nil.

Credit in relation to the leaving company

(2) A post FIF abolition credit arises at the leaving time for the FIF attribution account entity in relation to the leaving company. The credit is the amount worked out under subsection (4).

Debit in relation to head company

(3) A post FIF abolition debit arises at the leaving time for the FIF attribution account entity in relation to the company that was the *head company of the group just before the leaving time. The debit is the amount worked out under subsection (4).

Amount of credit and debit

(4) The amount of the credit and debit is worked out using the formula:

$$\frac{\text{Leaving company's FIF attribution account percentage in relation to the FIF attribution account entity at the leaving time}}{\text{*Head company's FIF attribution account percentage in relation to the FIF attribution account entity just before the leaving time}} \times \text{Post FIF abolition surplus for the FIF attribution account entity in relation to the *head company just before the leaving time}$$

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Definitions

(5) In this section:

FIF attribution account entity has the same meaning as in former Part XI of the *Income Tax Assessment Act 1936*.

FIF attribution account percentage has the same meaning as in former Part XI of the *Income Tax Assessment Act 1936*.

post FIF abolition credit has the same meaning as in the *Income Tax Assessment Act 1936*.

post FIF abolition debit has the same meaning as in the *Income Tax Assessment Act 1936*.

post FIF abolition surplus has the same meaning as in the *Income Tax Assessment Act 1936*.

717-262 Deferred attribution credits

(1) This section operates for the purposes of Part X of the *Income Tax Assessment Act 1936* if:

(a) a company (the ***leaving company***) ceases to be a *subsidiary member of a *consolidated group at a time (the ***leaving time***); and

(b) disregarding this section, an attribution credit (the ***original credit***) will arise under subsection 371(8) of that Act at a later time for an attribution account entity in relation to the *head company of the group (including because of the operation of section 717-227) for the purposes of that Part; and

(c) at the leaving time the leaving company's attribution account percentage in relation to the attribution account entity for the purposes of that Part is more than nil.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Credit in relation to the leaving company

(2) An attribution credit arises at the later time for the attribution account entity in relation to the leaving company. The credit is the amount worked out under subsection (3).

Amount of credit

(3) The amount of the credit is worked out using the formula:

$$\frac{\text{Leaving company's attribution account percentage in relation to the attribution account entity at the leaving time}}{\text{*Head company's attribution account percentage in relation to the attribution account entity just before the leaving time}} \times \text{Original credit}$$

Reduction in credit in relation to the head company

(4) The attribution credit that arises at the later time for the attribution account entity in relation to the *head company is reduced by the amount of the attribution credit that arises under subsection (2) in relation to the leaving company.

Subdivision 717-O—Offshore banking units

Guide to Subdivision 717-O

717-700 What this Subdivision is about

The head company of a consolidated group is treated for certain purposes as an offshore banking unit at a time when a subsidiary member of the group is an offshore banking unit.

Table of sections

717-705 Object of this Subdivision
717-710 Head company treated as OBU

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

717-705 Object of this Subdivision

The object of this Subdivision is to ensure that certain rules in the *Income Tax Assessment Act 1936* relating to offshore banking units interact properly with the consolidation regime in this Part.

717-710 Head company treated as OBU

(1) Division 9A of Part III of the *Income Tax Assessment Act 1936* applies to the *head company of a *consolidated group as if the head company were an OBU (within the meaning of that Division) at a time when a *subsidiary member of the group is an OBU (within the meaning of that Division).

(2) Subsection (1) operates for the head company core purposes mentioned in subsection 701-1(2).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 719—MEC groups

Subdivision 719-A—Modified application of Part 3-90 to MEC groups

719-2 Modified application of Part 3-90 to MEC groups

(1) This Part (other than Division 703 and this Division) has effect in relation to a *MEC group in the same way in which it has effect in relation to a *consolidated group.

Note: A provision in this Part (other than in Division 703 or in this Division) mentioning 2 separate consolidated groups will, under subsection (1), have an additional operation when the groups are both MEC groups or when one is a MEC group and the other is a consolidated group.

(2) However, that effect is subject to the modifications set out in this Division.

(3) For the purposes of subsection (1), a reference in this Part (other than in Division 703 or this Division) to a provision in Division 703 applies as if it referred instead to that provision or the corresponding provision in Subdivision 719-B (as appropriate).

Subdivision 719-B—MEC groups and their members

719-4 What this Subdivision is about

A MEC group and a potential MEC group each consist of certain Australian-resident entities that are wholly-owned subsidiaries of a foreign top company.

A company that is a first-tier subsidiary of the top company is a tier-1 company.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

A MEC group cannot be formed unless there are at least 2 tier-1 companies of the top company that are eligible to be members of the group.

A MEC group becomes consolidated at a time chosen by the eligible tier-1 companies.

One of the eligible tier-1 companies becomes the head company of the group.

The remaining members of the group are the subsidiary members.

Table of sections

Basic concepts

719-5 What is a ***MEC group***?
719-10 What is a potential MEC group?
719-15 What is an ***eligible tier-1 company***?
719-20 What is a ***top company*** and a ***tier-1 company***?
719-25 Head company, subsidiary members and members of a MEC group
719-30 Treating entities as wholly-owned subsidiaries by disregarding employee shares
719-35 Treating entities held through non-fixed trusts as wholly-owned subsidiaries
719-40 Special conversion event—potential MEC group
719-45 Application of sections 703-20 and 703-25

Choice to consolidate a potential MEC group

719-50 Eligible tier-1 companies may choose to consolidate a potential MEC group
719-55 When choice starts to have effect

Provisional head company

719-60 Appointment of provisional head company
719-65 Qualifications for the provisional head company of a MEC group
719-70 Income year of new provisional head company to be the same as that of former provisional head company

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Head company

719-75 Head company

Notice of events affecting group

719-76 Notice of choice to consolidate
719-77 Notice in relation to new eligible tier-1 members etc.
719-78 Notice of special conversion event
719-79 Notice of appointment of provisional head company after formation of group
719-80 Notice of events affecting MEC group

Effects of change of head company

719-85 Application
719-90 New head company treated as substituted for old head company at all times before the transition time
719-95 No consequences of old head company becoming, and new head company ceasing to be, subsidiary member of the group

Basic concepts

719-5 What is a *MEC group*?

When MEC group comes into existence

(1) A ***MEC (multiple entry consolidated) group*** comes into existence when:

(a) a choice, by 2 or more *eligible tier-1 companies of a *top company, that the *potential MEC group derived from those companies be consolidated starts to have effect under section 719-55; or

(b) a *special conversion event happens to a potential MEC group derived from an eligible tier-1 company of a top company.

Original members of a MEC group that results from a choice

(2) A MEC group that results from a choice by 2 or more companies under section 719-50 consists of the potential MEC group derived

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

from time to time from whichever one or more of those companies continue to be eligible tier-1 companies of the top company. This subsection has effect subject to subsection (4) (which deals with new eligible tier-1 members).

Original members of a MEC group that results from a special conversion event

(3) A MEC group that results from a special conversion event consists of the potential MEC group derived from time to time from whichever one or more of the following companies continue to be eligible tier-1 companies of the top company:

(a) the company mentioned in paragraph 719-40(1)(b);

(b) the companies specified in the notice under paragraph 719-40(1)(e).

This subsection has effect subject to subsection (4) (which deals with new eligible tier-1 members).

New eligible tier-1 members of a MEC group

(4) If:

(a) a MEC group consists of the members of a potential MEC group derived from one or more eligible tier-1 companies of a top company; and

(b) at a particular time after the MEC group came into existence, one or more other companies become eligible tier-1 companies of the top company; and

(c) the *provisional head company of the MEC group makes a choice in writing no later than the day mentioned in subsection (6):

(i) specifying one or more of the companies mentioned in paragraph (b); and

(ii) stating that the specified companies are to become members of the MEC group with effect from that time; and

(d) if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) a company specified in the choice was a member of another MEC group immediately before that time; and

(ii) all of the eligible tier-1 companies in that other MEC group became eligible tier-1 companies of the top company at that time;

each eligible tier-1 company in that other MEC group is specified in the choice;

then, with effect from that time, the MEC group mentioned in paragraph (a) is taken to consist of the potential MEC group derived from time to time from whichever one or more of the following companies continue to be eligible tier-1 companies of the top company:

(e) the companies mentioned in paragraph (a);

(f) the companies specified in the choice.

Note: The provisional head company of the group must give the Commissioner a notice in the approved form containing information about each entity that becomes a subsidiary member of the group on that day because of the choice (see sections 719-77 and 719-80).

(5) To avoid doubt, paragraph (4)(a) applies to a MEC group even if the composition of the group has been worked out because of one or more previous applications of subsection (4).

(6) The day mentioned in paragraph (4)(c) is:

(a) if the company mentioned in subsection (6A) is required to give the Commissioner its *income tax return for the income year during which the time mentioned in paragraph (4)(b) occurs—the day on which that company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which that company would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

(6A) The company is:

(a) in a case where subsection 719-75(1) or (2) applies—the company that will be the *head company of the group as at the end of the income year; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) in a case where subsection 719-75(3) applies—the company that will be the head company of the group immediately before the group ceased to exist.

Continued existence of MEC group

(7) If a MEC group (the ***first MEC group***) consists of the members of a potential MEC group derived from one or more eligible tier-1 companies of a top company, the first MEC group continues to exist until:

(a) the potential MEC group ceases to exist; or

(b) there is a change in the identity of the top company, and the eligible tier-1 companies that were members of the first MEC group immediately before the change become members of another MEC group immediately after the change; or

(c) there ceases to be a provisional head company of the first MEC group.

The first MEC group ceases to exist when one of those events happens.

Note: Subsection 719-10(7) sets out the circumstances in which the potential MEC group ceases to exist.

719-10 What is a potential MEC group?

(1) A ***potential MEC group*** derived from one or more *eligible tier-1 companies of a *top company consists of the following members:

(a) those eligible tier-1 companies;

(b) all of the other entities (if any) which:

(i) meet the requirements of the table; or

(ii) are entities for which the requirements in section 701C-10 of the *Income Tax (Transitional Provisions) Act 1997* are met; or

(iii) are entities for which the requirements in section 701C-15 of the *Income Tax (Transitional Provisions) Act 1997* are met.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Requirements for other entities		
Column 1 **Income tax treatment requirements**	**Column 2** **Australian residence requirements**	**Column 3** **Ownership requirements**
The entity must be a company, trust or partnership and, if it is a company, all or some of its taxable income (if any) must have been taxable at a rate that is or equals the *corporate tax rate apart from this Part The entity must not be covered by an item in the table in section 703-20 The entity must not be a non-profit company (as defined in the *Income Tax Rates Act 1986*)	The entity must: (a) be an Australian resident (but not a *prescribed dual resident), if it is a company; or (b) meet the conditions in item 1, 2 or 3 of the table in section 703-25, if it is a trust; or (c) be a partnership	The entity must be: (a) a *wholly-owned subsidiary of any of those *eligible tier-1 companies; or (b) an entity that would be covered by paragraph (a), if it were assumed that all of the membership interests that are beneficially owned by any of those eligible tier-1 companies were owned by a single one of those eligible tier-1 companies

(2) For the purposes of column 3 of the table, if there are one or more entities interposed between an entity (the ***test entity***) and an eligible tier-1 company, the test entity can be a wholly-owned subsidiary of the eligible tier-1 company only if each of the interposed entities:

(a) meets the conditions in columns 1 and 2 of the table; or

(b) holds membership interests only as a nominee of one or more entities each of which is:

(i) an eligible tier-1 company of the top company; or

(ii) a wholly-owned subsidiary of an eligible tier-1 company of the top company, being a subsidiary that meets the conditions in columns 1 and 2 of the table.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) For the purposes of subparagraph (2)(b)(ii), in determining whether an entity is a wholly-owned subsidiary of an eligible *tier-1 company of the *top company, assume that all of the *membership interests that are beneficially owned by eligible tier-1 companies of the top company were owned by a single eligible tier-1 company of the top company.

Only one eligible tier-1 company in a potential MEC group

(6) To avoid doubt, if:

(a) there is only one *eligible tier-1 company of a *top company; and

(b) there are no entities which meet the requirements of the table in subsection (1); and

(c) there are no entities for which the requirements mentioned in subparagraph (1)(b)(ii) are met; and

(d) there are no entities for which the requirements mentioned in subparagraph (1)(b)(iii) are met;

the *potential MEC group derived from the eligible tier-1 company consists of the eligible tier-1 company alone.

When potential MEC group ceases to exist

(7) If a *potential MEC group is derived from one or more *eligible tier-1 companies of a *top company, the potential MEC group ceases to exist when:

(a) none of those companies are eligible tier-1 companies of the top company; or

(b) there is a change in the identity of the top company, and the eligible tier-1 companies that were members of the group immediately before the change are not the same as the eligible tier-1 companies that are members of the group immediately after the change.

Continuity of potential MEC group

(8) If:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) a *potential MEC group is derived from one or more *eligible tier-1 companies of a *top company; and

(b) there is a change in the identity of the top company in relation to the potential MEC group; and

(c) the eligible tier-1 companies that were members of the group immediately before the change are the same as the eligible tier-1 companies that are members of the group immediately after the change;

the change does not affect the continuity of:

(d) the group; or

(e) the status of any of those companies as eligible tier-1 companies of the top company.

719-15 What is an *eligible tier-1 company*?

(1) A *tier-1 company of a *top company is an ***eligible tier-1 company*** if subsection (2) does not apply to the tier-1 company.

(2) This subsection applies to a *tier-1 company if:

(a) there are one or more entities interposed between the tier-1 company and the *top company; and

(b) the conditions in subsection (3) are satisfied in relation to at least one of those interposed entities.

(3) For the purposes of paragraph (2)(b), the conditions are as follows:

(a) the interposed entity must be one of the following:

(i) a company that is a foreign resident;

(ii) a *prescribed dual resident;

(iii) a trust that does not meet the conditions in item 1, 2 or 3 of the table in section 703-25;

(iv) a trust that meets the conditions in item 1, 2 or 3 of the table in section 703-25 and is not a *wholly-owned subsidiary of another *tier-1 company of the *top company;

(v) an entity covered by an item in the table in section 703-20;

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(vi) a company that is an Australian resident, where no part of its taxable income (if any) would be taxable at a rate that is or equals the *general company rate;

(vii) a non-profit company (as defined in the *Income Tax Rates Act 1986*) that is a wholly-owned subsidiary of another tier-1 company of the top company;

(b) the interposed entity must not hold *membership interests only as nominee of one or more entities each of which is:

(i) another tier-1 company of the top company; or

(ii) an entity that is a wholly-owned subsidiary of another tier-1 company of the top company;

(c) at least one of the following entities must hold a membership interest in the interposed entity:

(i) another tier-1 company of the top company;

(ii) a wholly-owned subsidiary of another tier-1 company of the top company;

(iii) an entity that holds membership interests only as a nominee of one or more entities each of which is mentioned in subparagraph (i) or (ii).

(4) For the purposes of subparagraphs (3)(a)(iv) and (vii) and paragraphs (3)(b) and (c), in determining whether an entity is a wholly-owned subsidiary of another *tier-1 company of the *top company, assume that all of the *membership interests that are beneficially owned by tier-1 companies of the top company were owned by a single tier-1 company of the top company.

719-20 What is a *top company* and a *tier-1 company*?

(1) At a particular time, a company is:

(a) a ***top company*** if the requirements in item 1 of the table are met; or

(b) a ***tier-1 company*** of the top company if the requirements in item 2 of the table are met.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Top companies and tier-1 companies				
	Column 1 **Kind of entity**	**Column 2** **Income tax treatment requirements**	**Column 3** **Residence requirements**	**Column 4** **Ownership requirements**
1	Top company	No specific requirements	The company must be a foreign resident	The company must not be a *wholly-owned subsidiary of another company (other than a company that is a *prescribed dual resident, or a company that is an Australian resident that fails to meet a condition in column 2 of item 2)
2	Tier-1 company	The company must have all or some of its taxable income (if any) taxed at a rate that is or equals the *corporate tax rate apart from this Part The company must not be covered by an item in the table in section 703-20	The company must be an Australian resident (but not a *prescribed dual resident)	The company: (a) must be a *wholly-owned subsidiary of the *top company; and (b) must not be a wholly-owned subsidiary of a company that is an Australian resident (other than a company that fails to meet a condition in column 2 or 3)

(2) For the purposes of paragraph (b) of column 4 of item 2 of the table, in determining whether a company (the test company) is a *tier-1 company, if 2 or more other companies beneficially own all of the *membership interests in the test company, and each of those other companies:

(a) is a *wholly-owned subsidiary of the *top company; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) meets the conditions in columns 2 and 3 of item 2 of the table;

the test company is taken to be a wholly-owned subsidiary of one of those other companies.

719-25 Head company, subsidiary members and members of a MEC group

(1) The ***head company*** of a *MEC group is worked out under section 719-75.

(2) The remaining members of the group are the ***subsidiary members*** of the group.

(3) The ***members*** of a *MEC group are the *head company of the group and the *subsidiary members of the group.

719-30 Treating entities as wholly-owned subsidiaries by disregarding employee shares

(1) The object of this section is to ensure that an entity is not prevented from being a *wholly-owned subsidiary of another entity, just because there are minor holdings of *membership interests in an entity issued under *arrangements for employee shareholdings.

(2) For the purposes of this Division, in determining whether an entity is a *wholly-owned subsidiary of another entity, disregard:

(a) particular *shares in a company if the shares are covered by subsection (3) and the total number of those shares is not more than 1% of the number of ordinary shares in the company; and

(b) particular *membership interests in an entity if the membership interests are covered by subsection (5) and the total number of those membership interests is not more than 1% of the number of membership interests of that kind in the entity.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) A *share or *membership interest in a company is covered by this subsection if:

(a) the entity who holds the beneficial interest in the share or membership interest acquired that beneficial interest:

(i) under an *employee share scheme; or

(ii) by exercising a right, a beneficial interest in which was acquired under an employee share scheme; and

(b) paragraphs 83A-105(1)(a) and (b) and subsection 83A-105(2) apply to the beneficial interest acquired under the scheme; and

(c) in the case of a membership interest—the interest is part of a stapled security.

719-35 Treating entities held through non-fixed trusts as wholly-owned subsidiaries

(1) This section operates to ensure that an entity (the ***test entity***) is not prevented from being a *wholly-owned subsidiary of a company, just because there is a trust that is not a *fixed trust interposed between the test entity and the company.

(2) For the purposes of this Division, in determining whether the test entity is a *wholly-owned subsidiary of the company, assume that the interposed trust is a *fixed trust and all its objects are beneficiaries.

719-40 Special conversion event—potential MEC group

(1) A ***special conversion event*** happens at a particular time to a *potential MEC group derived from an *eligible tier-1 company of a *top company if:

(a) at that time, the group is not a *MEC group as a result of a choice under section 719-50; and

(b) immediately before that time, a company is:

(i) that eligible tier-1 company; and

(ii) the *head company of a *consolidated group; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) at that time, one or more other companies become eligible tier-1 companies of the top company; and

(d) immediately after that time, no *membership interests in the company mentioned in paragraph (b) are beneficially owned by another member of the potential MEC group derived from:

(i) the company mentioned in paragraph (b); and

(ii) the companies mentioned in paragraph (c); and

(e) the company mentioned in paragraph (b) makes a choice in writing no later than the day mentioned in subsection (2):

(i) specifying one or more of the companies mentioned in paragraph (c); and

(ii) stating that a MEC group is to come into existence at that time as a result of the specified companies becoming eligible tier-1 companies of the top company; and

(f) if:

(i) a company specified in the choice was a member of another MEC group immediately before that time; and

(ii) all of the eligible tier-1 companies in that other MEC group became eligible tier-1 companies of the top company at that time;

each eligible tier-1 company in that other MEC group is specified in the choice.

Note: The company mentioned in paragraph (b) must give the Commissioner a notice in the approved form containing information about the special conversion event (see sections 719-78 and 719-80).

(2) The day mentioned in paragraph (1)(e) is:

(a) if the company is required to give the Commissioner its *income tax return for the income year during which that time occurs—the day on which the company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which the company would be required to give the Commissioner such a

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Authorised Version C2022C00307 registered 22/10/2022

return if it were required to give the Commissioner such a return.

719-45 Application of sections 703-20 and 703-25

(1) For the purposes of this Division, if an item in section 703-20 refers to an income year, an entity is covered by that item at a particular time if, and only if, that time is in that income year.

(2) For the purposes of this Division, if a condition in item 1, 2 or 3 of the table in section 703-25 refers to an income year, an entity meets that condition at a particular time if, and only if, that time is in that income year.

Choice to consolidate a potential MEC group

719-50 Eligible tier-1 companies may choose to consolidate a potential MEC group

Making a choice to consolidate

(1) If:

(a) a *potential MEC group (the ***first group***) derived from 2 or more *eligible tier-1 companies of a *top company is in existence at the start of a particular day; and

(b) that day is after 30 June 2002; and

(c) none of those eligible tier-1 companies is already a member of a *MEC group or a *consolidated group;

those eligible tier-1 companies, jointly, may make a choice in writing that the first group be consolidated on and after that day. If they do so, the choice must specify that day.

Note: The provisional head company must give the Commissioner a notice in the approved form containing information about the group (see sections 719-76 and 719-80).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Choice cannot be revoked or specified day amended

(2) A choice cannot be revoked and the specification of the day cannot be amended.

(3) A choice can be made no later than:

(a) if the company mentioned in subsection (3A) is required to give the Commissioner its *income tax return for the income year during which that day occurs—the day on which that company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which that company would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

(3A) The company is:

(a) in a case where subsection 719-75(1) or (2) applies—the company that will be the *head company of the group as at the end of the income year; and

(b) in a case where subsection 719-75(3) applies—the company that will be the head company of the group immediately before the group ceased to exist.

Company ceases to be an eligible tier-1 company before choice is given to the Commissioner

(4) If:

(a) as a result of a choice:

(i) subsection 719-75(1), (2) or (3) would apply to the *MEC group concerned in relation to the *income year of a company in which the specified day occurred; and

(ii) in a case where subsection 719-75(1) or (2) applies—the company will be the *head company of the group as at the end of the income year; and

(iii) in a case where subsection 719-75(3) applies—the company will be the *head company of the group immediately before the group ceased to exist; and

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Authorised Version C2022C00307 registered 22/10/2022

(b) another company (the ***other company***) that was an eligible tier-1 company at the start of the specified day ceased to exist at a time before:

(i) the day on which the company mentioned in paragraph (a) gives the Commissioner its *income tax return for the income year during which the day specified in the choice occurs; or

(ii) the last day in the period within which the company mentioned in paragraph (a) would be required to give the Commissioner such a return if it were required to give the Commissioner such a return; and

(c) having regard to all relevant circumstances, it would be reasonable to conclude that the other company would have been a party to the choice if the other company had continued to exist;

the other company is taken to have authorised the company that will be the head company as mentioned in subparagraph (a)(ii) or (iii):

(d) to make the choice on behalf of the other company; and

(e) to do, on behalf of the other company, anything else under:

(i) subsection (1) of this section; or

(ii) subsection 719-60(1) or (3).

719-55 When choice starts to have effect

A choice under section 719-50 is taken to have started to have effect on the day specified in the choice.

Provisional head company

719-60 Appointment of provisional head company

Appointment on formation of group—choice

(1) If companies make a choice under section 719-50, the choice must include an appointment, made jointly by the companies, of one of those companies to be the provisional head company of the *MEC

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Authorised Version C2022C00307 registered 22/10/2022

group concerned. The appointment comes, or is taken to have come, into force at the time when the choice starts or started to have effect.

Appointment on formation of group—special conversion event

(2) If a *special conversion event happens to a *potential MEC group, the *eligible tier-1 companies that were the members of the MEC group that resulted from the event are taken to have appointed the company mentioned in paragraph 719-40(1)(b) as the provisional head company of the *MEC group. The appointment is taken to have come into force when the event happened.

Appointment after formation of group

(3) If a *cessation event happens to the *provisional head company of a *MEC group, the *eligible tier-1 companies that are or were members of the MEC group immediately after the cessation event may make a choice in writing, jointly appointing one of those companies to be the provisional head company of the group. The appointment is taken to have come into force immediately after the cessation event.

Qualifications for provisional head company

(4) An appointment of a company under subsection (1) or (3) as the *provisional head company of a *MEC group has no effect unless, at the time the appointment comes into force, the company is qualified to be the *provisional head company of the MEC group under section 719-65.

Appointment remains in force until cessation event

(5) The appointment of a company as the *provisional head company of a *MEC group remains in force until a *cessation event happens to the company.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

What is a cessation event?

(6) A ***cessation event*** happens to a *provisional head company of a *MEC group if:

(a) the company ceases to be qualified to be the *provisional head company of the group under section 719-65; or

(b) the company ceases to exist.

719-65 Qualifications for the provisional head company of a MEC group

Qualifications for the provisional head company

(1) A company is qualified to be the *provisional head company of a *MEC group if:

(a) the company is an *eligible tier-1 company of the *top company; and

(b) no *membership interests in the company are beneficially owned by another member of the group.

(2) Subsection (1) has effect subject to subsection (3).

Period during which new provisional head company must have been a member of the group

(3) If:

(a) a company (the ***new company***) is to be appointed as the *provisional head company of a *MEC group under subsection 719-60(3); and

(b) the appointment will come into force immediately after a *cessation event happens to the former provisional head company of the group; and

(c) a company (the ***original company***) (which may be the former provisional head company) was appointed as the provisional head company of the group under subsection 719-60(1) or (2);

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Authorised Version C2022C00307 registered 22/10/2022

the new company is not qualified to be the provisional head company of the group unless the new company has been a member of the group at all times during the period:

(d) beginning at whichever of the following times is applicable:

(i) if the cessation event happened in the income year of the original company in which the group came into existence—the time when the group came into existence;

(ii) in any other case—the start of the income year of the former provisional head company in which the cessation event happened; and

(e) ending when the cessation event happened.

719-70 Income year of new provisional head company to be the same as that of former provisional head company

If:

(a) a company (the ***new company***) is appointed as the *provisional head company of a *MEC group under subsection 719-60(3); and

(b) the appointment comes into force immediately after a *cessation event happens to the former provisional head company of the group;

then:

(c) if, for the income year in which the cessation event happened, the former provisional head company had not adopted an accounting period in place of the financial year concerned—the new company is taken not to have adopted an accounting period in place of that financial year; or

(d) if, for the income year in which the cessation event happened, the former provisional head company had adopted an accounting period in place of the financial year concerned—the new company is taken to have adopted an accounting period in place of that financial year that is the same as the accounting period adopted by the former provisional head company.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Head company

719-75 Head company

Group in existence throughout income year

(1) If:

(a) a company is the *provisional head company of a *MEC group at the end of the income year of the company; and

(b) the group was in existence throughout the income year;

the company is the head company of the group at all times during the income year.

Group comes into existence in income year

(2) If:

(a) a company is the *provisional head company of a *MEC group at the end of the income year of the company; and

(b) the group is in existence at the end of the income year; and

(c) the group came into existence in the income year;

that company is the head company of the group at all times during the period:

(d) beginning when the group came into existence; and

(e) ending at the end of the income year.

Group ceases to exist in income year

(3) If:

(a) a *MEC group ceases to exist in an income year of a company; and

(b) the company was the *provisional head company of the group immediately before the group ceased to exist;

that company is the head company of the group at all times during the period:

(c) beginning at whichever is the later of:

(i) the start of the income year; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(ii) the time the group came into existence; and

(d) ending at the time when the group ceased to exist.

Notice of events affecting group

719-76 Notice of choice to consolidate

(1) This section applies if:

(a) a *MEC group comes into existence on the day specified in a choice under section 719-50; and

(b) subsection 719-75(1), (2) or (3) would apply to the MEC group in relation to the *income year of a company in which the specified day occurred; and

(c) in a case where subsection 719-75(1) or (2) applies—the company will be the *head company of the group as at the end of the income year; and

(d) in a case where subsection 719-75(3) applies—the company will be the head company of the group immediately before the group ceased to exist.

(2) The company must give the Commissioner a notice in the *approved form containing the following information:

(a) the identity of the company;

(b) the day specified in the choice on which the *MEC group comes into existence;

(c) the identity of each *eligible tier-1 company of the *top company in relation to the MEC group on that day;

(d) the identity of each *subsidiary member of the group on that day;

(e) the identity of each entity that was a subsidiary member of the group on that day but was *not* such a subsidiary member when the notice is given;

(f) the identity of each entity that was *not* a subsidiary member of the group on that day but was such a subsidiary member when the notice is given;

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Authorised Version C2022C00307 registered 22/10/2022

(g) the identity of each entity that became a subsidiary member of the group after that day but was *not* such a subsidiary member when the notice is given.

(3) The notice must be given no later than:

(a) if the company is required to give the Commissioner its *income tax return for the income year during which that day occurs—the day on which the company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which the company would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

719-77 Notice in relation to new eligible tier-1 members etc.

(1) This section applies if:

(a) a *MEC group consists of the members of a *potential MEC group derived from one or more *eligible tier-1 companies of a *top company; and

(b) one or more other companies become eligible tier-1 companies of the top company at a time because of a choice under subsection 719-5(4).

(2) The *head company of the *MEC group must give the Commissioner a notice in the *approved form containing the following information:

(a) the identity of the head company;

(b) the time mentioned in paragraph (1)(b);

(c) the identity of each entity that became an *eligible tier-1 company of the *top company in relation to the MEC group at that time because of the choice;

(d) the identity of each entity that became a *subsidiary member of the group at that time because of the choice;

(e) the identity of each entity that was a subsidiary member of the group at that time but was not such a subsidiary member when the notice is given.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) The notice must be given no later than:

(a) if the *head company is required to give the Commissioner its *income tax return for the income year during which that time occurs—the day on which the head company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which the head company would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

719-78 Notice of special conversion event

(1) This section applies if a *MEC group comes into existence at the time because of a choice under paragraph 719-40(e).

(2) The company mentioned in paragraph 719-40(b) must give the Commissioner a notice in the *approved form containing the following information:

(a) the identity of the company;

(b) the time at which the *MEC group comes into existence;

(c) the identity of each *eligible tier-1 company of the *top company in relation to the MEC group on that day;

(d) the identity of each *subsidiary member of the group at that time;

(e) the identity of each entity that was a subsidiary member of the group at that time but was *not* such a subsidiary member when the notice is given;

(f) the identity of each entity that was *not* a subsidiary member of the group at that time but was such a subsidiary member when the notice is given;

(g) the identity of each entity that became a subsidiary member of the group after that time but was *not* such a subsidiary member when the notice is given.

(3) The notice must be given no later than:

(a) if the company is required to give the Commissioner its *income tax return for the income year during which that

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

time occurs—the day on which the company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which the company would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

719-79 Notice of appointment of provisional head company after formation of group

(1) This section applies if an entity is appointed to be the *provisional head company of a *MEC group because of a choice under subsection 719-60(3).

(2) The *provisional head company must give the Commissioner a notice in the *approved form containing the following information:

(a) the identity of the provisional head company;

(b) the day on which the choice was made;

(c) the day on which the *cessation event mentioned in subsection 719-60(3) occurs.

(3) The notice must be given no later than:

(a) if:

(i) the group came into existence because of a choice under section 719-50; and

(ii) the event happens more than 28 days before a notice under section 719-76 in relation to the choice is given;

the day on which the notice mentioned in subparagraph (ii) is given; or

(b) in any other case—28 days after the *cessation event.

719-80 Notice of events affecting MEC group

(1) If an event (the ***notifiable event***) described in column 2 of an item of the table happens in relation to a *MEC group, the entity described in column 3 of the item must give the Commissioner notice in the *approved form of the notifiable event.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Notice of events		
Column 1 **Item**	**Column 2** **If this event happens:**	**Column 3** **Notice must be given by:**
1.	An entity becomes a member of a *MEC group	The *provisional head company of the group
2.	An entity ceases to be a member of a MEC group	The provisional head company of the group
3.	A *cessation event happens to the *provisional head company of a MEC group	The company, or the person (if any) who was its public officer just before it ceased to exist if the company ceased to be the provisional head company because it ceases to exist

(2) The entity described in column 3 of the relevant item must give notice of the notifiable event:

(a) if:

(i) the group came into existence because of a choice under section 719-50; and

(ii) the notifiable event happens before the relevant notice is given to the Commissioner under section 719-76 (notice of choice to consolidate);

no later than the day mentioned in subsection (3); or

(b) if:

(i) the group results from a *special conversion event; and

(ii) a choice under section 703-50 is made in relation to the *consolidated group mentioned in paragraph 719-40(1)(b); and

(iii) the notifiable event happens before the relevant notice is given to the Commissioner under section 703-58 (notice of choice to consolidate);

no later than the day mentioned in subsection (3); or

(c) in any other case—within 28 days after the notifiable event.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) The day is:

(a) if the entity is required to give the Commissioner its *income tax return for the income year during which the notifiable event happens—the day on which the company gives the Commissioner that income tax return; or

(b) otherwise—the last day in the period within which the entity would be required to give the Commissioner such a return if it were required to give the Commissioner such a return.

Effects of change of head company

719-85 Application

Sections 719-90 to 719-95 set out the effects if:

(a) a company (the ***old head company***) is the *head company of a *MEC group at the end of an income year; and

(b) a different company (the ***new head company***) is the head company of the group at the start of the next income year (the ***transition time***).

Note: This case can arise from the operation of section 719-75, which treats an entity that is the provisional head company of the group at a certain time in the income year as being the group's head company at all times in the income year when the group is in existence.

The old head company is also taken to become a subsidiary member of the group at the transition time, and the new head company is taken to cease being a subsidiary member at that time. Section 719-95 ensures that these results do not change the tax position of the group.

719-90 New head company treated as substituted for old head company at all times before the transition time

(1) Everything that happened in relation to the old head company before the transition time is taken to have happened in relation to the new head company instead, just as if the new head company had been the old head company at all times before the transition time.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: This section treats the new head company as having in effect assumed the identity of the old head company throughout the period before the transition time, but without affecting any of the other attributes of the old head company.

(2) To avoid doubt, subsection (1) also covers everything that, immediately before the transition time, was taken, because of:

(a) section 701-1 (Single entity rule); or

(b) section 701-5 (Entry history rule); or

(c) section 703-75 (about the effects of choice to continue consolidated group after shelf company becomes new head company); or

(ca) section 719-125 (about the effects of a group conversion involving a MEC group); or

(d) one or more previous applications of this section;

to have happened in relation to the old head company.

(3) Subsections (1) and (2) have effect:

(a) for the head company core purposes in relation to an income year ending after the transition time; and

(b) for the entity core purposes in relation to an income year ending after the transition time.

(4) Subsections (1) and (2) have effect subject to:

(a) section 701-40 (Exit history rule); and

(b) a provision of this Act to which section 701-40 is subject because of section 701-85 (about exceptions to the core rules in Division 701).

Note: An example of provisions covered by paragraph (b) of this subsection is section 707-410, which ensures that section 701-40 (Exit history rule) does not result in a leaving entity inheriting a loss of any sort.

719-95 No consequences of old head company becoming, and new head company ceasing to be, subsidiary member of the group

(1) A provision of this Part that applies on an entity becoming a *subsidiary member of a *MEC group does *not* apply to an entity

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

being taken to have become such a member because the entity stopped being the *head company of the group as mentioned in section 719-85, unless the provision is expressed to apply despite this subsection.

Note: An example of the effect of this subsection is that section 701-5 (Entry history rule) does not apply. See instead section 719-90.

(2) To avoid doubt, subsection (1) does not affect the application of subsection 701-1(1) (the single entity rule).

(3) A provision of this Part that applies on an entity ceasing to be a *subsidiary member of a *MEC group does *not* apply to an entity being taken to cease being such a member because the entity became the *head company of the group as mentioned in section 719-85, unless the provision is expressed to apply despite this subsection.

Note: An example of the effect of this subsection is that section 701-40 (Exit history rule) does not apply. See instead section 719-90.

Subdivision 719-BA—Group conversions involving MEC groups

Table of sections

719-120 Application
719-125 Head company of new group retains history of head company of old group
719-130 Provisions of this Part not to apply to conversion
719-135 Provisions of this Part applying to conversion despite section 719-130
719-140 Other provisions of this Part not applying to conversion

719-120 Application

(1) This Subdivision applies if, at a particular time (the ***conversion time***):

(a) a *consolidated group (the ***new group***) is *created from a *MEC group (the ***old group***); or

(b) a MEC group (the ***new group***) is created from a consolidated group (the ***old group***).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) However, sections 719-130 and 719-135 apply only in relation to entities that:

(a) were *members of the old group just before the conversion time; and

(b) are members of the new group at that time.

719-125 Head company of new group retains history of head company of old group

(1) Everything that happened in relation to the *head company of the old group before the conversion time is taken instead to have happened in relation to:

(a) if the head company of the old group is the same entity as the head company of the new group—that entity in its role as head company of the new group; or

(b) otherwise—the head company of the new group (just as if the head company of the new group had been the head company of the old group at all times before the conversion time).

(2) To avoid doubt, subsection (1) also covers everything that, immediately before the conversion time, was taken to have happened in relation to the *head company of the old group because of:

(a) section 701-1 (the single entity rule); or

(b) section 701-5 (the entry history rule); or

(c) section 703-75 (about the effects of choice to continue *consolidated group after shelf company becomes new head company); or

(d) section 719-90 (about the effects of a change of head company of a *MEC group); or

(e) one or more previous applications of this Division.

(3) Subsections (1) and (2) have effect:

(a) for the *head company core purposes in relation to an income year ending after the conversion time; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) for the entity core purposes in relation to an income year ending after the conversion time; and

(c) for the purposes of determining the balance of the *franking account of the head company of the new group at and after the conversion time.

(4) Subsections (1) and (2) have effect subject to:

(a) section 701-40 (Exit history rule); and

(b) a provision of this Act to which section 701-40 is subject because of section 701-85 (about exceptions to the core rules in Division 701).

Note: An example of provisions covered by paragraph (b) of this subsection is Subdivision 717-E (about transferring to a company leaving a consolidated group various surpluses under the CFC rules in Part X of the *Income Tax Assessment Act 1936*).

719-130 Provisions of this Part not to apply to conversion

(1) A provision mentioned in subsection (5) that applies on an entity becoming a *member of a *consolidated group or *MEC group does *not* apply to an entity becoming such a member because of a situation described in subsection 719-120(1), unless the provision is expressed to apply despite this subsection.

Note 1: An example of the effect of this subsection is that section 701-5 (entry history rule) does not apply. See instead section 719-125.

Note 2: Further examples of the effect of this subsection are that Division 705 (cost setting on entry) and Division 707 (losses) do not apply.

(2) Subsection (1) does not affect the application of subsection 701-1(1) (the single entity rule).

(3) A provision mentioned in subsection (5) that applies on an entity ceasing to be a *member of a *consolidated group or *MEC group does *not* apply to an entity ceasing being such a member because of a situation described in subsection 719-120(1), unless the provision is expressed to apply despite this subsection.

Note 1: An example of the effect of this subsection is that section 701-40 (Exit history rule) does not apply. See instead section 719-125.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note 2: Another example of the effect of this subsection is that Division 711 (cost setting on exit) does not apply.

(4) Subsection (3) does not apply if:

(a) the old group mentioned in subsection 719-120(1) is a *consolidated group; and

(b) the new group mentioned in subsection 719-120(1) is a *MEC group; and

(c) the entity ceasing to be a *member of the old group becomes an *eligible tier-1 company in respect of the new group.

(5) The provisions are as follows:

(a) Subdivision 104-L;

(b) section 165-212E;

(c) this Part (other than this Subdivision);

(d) Part 3-90 of the *Income Tax (Transitional Provisions) Act 1997*.

719-135 Provisions of this Part applying to conversion despite section 719-130

(1) This section applies despite subsections 719-130(1) and (3).

(2) If the new group is a *consolidated group, the following provisions may apply on an entity ceasing to be a *member of the old group:

(a) Subdivision 719-K;

(b) any other provision of this Part, to the extent that the application of the provision is necessary for the application of Subdivision 719-K.

719-140 Other provisions of this Part not applying to conversion

If the new group is a *consolidated group, the following provisions do not apply merely because the old group ceases to exist at the conversion time (or merely because the *potential MEC group of which the old group consisted ceases to exist at that time):

(a) section 719-280;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) section 719-465;
(c) section 719-705;
(d) section 719-725;
(e) any other provision of this Part, to the extent that the application of the provision is necessary for the application of any of those sections.

Subdivision 719-C—MEC group cost setting rules: joining cases

Guide to Subdivision 719-C

719-150 What this Subdivision is about

When an entity (other than an eligible tier-1 company) becomes a subsidiary member of a MEC group, the tax cost of its assets is set at a tax cost setting amount that is worked out in accordance with Divisions 701 and 705 as modified by this Subdivision. Assets of eligible tier-1 companies becoming members of a MEC group do not have their tax cost set.

Table of sections

Application and object

719-155 Object of this Subdivision

Modified application of tax cost setting rules for joining

719-160 Tax cost setting rules for joining have effect with modifications
719-165 Trading stock value and registered emissions unit value not set for assets of eligible tier-1 companies
719-170 Modified effect of subsections 705-175(1) and 705-185(1)

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Application and object

719-155 Object of this Subdivision

The object of this Subdivision is to modify the tax cost setting rules in Divisions 701 and 705 so that they take account of the special characteristics of *MEC groups.

Modified application of tax cost setting rules for joining

719-160 Tax cost setting rules for joining have effect with modifications

(1A) This section applies if an entity (the ***MEC joining entity***) becomes a *subsidiary member of a *MEC group at a time (the ***MEC joining time***).

(1) This section has effect for the head company core purposes set out in subsection 701-1(2).

General modifying rule

(2) The provisions mentioned in subsection (3) operate, for the purposes of setting the *tax cost of an asset of the MEC joining entity, as if each *subsidiary member of the group (including the MEC joining entity) that is an *eligible tier-1 company at the MEC joining time were a part of the *head company of the group, rather than a separate entity.

Note 1: This subsection means that references in those provisions to matters internal to the group operate as if eligible tier-1 companies in the group were parts of the head company of the group. For example:

(a) provisions operating if the head company holds (whether directly or indirectly) membership interests in another entity operate even if an eligible tier-1 company actually holds those interests; and

(b) provisions operating if the head company owns or controls another entity operate even if one or more eligible tier-1 companies actually own or control that other entity; and

(c) provisions operating if an entity is interposed between the head company and another entity operate even if the first entity is

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

actually interposed between an eligible tier-1 company and the other entity.

Note 2: If the MEC joining entity is an eligible tier-1 company, this subsection means the assets of the entity do not have their tax cost reset at the MEC joining time. This is because Subdivision 705-A (and related provisions) reset the tax cost of assets of *subsidiary* members of a group, but not assets of the head company.

(3) The provisions are:

(a) section 701-10 (about setting the tax cost of assets of an entity joining a group); and

(b) Subdivision 705-A; and

(c) any other provision of this Act giving Subdivision 705-A a modified effect in circumstances other than those covered by that Subdivision.

Note: An example of provisions covered by paragraph (c) are the provisions of Subdivision 705-B giving Subdivision 705-A a modified effect when a consolidated group is formed.

719-165 Trading stock value and registered emissions unit value not set for assets of eligible tier-1 companies

(1) This section applies if an entity (the ***MEC joining entity***) becomes a *subsidiary member of a *MEC group at a time (the ***MEC joining time***).

(2) Subsection 701-35(4) (setting value of trading stock at tax-neutral amount) does not apply to the assets of the MEC joining entity if it is an *eligible tier-1 company at the MEC joining time.

(3) Subsection 701-35(5) (setting value of registered emissions unit at tax-neutral amount) does not apply to the assets of the MEC joining entity if it is an *eligible tier-1 company at the MEC joining time.

719-170 Modified effect of subsections 705-175(1) and 705-185(1)

(1) This section applies if all of the *members of a *MEC group (the ***acquired group***) become members of another MEC group, or of a

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

*consolidated group, at a particular time (the ***acquisition time***) as a result of the *acquisition of *membership interests in:

(a) the *head company of the acquired group; and

(b) other entities that were *eligible tier-1 companies of the acquired group just before the acquisition time.

(2) Subsections 705-175(1) and 705-185(1) have effect as if a *membership interest in an entity mentioned in paragraph (1)(b) of this section were a membership interest in the *head company of the acquired group.

Note 1: If the *acquiring* group is a MEC group, and the head company of the acquired group becomes an eligible tier-1 company of the *acquiring* group, the assets of the members of the acquired group do *not* have their tax cost reset at the acquisition time. This is because:

(a) section 719-160 treats an entity becoming an eligible tier-1 company of the *acquiring* group as if it were a part of the head company of that group; and

(b) section 705-185 treats the subsidiary members of the acquired group as part of the head company of the acquired group.

Note 2: If:

(a) the *acquiring* group is a MEC group, but the head company of the acquired group does *not* become an eligible tier-1 company of the *acquiring* group; or

(b) the *acquiring* group is a consolidated group and the acquired group is a MEC group;

the assets of the members of the acquired group have their tax cost reset at the acquisition time (section 719-160 does not preclude tax cost resetting in these cases). For the purposes of resetting the tax cost of those assets, section 705-185 treats the subsidiary members of the acquired group as part of the head company of the acquired group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 719-F—Losses

Guide to Subdivision 719-F

719-250 What this Subdivision is about

This Subdivision modifies the rules about transferring and utilising losses so the rules operate appropriately in relation to MEC groups, taking account of the special characteristics of those groups. The modifications mainly affect:

(a) rules about maintaining the same ownership to be able to utilise a loss; and

(b) rules for working out how much of a loss can be utilised by reference to bundles of losses and their available fractions.

Table of sections

Maintaining the same ownership to be able to utilise loss

719-255 Special rules
719-260 Special test for utilising a loss because a company maintains the same owners
719-265 What is the test company?
719-270 Assumptions about the test company having made the loss for an income year
719-275 Assumptions about nothing happening to affect direct and indirect ownership of the test company
719-280 Assumptions about the test company failing to meet the conditions in section 165-12

Business continuity test and change of head company

719-285 Business continuity test and change of head company

Bundles of losses and their available fractions

719-300 Application

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

719-305 Subdivision 707-C affects utilisation of losses made by ongoing head company while it was head company
719-310 Adjustment of available fractions for bundles of losses previously transferred to ongoing head company
719-315 Further adjustment of available fractions for all bundles
719-320 Limit on utilising losses other than the prior group losses
719-325 Cancellation of all losses in a bundle

Maintaining the same ownership to be able to utilise loss

719-255 Special rules

(1) This section and section 719-260 have effect for the purposes of working out whether a loss can be *utilised for an income year (the ***claim year***) by a company (the ***focal company***) that made the loss if:

(a) section 165-12 is relevant to the question whether the focal company can utilise the loss; and

(b) the focal company is the *head company of a *MEC group at any time in its *ownership test period for the loss (as affected by section 707-205, if relevant).

Note: If the focal company made the loss because of a transfer under Subdivision 707-A, section 707-205 has the effect that the ownership test period starts for the focal company at the time of the transfer.

Section 707-210 does not have effect

(2) Section 707-210 does not have effect for the purposes of working out whether the focal company can *utilise the loss for the claim year.

Note: Section 707-210 is about whether a company can utilise a loss it made because the loss was transferred to it under Subdivision 707-A because the transferor met the conditions in section 165-12.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

719-260 Special test for utilising a loss because a company maintains the same owners

Meeting the conditions in section 165-12

(1) The focal company is taken to meet the conditions in section 165-12 for the claim year and the loss if and only if the company (the ***test company***) identified in relation to the focal company in accordance with section 719-265 would have met those conditions for that year on the relevant assumptions in:

(a) section 719-270 (which is about assuming the test company made the loss for a particular income year); and

(b) section 719-275 (which is about assuming that nothing happened in relation to certain things that would affect whether the test company would meet those conditions); and

(c) section 719-280 (which is about assuming that the test company would have failed to meet those conditions in certain circumstances).

Focal company's failure to meet conditions in section 165-12

(2) The focal company is taken to fail to meet a condition in section 165-12 only at:

(a) the first time the test company would have failed to meet the condition on the relevant assumptions mentioned in subsection (1); or

(b) the *test time described in subsection 166-5(6) for the test company, if:

(i) Division 166 is relevant to working out whether the test company could have *utilised the loss for the claim year on the relevant assumptions mentioned in paragraphs (1)(a) and (b); and

(ii) the test company is not assumed under section 719-280 to fail to meet the condition before the test time.

Note: If the focal company is taken to fail to meet a condition in section 165-12, the focal company will not be able to utilise the loss for the claim year unless the focal company meets the condition in

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Authorised Version C2022C00307 registered 22/10/2022

section 165-13 by satisfying the business continuity test. That test applies to the focal company (and not the test company).

Business continuity test for focal company under Division 166

(3) If subsection 166-5(5) affects whether the focal company can *utilise the loss for the claim year because the focal company is a *widely held company or an *eligible Division 166 company, or both, during the year, subsection 166-5(6) operates as if it required the *business continuity test to be applied to the *business the focal company carried on just before the time described in subsection (2) of this section.

Business continuity test for focal company to transfer loss

(4) If subsection 707-125(4) is relevant to working out whether the focal company can transfer the loss to a company under Subdivision 707-A, that subsection:

(a) has effect as if subsection 707-125(5) described the focal company's income year containing the time at which the focal company is taken under subsection (2) of this section to fail to meet a condition in section 165-12; and

(b) has effect despite subsection (3) of this section.

Note: For working out whether certain losses can be transferred under Subdivision 707-A, subsection 707-125(4) modifies the operation of subsection 166-5(6) by extending the business continuity test period to include the income year described in subsection 707-125(5).

719-265 What is the test company?

(1) To identify for the purposes of section 719-260 the company that is the test company for the focal company for the loss:

(a) first, identify the test company for the focal company by applying whichever one of subsections (2), (3), (3A), (4) and (6) is relevant; and

(b) then, if the condition in column 1 of an item of the table is met, apply this section again to identify the test company as if the company described in column 2 of the item were the

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Authorised Version C2022C00307 registered 22/10/2022

focal company, taking account only of things that happened before the event described in column 3 of the item.

Repeated application of this section

	Column 1 If the test company for the focal company is identified:	Column 2 Apply this section again as if this company were the focal company:	Column 3 Take account only of things that happened before this event:
1	Under subsection (2) as the company that is the test company for the transferor	The transferor mentioned in subsection (2)	The transfer mentioned in subsection (2)
2	Under subsection (6) as the company that is the test company for the first head company	The first head company mentioned in subsection (6)	The first head company ceasing to be the *head company of the *MEC group mentioned in subsection (6)

Note: More than 2 applications of this section may be needed to identify the test company for the focal company.

COT transfer of loss to focal company

(2) The test company for the focal company is the company described in column 2 of the relevant item of the table if the focal company made the loss because of a *COT transfer to the focal company.

Test company for the focal company

	Column 1 If:	Column 2 The test company for the focal company is:
1	The focal company and the transferor are the same company	The focal company
2	The focal company and the transferor are different companies	The company that is the test company for the transferor

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Loss transferred because business continuity test satisfied

(3) The test company for the focal company is the company described in column 2 of the relevant item of the table if the focal company made the loss because the loss was transferred under Subdivision 707-A to the focal company from a company because it satisfied the *business continuity test for:

(a) the *business continuity test period; and

(b) the *test time specified in Division 165 or 166 or section 707-125.

Test company for the focal company

	Column 1 If:	Column 2 The test company for the focal company is:
1	The focal company was the *head company of a *MEC group at the time of the transfer	The company that was the *top company for the MEC group at the time of the transfer
2	The focal company was *not* the *head company of a *MEC group at the time of the transfer	The focal company

Transfer of tax loss from designated infrastructure project entity

(3A) If:

(a) the focal company made the loss because the loss was transferred under Subdivision 707-A to the focal company as the *head company of a *MEC group; and

(b) subsection 707-120(5) (about designated infrastructure project entities joining consolidated groups) applies to the transfer;

the test company for the focal company is the company that was the *top company for the MEC group at the time of a transfer.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Loss not transferred from a company

(4) The test company for the focal company is the company described in column 2 of the relevant item of the table if the focal company made the loss *apart from* a transfer of the loss under Subdivision 707-A from a company.

Test company for the focal company

	Column 1 If:	Column 2 The test company for the focal company is:
1	The focal company made the loss apart from Subdivision 707-A and was the *head company of a *MEC group at the start of the income year for which it made the loss	The company that was the *top company for the MEC group at the start of the income year
2	The focal company made the loss because it was transferred under Subdivision 707-A to the focal company as the *head company of a *MEC group from an entity other than a company	The company that was the *top company for the MEC group at the time of the transfer
3	Neither item 1 nor item 2 applies	The focal company

Relationship between subsections (2), (3) and (4)

(5) Subsection (2) or (3), and *not* subsection (4), is relevant for identifying the test company for the focal company if the focal company made the loss apart from a transfer under Subdivision 707-A, and later transferred the loss to itself under that Subdivision.

Change of head company

(6) If, under section 719-90, the focal company is taken to have made the loss because:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) a company (the ***first head company***) other than the focal company made the loss apart from that section and either:

(i) was the *head company of a *MEC group at any time during the income year for which it made the loss; or

(ii) became the head company of a MEC group after that income year (without having been a *subsidiary member of the group before becoming the head company); and

(b) the focal company was later the head company of the MEC group;

the test company for the focal company is the company that is the test company for the first head company.

Note: Section 719-90 applies if there is a change in the head company of a MEC group, treating the later head company as if what had happened to the earlier head company had happened to the later head company.

(7) Subsections (2), (3), (3A) and (4) and section 719-90 have effect subject to subsection (6) of this section.

719-270 Assumptions about the test company having made the loss for an income year

If test company was top company for focal company's MEC group

(1) If the test company was the *top company for a *MEC group and the focal company is or was the *head company of that MEC group, assume that the test company made the loss for an income year starting at the relevant time shown in the table.

Start of income year for which test company is assumed to have made loss

	If:	The relevant time is:
1	The focal company made the loss apart from Subdivision 707-A	The start of the income year for which the focal company made the loss
2	The focal company made the loss because it was transferred to the focal company under Subdivision 707-A	The time of the transfer

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: Subsection (1) applies even if the test company is still the top company for the MEC group at the end of the claim year.

If test company is focal company or first head company

(2) If the test company is:

(a) the focal company; or

(b) the first head company identified in subsection 719-265(6) by reference to the focal company;

assume that the test company made the loss for an income year starting at the relevant time shown in the table.

Start of income year for which test company is assumed to have made loss

	If:	The relevant time is:
1	The test company made the loss apart from Subdivision 707-A (even if the test company later transferred the loss to itself in a *COT transfer)	The start of the income year for which the test company made the loss
2	The test company made the loss because it was transferred to the test company under Subdivision 707-A in a transfer other than a *COT transfer (even if the test company first made the loss apart from that Subdivision)	The time of the transfer

(3) If the test company is the first head company, disregard section 719-90 for the purposes of working out the relevant time using the table in subsection (2) of this section.

Note: This ensures that section 719-90 does not make the items in the table inapplicable by treating the test company as if another company had made the loss instead of the test company.

If subsections (1) and (2) do not apply

(4) If neither subsection (1) nor subsection (2) applies, assume that the test company made the loss for an income year starting at the relevant time shown in the table.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Start of income year for which test company is assumed to have made loss		
	If:	**The relevant time is:**
1	The test company made the loss apart from Subdivision 707-A (even if the test company later transferred the loss to itself in a *COT transfer)	The start of the income year for which the test company made the loss
2	The test company made the loss because it was transferred to the test company under Subdivision 707-A in a transfer other than a *COT transfer (even if the test company first made the loss apart from that Subdivision)	The time of the transfer
3	The test company is the test company for the focal company for the loss because the test company was the *top company for a *MEC group whose *head company made the loss before it was transferred to the focal company under Subdivision 707-A	The time that was the relevant time under subsection (1) for the test company as the test company for the *first* company for which the test company was the test company for the loss

Note: Subsection (4) applies if the focal company made the loss because of a COT transfer of the loss to the focal company from another company.

(5) Disregard section 719-90 for the purposes of items 1 and 2 of the table in subsection (4) of this section if the test company was identified using subsection 719-265(6).

Note: This ensures that section 719-90 does not make those items inapplicable by treating the test company as if another company had made the loss instead of the test company.

Other events do not override assumption

(6) If the test company transferred the loss to itself or another company under Subdivision 707-A, assume that the transfer did not affect, for income years ending after the transfer:

(a) the fact that the test company made the loss; or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the income year for which the test company is assumed (under subsection (1), (2) or (4)) to have made the loss.

719-275 Assumptions about nothing happening to affect direct and indirect ownership of the test company

(1) This section sets out an assumption that must be made whenever an event described in subsection (2) occurs:

(a) after the time assumed under section 719-270 to be the start of the income year for which the test company made the loss; and

(b) before the end of the claim year;

(whether or not the test company or the focal company is one of the companies mentioned in the description of the event).

(2) Assume that, after an event described in an item of the table, nothing happens in relation to *membership interests or voting power in an entity described in the item that would affect whether the test company would meet the conditions in section 165-12 for the claim year and the loss.

Assumption about nothing happening to membership interests or voting power

	If this event occurs:	Assume that nothing happens in relation to membership interests or voting power in:
1	There is a *COT transfer of the loss to the *head company of a *MEC group (but not from a company that was the head company of another MEC group just before the transfer)	The transferor or an entity that was at the time of the transfer interposed between the transferor and the *top company for the MEC group
2	There is a *COT transfer of the loss to the *head company of a *MEC group from a company that was the head company of another MEC group just before the transfer	The company that was just before the transfer the *top company for the other MEC group, or an entity that was at the time of the transfer interposed between that company and the top company of the MEC group to whose head company the loss was transferred

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Assumption about nothing happening to membership interests or voting power		
	If this event occurs:	**Assume that nothing happens in relation to membership interests or voting power in:**
3	There is a change in the identity of the *top company for a *MEC group whose *head company has made the loss	The company that ceased to be the top company for the MEC group as part of the change or an entity that was at the time of the change interposed between that company and the company that became the top company for the MEC group as part of the change
4	A company that has made the loss becomes at a time the *head company of a *MEC group (as the first company to be the head company of the group) and has not before that time transferred the loss to another company under Subdivision 707-A	The company or an entity that was at the time interposed between the company and the *top company for the MEC group
5	There is a *COT transfer of the loss to the *head company of a *consolidated group from another company	The other company or an entity that was at the time of the transfer interposed between the other company and the head company

(3) For the purposes of this section, a company is taken to make a loss:

(a) at the *start* of the income year for which the company makes the loss, if it makes the loss apart from a transfer under Subdivision 707-A (even if the company later transfers the loss to itself under that Subdivision); or

(b) at the time the loss is transferred to the company under that Subdivision, if the company makes the loss because of that transfer.

(4) Disregard section 719-90 for the purposes of making an assumption on the basis of item 1 of the table in subsection (2) of this section if (apart from that section):

(a) the *COT transfer mentioned in that item was from the *head company of the *MEC group to itself; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) for an income year starting after the transfer, another company was the head company of the group.

719-280 Assumptions about the test company failing to meet the conditions in section 165-12

(1) Assume that the test company fails to meet the conditions in section 165-12 at the time an event described in subsection (2), (3) or (4) happens after the start of the *ownership test period for the focal company in relation to:

(a) the *MEC group whose *head company was the focal company; or

(b) the *potential MEC group whose membership was the same as the membership of that MEC group.

Note: If the test company is assumed to fail to meet the conditions in section 165-12 for the claim year and the loss, the focal company is taken (under section 719-260) to have failed to meet those conditions.

(2) One event is the *potential MEC group ceasing to exist.

(3) Another event is something happening that meets these conditions:

(a) the thing happens at a time in relation to *membership interests in one or more of these entities:

(i) a company that was just before that time a *member of the *MEC group and an *eligible tier-1 company of the *top company for the MEC group;

(ii) an entity interposed between a company described in subparagraph (i) and the company that was the top company for the group just before that time;

(b) the thing does not cause the *potential MEC group to cease to exist but does cause a change in the identity of the top company for the potential MEC group.

(4) Another event is the *MEC group ceasing to exist because there ceases to be a *provisional head company of the group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Other causes of failure to meet conditions in section 165-12

(5) To avoid doubt, this section does not limit the circumstances in which the test company would have failed to meet the conditions in section 165-12 on the relevant assumptions set out in sections 719-270 and 719-275.

Business continuity test and change of head company

719-285 Business continuity test and change of head company

In working out whether the *business continuity test is satisfied by a company that, after the *test time, became the *head company of a *MEC group that existed before that time, disregard what happened in relation to the company before it became a *member of the group. Section 719-90 has effect subject to this section.

Note 1: The business continuity test is to be applied on the basis that the company's business at the test time was the business that section 719-90 treats the company as having carried on at that time, except to the extent that section 719-90 attributes to the company its actual history before it became a member of the MEC group.

Note 2: Section 719-90 applies if there is a change in the head company of a MEC group, treating the later head company as if what had happened to the earlier head company had happened to the later head company.

Bundles of losses and their available fractions

719-300 Application

(1) Sections 719-305, 719-310, 719-315, 719-320 and 719-325 operate only if:

(a) a company (the ***ongoing head company***) is the *head company of a *MEC group for an income year or a period in an income year; and

(b) an event (the ***application event***) described in subsection (2) or (3) happens at a time in the income year in relation to the group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) One application event is that another company (the ***new tier-1 member***) becomes both a *member of the *MEC group and an *eligible tier-1 company of the *top company for the group.

(3) The other application event is that the *MEC group comes into existence as a result of a *special conversion event happening to the *potential MEC group derived from the ongoing head company.

Note: This application event happens only if the ongoing head company was the head company of a consolidated group just before the special conversion event.

Exceptions for events involving subsidiary members of group

(4) Those sections do not operate because of the event described in subsection (2) if the new tier-1 member was a *subsidiary member of the *MEC group immediately before the event.

(5) Those sections do not operate because of the event described in subsection (3) if all the other companies that are described in paragraph 719-40(1)(c) and are involved in the *special conversion event were *subsidiary members of the *consolidated group just before the event.

(6) Subsections (4) and (5) have effect despite subsection (1).

719-305 Subdivision 707-C affects utilisation of losses made by ongoing head company while it was head company

(1) For income years ending after the application event happened, Subdivision 707-C affects the *utilisation of all losses (the ***prior group losses***) of any *sort that the ongoing head company made (apart from Subdivision 707-A) for an income year that:

(a) was an income year during which the *MEC group was in existence (or, if the application event involved the MEC group coming into existence because of a *special conversion event involving a *consolidated group, the consolidated group was in existence); and

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Authorised Version C2022C00307 registered 22/10/2022

(b) was before the income year in which the event happened.

Prior group losses taken to have been transferred at time of event

(2) The ongoing head company is taken to have transferred the prior group losses to itself under Subdivision 707-A at the time of the application event, for the purposes of:

(a) the application of Subdivision 707-C in relation to the *utilisation of the prior group losses and other losses; and

(b) future applications of this section and section 719-310.

Available fraction for bundle of losses

(3) For the purpose of working out the *available fraction for the *bundle of the prior group losses at the time of the transfer, work out the ongoing head company's *modified market value at the time of the application event as if:

(a) the ongoing head company had become a *member of a *consolidated group at the time; and

(b) each *subsidiary member of the MEC group or consolidated group of which the ongoing head company was the *head company just before the event were a part of the ongoing head company (and not a separate entity) at the time of the event; and

(c) each subsidiary member of that group at an earlier time had been a part of the ongoing head company (and not a separate entity) at the earlier time.

Deemed transfer does not affect year of loss

(4) Subdivision 707-C affects the *utilisation as if each of the prior group losses had been made by the ongoing head company for the income year for which the company actually made the loss (and not the income year in which the application event happened). Subsection (2) has effect subject to this subsection.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

719-310 Adjustment of available fractions for bundles of losses previously transferred to ongoing head company

(1) This section affects the *available fraction for each *bundle of losses that were transferred to the ongoing head company under Subdivision 707-A before the application event.

(2) The ***available fraction*** for the *bundle is reduced or maintained just after the event by multiplying it by this fraction:

$$\frac{\text{*Market value of the ongoing head company just before the application event}}{\text{*Market value of the ongoing head company just after the application event}}$$

Note: The market value of the ongoing head company at the time just before or just after the application event will be worked out on the basis that subsidiary members of the MEC group or consolidated group headed by the ongoing head company at that time are part of the ongoing head company, because of section 701-1 (the single entity rule).

(3) Item 3 of the table in subsection 707-320(2) does *not* apply to affect the *available fraction for the *bundle because of:

(a) the transfer mentioned in section 719-305; or

(b) the transfer (if any) to the ongoing head company of a loss of any *sort under Subdivision 707-A at the time of the application event from an entity that became a *subsidiary member of the *MEC group as a result of the event.

719-315 Further adjustment of available fractions for all bundles

(1) If, because of the application event:

(a) there is under section 719-305 an *available fraction for the *bundle of prior group losses; and

(b) section 719-310 affects the available fraction for one or more other bundles of losses;

this section affects the available fraction for *every* one of those bundles.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) The ***available fraction*** (as affected by section 719-305 or 719-310) is reduced by multiplying it by this fraction:

$$\frac{\text{*Available fraction for the *bundle of prior group losses}}{\text{Sum of the *available fraction for every *bundle of losses whose available fraction is affected by this section}}$$

(3) For the purposes of working out the fraction in subsection (2), use the value of an *available fraction for a *bundle of losses apart from:

(a) this section; and

(b) if item 5 of the table in subsection 707-320(2) would apply as a result of the calculation of the available fraction in accordance with section 719-305 or 719-310—that item.

719-320 Limit on utilising losses other than the prior group losses

(1) This section has effect for the purposes of working out how much of the losses, other than prior group losses, in a *bundle the ongoing head company can *utilise for the income year in which the application event happens.

(2) For the purposes of subsection 707-310(3), the prior group losses are to be treated as if they had *not* been transferred under Subdivision 707-A, to the extent to which the ongoing head company can *utilise them for the income year because they are treated as being included in a *bundle whose available fraction was 1 from the start of the income year until the time of the application event.

(3) This section is a matter that is relevant for the purposes of paragraph 707-335(3)(f), if section 707-335 applies to the ongoing head company's *utilisation of the losses in the *bundle for the income year.

Note: That section applies to a company's utilisation for an income year of losses in a bundle if the losses are transferred under Subdivision 707-A after the start of the year or if the value of the available fraction for the bundle changes during the year while the

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

company is treated as having made the losses because of that Subdivision.

(4) Section 719-305 has effect subject to this section.

719-325 Cancellation of all losses in a bundle

(1) The ongoing head company:
  (a) may choose to cancel all the losses in the *bundle of prior group losses; and
  (b) may choose to cancel all the losses in a *bundle of losses to which section 719-310 applies.

(2) If the ongoing head company chooses to cancel all the losses in a *bundle, subsections (3), (4), (5), (6) and (7) operate.

(3) The ongoing head company cannot *utilise for the income year in which the application event happened more of the losses than it would have been able to utilise under Subdivision 707-C assuming:
  (a) if the losses are prior group losses:
    (i) the losses were in a *bundle for the income year; and
    (ii) the *available fraction for the bundle were 1 for the period from the start of the income year until the event happened; and
  (b) in any case—the available fraction for the bundle including the losses were 0 from the time of the event until the end of the income year.

Note: Section 707-335 is relevant to working out how much of the losses could be utilised, because the value of the available fraction for the bundle changes during the period described in that section.

(4) The ongoing head company cannot:
  (a) transfer the losses to another company under Division 170 for an income year ending after the application event; or
  (b) transfer the losses to another company under Subdivision 707-A after the application event.

This subsection has effect despite subsection (3).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(5) Disregard the existence of the *bundle at and after the time of the application event for the purposes of working out the *available fraction for another *bundle of losses.

(6) The losses cannot be *utilised by any entity for an income year starting after the application event.

(7) The choice cannot be revoked.

Subdivision 719-H—Imputation issues

719-425 Guide to Subdivision 719-H

This Subdivision deals with some imputation issues in relation to MEC groups.

Table of sections

Operative provisions

719-430 Transfer of franking account balance on cessation event
719-435 Distributions by subsidiary members of MEC group taken to be distributions by head company

Operative provisions

719-430 Transfer of franking account balance on cessation event

(1) This section operates if:
  (a) a *cessation event happens to the *provisional head company of a *MEC group (the ***former head company***); and
  (b) another company (the ***new head company***) is appointed as the provisional head company of the group under subsection 719-60(3).

(2) When the new head company is appointed:
  (a) the *franking account of the former head company ceases to operate; and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the new head company has a franking account; and

(c) any *franking surplus or *franking deficit in the franking account of the former head company just before the *cessation event happened becomes that of the new head company.

719-435 Distributions by subsidiary members of MEC group taken to be distributions by head company

(1) Part 3-6 operates as if a *frankable distribution made by an *eligible tier-1 company that:

(a) is a member of a *MEC group; and

(b) is not the *provisional head company of the group;

had been made by the provisional head company of the group to a *member of the provisional head company.

Note: Part 3-6 deals with imputation.

(2) Part 3-6 operates as if a *frankable distribution made by a *subsidiary member of a *MEC group (the ***foreign-held subsidiary***) that is not an *eligible tier-1 company were a frankable distribution made by the *head company of the group to a *member of the head company if:

(a) the foreign-held subsidiary meets the set of requirements in section 703-45, section 701C-10 of the *Income Tax (Transitional Provisions) Act 1997* or section 701C-15 of that Act; and

(b) the frankable distribution is made to a foreign resident.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Subdivision 719-I—Bad debts

Guide to Subdivision 719-I

719-450 What this Subdivision is about

The head company of a MEC group is taken to meet the conditions in section 165-123 (about maintaining the same ownership in an ownership test period to be able to deduct a bad debt) if and only if the top company for the group at the start of the period meets those conditions for the period.

Table of sections

Maintaining the same ownership to be able to deduct bad debt

719-455 Special test for deducting a bad debt because a company maintains the same owners
719-460 Assumptions about nothing happening to affect direct and indirect ownership of the test company
719-465 Assumptions about the test company failing to meet the conditions in section 165-123

Maintaining the same ownership to be able to deduct bad debt

719-455 Special test for deducting a bad debt because a company maintains the same owners

(1) This section has effect for the purposes of working out whether the *head company of a *MEC group:

(a) can deduct a debt it writes off as bad; or

(b) could have deducted a debt as described in subsection 709-215(2).

Note: Whether the head company of the MEC group could have deducted a debt as described in subsection 709-215(2) is relevant under Subdivision 709-D to:

(a) the question whether the head company can deduct the debt it writes off as bad, or the swap loss it makes in extinguishing the

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

debt as part of a debt/equity swap, after the debt was owed to an entity while the entity was not a member of the MEC group; and

(b) the question whether an entity that was owed the debt after it was owed to the head company can deduct the amount of the debt the entity writes off as bad or the swap loss the entity makes in extinguishing the debt as part of a debt/equity swap.

(2) The *head company is taken to meet the conditions in section 165-123 (about the company maintaining the same owners) for the *ownership test period if and only if the company (the ***test company***) that was the *top company for the *MEC group at the start of the same period would have met those conditions for that period on the assumptions in the following sections (if applicable):

(a) section 719-460 (which is about assuming that nothing happened in relation to certain things that would affect whether the test company would meet those conditions);

(b) section 719-465 (which is about assuming that the test company would have failed to meet those conditions in certain circumstances).

Note 1: Even though subsection (2) of this section raises the issue whether the test company meets the conditions in section 165-123, that is determined by reference to:

(a) the ownership test period for the head company of the MEC group; and

(b) the debt owed to the head company.

Note 2: If this section is applying for the purposes of working out whether the head company could have deducted a debt as described in subsection 709-215(2), section 709-215 affects what is the ownership test period for the purposes of section 165-123 as it applies for those purposes.

Head company's failure to meet conditions in section 165-123

(3) The *head company is taken to fail to meet a condition in section 165-123 only at:

(a) the first time the test company would have failed to meet the condition on the relevant assumptions mentioned in subsection (2); or

(b) the *test time described in section 166-40 for the test company, if:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(i) Division 166 is relevant to working out whether the test company met the conditions in section 165-123 on the relevant assumption mentioned in paragraph (2)(a); and

(ii) the test company is not assumed under section 719-465 to fail to meet the condition before the test time.

Note 1: If the head company is taken to fail to meet a condition in section 165-123, the head company will not be able to deduct the debt unless that company meets the condition in section 165-126 by satisfying the business continuity test. That test applies to the head company (and not the test company).

Note 2: Section 719-285 may affect whether the head company satisfies the business continuity test if there has been a change in the identity of the head company of the group during the ownership test period.

Business continuity test for head company under Division 166

(4) If section 166-40 directly affects whether the *head company can deduct the debt, the subsection of that section that requires the *business continuity test to be applied to a particular *business operates as if it required that test to be applied to the business the head company carried on just before the time described in subsection (3) of this section.

Note: Section 166-40 has an *indirect* effect on whether the head company can deduct the debt so far as that section affects whether the *test* company meets the conditions in section 165-123 and therefore whether the head company is taken to meet those conditions.

719-460 Assumptions about nothing happening to affect direct and indirect ownership of the test company

(1) This section sets out an assumption that must be made whenever there is a change in the identity of the *top company for the *MEC group during the *ownership test period.

(2) Assume that after the change nothing happens in relation to *membership interests or voting power in the following entities that would affect whether the test company would meet the conditions in section 165-123:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) the company that was the *top company for the *MEC group before the change;

(b) an entity (if any) that at the time of the change was interposed between:

(i) the company that was the top company for the MEC group before the change; and

(ii) the company that became the top company for the MEC group as part of the change.

719-465 Assumptions about the test company failing to meet the conditions in section 165-123

(1) Assume that the test company fails to meet the conditions in section 165-123 at the time an event described in subsection (2), (3) or (4) happens after the start of the *ownership test period in relation to:

(a) the *MEC group; or

(b) the *potential MEC group whose membership was the same as the membership of the MEC group.

Note: If the test company is assumed to fail to meet the conditions in section 165-123, the head company of the MEC group is taken (under section 719-455) to have failed to meet those conditions.

(2) One event is the *potential MEC group ceasing to exist.

(3) Another event is something happening that meets these conditions:

(a) the thing happens at a time in relation to *membership interests in one or more of these entities:

(i) a company that was just before that time a *member of the *MEC group and an *eligible tier-1 company of the *top company for the MEC group;

(ii) an entity interposed between a company described in subparagraph (i) and the company that was the top company for the group just before that time;

(b) the thing does not cause the *potential MEC group to cease to exist but does cause a change in the identity of the top company for the potential MEC group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(4) Another event is the *MEC group ceasing to exist because there ceases to be a *provisional head company of the group.

Other causes of failure to meet conditions in section 165-123

(5) To avoid doubt, this section does not limit the circumstances in which the test company would have failed to meet the conditions in section 165-123.

Subdivision 719-J—MEC group cost setting rules: leaving cases

Guide to Subdivision 719-J

719-500 What this Subdivision is about

When an entity ceases to be a subsidiary member of a MEC group, the tax cost setting amount for the group's membership interests in the entity is worked out in accordance with Division 711 as modified by this Division.

Table of sections

719-505 Application and object of this Subdivision
719-510 Modified operation of paragraphs 711-15(1)(b) and (c)

719-505 Application and object of this Subdivision

Application

(1) This Subdivision applies if the old group mentioned in subsection 711-5(1) is a *MEC group.

Object

(2) The object of this Subdivision is to modify the rules in Division 711 so that they take account of the special characteristics of *MEC groups.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

719-510 Modified operation of paragraphs 711-15(1)(b) and (c)

(1) This section applies if the leaving entity mentioned in subsection 711-15(1) is a *subsidiary member of the old group that is an *eligible tier-1 company.

(2) Paragraphs 711-15(1)(b) and (c) apply as if the membership interests mentioned in those paragraphs included *pooled interests in the *eligible tier-1 company.

Note: This subsection means that, in working out tax cost setting amounts for internal interests in the eligible tier-1 company, section 711-15 will allocate part of the old group's allocable cost amount for the eligible tier-1 company to the pooled interests in the company. However, the tax cost of the pooled interests is not set according to section 711-15. Subdivision 719-K contains rules that set the cost of the pooled interests.

Subdivision 719-K—MEC group cost setting rules: pooling cases

Guide to Subdivision 719-K

719-550 What this Subdivision is about

This Subdivision contains cost setting rules for membership interests in eligible tier-1 companies that are members of a MEC group, where those interests are not held by members of the group.

Table of sections

719-555 Application and object of this Subdivision
719-560 Pooled interests
719-565 Setting cost of reset interests
719-570 Cost setting amount

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

719-555 Application and object of this Subdivision

Application

(1) This Subdivision applies if:

(a) one or more entities hold *pooled interests (the ***reset interests***) in *eligible tier-1 companies that are members of a *MEC group, just before a particular time (the ***trigger time***); and

(b) at the trigger time, either or both of these things happen to one or more of those eligible tier-1 companies (the ***trigger companies***):

(i) the company ceases to be a member of the group;

(ii) a *CGT event happens in relation to one or more reset interests in the company; and

(c) the *market value of the reset interests as a whole (including the market value of synergies arising from the combination of those interests) just before the trigger time is more than nil.

Object

(2) The object of this Subdivision is to set the cost of all reset interests:

(a) first, by allocating to each reset interest held in a trigger company so much of the total cost of all reset interests held in members of the group that the *market value of the interest bears to the group's market value; and

(b) then, by allocating the remainder of that total cost to all reset interests held in other *eligible tier-1 companies, by dividing that remainder by the number of those interests.

719-560 Pooled interests

(1) A ***pooled interest*** in an *eligible tier-1 company that is a member of a *MEC group is a *membership interest in the eligible tier-1 company that is held by an entity that is *not* a member of the group.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: A membership interest in the head company of a MEC group can be a pooled interest.

(2) Despite subsection (1), a *membership interest is *not* a pooled interest if it is:

(a) a *share that is disregarded under subsection 719-30(2); or

(b) held by an entity only as a nominee of one or more other entities each of which is a member of the group.

719-565 Setting cost of reset interests

CGT provisions—cost base

(1) If Part 3.1 or 3.3 is to apply in relation to a reset interest, the Part applies as if the interest's *cost base were increased or reduced so that the cost base just before the trigger time equals the cost setting amount worked out under section 719-570.

CGT provisions—reduced cost base

(2) If Part 3.1 or 3.3 is to apply in relation to a reset interest, the Part applies as if the interest's *reduced cost base were increased or reduced so that the reduced cost base just before the trigger time equals the cost setting amount worked out under section 719-570.

Other provisions

(3) If a provision of this Act (other than Part 3.1 or 3.3) is to apply in relation to a reset interest, the provision applies as if the interest's cost just before the trigger time were equal to the cost setting amount worked out under section 719-570.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

719-570 Cost setting amount

Reset interests held in trigger companies—cost setting amount for cost base etc.

(1) Work out the cost setting amount for the purposes of subsections 719-565(1) and (3) for a reset interest in a trigger company using the formula:

$$\frac{\text{*Market value of the reset interest}}{\text{*Market value of the group}} \times \text{Pooled cost amount}$$

where:

market value of the group is:

(a) if every *eligible tier-1 company that is a member of the group just before the trigger time is a trigger company—the sum of the *market value (just before the trigger time) of all reset interests in each of those companies; or

(b) otherwise—the amount mentioned in paragraph 719-555(1)(c).

market value of the reset interest is the *market value (just before the trigger time) of all reset interests in that trigger company, in the same class as the interest, divided by the number of reset interests in that company in that class.

pooled cost amount is the sum of the *cost bases (just before the trigger time) of all reset interests.

Reset interests held in other eligible tier-1 companies—cost setting amount for cost base etc.

(2) Work out the cost setting amount for the purposes of subsections 719-565(1) and (3) for a reset interest that is *not* in a trigger company, using the formula:

$$\frac{\text{Pooled cost amount} - \text{Amount allocated to trigger company interests}}{\text{Number of non-trigger company interests}}$$

where:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

amount allocated to trigger company interests is the sum of all cost setting amounts worked out under subsection (1) for the reset interests covered by that subsection.

number of non-trigger company interests is the number of reset interests, other than those covered by subsection (1).

pooled cost amount has the same meaning as in subsection (1).

Cost setting amount for reduced cost base

(3) Work out the cost setting amount for the purposes of subsection 719-565(2) for a reset interest by applying subsections (1) and (2) of this section in relation to the interest, as if every reference in those subsections to *cost base were a reference to *reduced cost base.

Subdivision 719-T—Interactions between this Part and other areas of the income tax law: special rules for MEC groups

Table of sections

How Subdivision 165-CC applies to MEC groups

719-700 Changeover times under section 165-115C or 165-115D
719-705 Additional changeover times for head company of MEC group

How Subdivision 165-CD applies to MEC groups

719-720 Alteration times under section 165-115L or 165-115M
719-725 Additional alteration times for head company of MEC group
719-730 Some alteration times only affect interests in top company
719-735 Some alteration times affect only pooled interests
719-740 Head company does not have relevant equity or debt interest in a loss company if widely held top company does not have such an interest

How indirect value shifting rules apply to a MEC group

719-755 Effect on MEC group cost setting rules if head company is losing entity or gaining entity for indirect value shift

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Cancelling loss on realisation event for direct or indirect interest in a subsidiary member of a MEC group

719-775 Cancellation of loss
719-780 Exception for pooled interests in eligible tier-1 companies
719-785 Exception for interests in top company
719-790 Exception for interests in entity leaving MEC group
719-795 Exception if loss attributable to certain matters

How Subdivision 165-CC applies to MEC groups

719-700 Changeover times under section 165-115C or 165-115D

(1) This section has effect for the purposes of determining whether a time (the ***test time***) is a *changeover time under section 165-115C (about changes in ownership) or 165-115D (about changes in control) in respect of the *head company of a *MEC group.

Modified meaning of ***reference time***

(2) The ***reference time*** is:

(a) if no *changeover time has occurred in respect of the head company since the group came into existence and before the test time—when the group came into existence; or

(b) otherwise—the time just after the last such changeover time.

(3) Subsection (2) of this section has effect despite subsection 165-115A(2A).

Assumptions to make

(4) Assume that, while the *MEC group exists:

(a) the *top company for the group holds and beneficially owns all the *membership interests in the *head company (instead of whoever actually does); and

(b) those membership interests remain the same; and

(c) the top company directly controls the voting power in the head company.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

719-705 Additional changeover times for head company of MEC group

(1) The time when a *potential MEC group ceases to exist is a ***changeover time*** in respect of the *head company of a *MEC group if, just before that time, the potential MEC group's membership was the same as the membership of the MEC group.

Note: The changeover times in subsections (1), (2) and (3) are based on the events described in subsections 719-280(2), (3) and (4), each of which causes the test company referred to in section 719-280 to be assumed to fail the continuity of ownership test in section 165-12.

(2) If something:

(a) happens at a time in relation to *membership interests in one or more of these entities:

(i) a company that was just before that time a *member of a *MEC group and an *eligible tier-1 company of the *top company for the MEC group;

(ii) an entity interposed between a company described in subparagraph (i) and the company that was the top company for the group just before that time; and

(b) does not cause the *potential MEC group whose membership is the same as the membership of the MEC group to cease to exist, but does cause a change in the identity of the top company for the potential MEC group;

that time is a ***changeover time*** in respect of the *head company of the *MEC group.

(3) The time when a *MEC group ceases to exist because there ceases to be a *provisional head company of the group is a ***changeover time*** in respect of the *head company of the *MEC group.

How Subdivision 165-CD applies to MEC groups

719-720 Alteration times under section 165-115L or 165-115M

(1) This section has effect for the purposes of determining whether a time (the ***test time***) is an *alteration time under section 165-115L

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(about alterations in ownership) or 165-115M (about alterations in control) in respect of the *head company of a *MEC group.

*Modified meaning of **reference time***

(2) The ***reference time*** is:
  (a) if no *alteration time has occurred in respect of the head company since the group came into existence and before the test time—when the group came into existence; or
  (b) otherwise—the time just after the last such alteration time.

(3) In applying subsection (2), disregard an *alteration time arising under subsection 719-725(4).

(4) Subsection (2) of this section has effect despite subsections 165-115L(2) and 165-115M(2).

Assumptions to make

(5) Assume that, while the *MEC group exists:
  (a) the *top company for the group holds and beneficially owns all the *membership interests in the *head company (instead of whoever actually does); and
  (b) those membership interests remain the same; and
  (c) the top company directly controls the voting power in the head company.

719-725 Additional alteration times for head company of MEC group

Additional alteration times based on section 719-280

(1) The time when a *potential MEC group ceases to exist is an ***alteration time*** in respect of the *head company of a *MEC group if, just before that time, the potential MEC group's membership was the same as the membership of the MEC group.

Note: The alteration times in subsections (1), (2) and (3) are based on the events described in subsections 719-280(2), (3) and (4), each of which

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Authorised Version C2022C00307 registered 22/10/2022

causes the test company referred to in section 719-280 to be assumed to fail the continuity of ownership test in section 165-12.

(2) If something:

(a) happens at a time in relation to *membership interests in one or more of these entities:

(i) a company that was just before that time a *member of a *MEC group and an *eligible tier-1 company of the *top company for the MEC group;

(ii) an entity interposed between a company described in subparagraph (i) and the company that was the top company for the group just before that time; and

(b) does not cause the *potential MEC group whose membership is the same as the membership of the MEC group to cease to exist, but does cause a change in the identity of the top company for the potential MEC group;

that time is an ***alteration time*** in respect of the *head company of the *MEC group.

(3) The time when a *MEC group ceases to exist because there ceases to be a *provisional head company of the group is an ***alteration time*** in respect of the *head company of the *MEC group.

Additional alteration times based on Subdivision 719-K

(4) If Subdivision 719-K (MEC group cost setting rules: pooling cases) applies, the time just before the trigger time referred to in paragraph 719-555(1)(a) is an ***alteration time*** in respect of the *head company of the *MEC group.

719-730 Some alteration times only affect interests in top company

(1) This section applies if an *alteration time (except one arising under subsection 719-725(4)) happens for the *head company of a *MEC group.

(2) Sections 165-115ZA and 165-115ZB apply, in relation to the alteration time, to an interest or debt that is, or is part of, a relevant

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

equity interest or relevant debt interest that an entity has in the *head company just before the *alteration time, *only if* the interest or debt is:

(a) an *equity or loan interest in the *top company for the MEC group; or

(b) an *indirect equity or loan interest in the top company.

Note: Sections 165-115ZA and 165-115ZB are about the consequences that an alteration time for a loss company has for relevant equity interests and relevant debt interests in the company.

(3) In determining what is a relevant equity interest or relevant debt interest that an entity has in the *head company just before the *alteration time, make the assumptions in subsection 719-720(5).

719-735 Some alteration times affect only pooled interests

(1) Sections 165-115ZA and 165-115ZB do not apply in relation to an *alteration time that happens for the *head company of a *MEC group because of subsection 719-725(4) (trigger time for MEC group cost setting rules: pooling cases).

(2) Instead, Subdivision 719-K applies to the *MEC group, in relation to the trigger time, on the basis that:

(a) what would, apart from this section, be the pooled cost amount for the purposes of the formulas in subsections 719-570(1) and (2) is reduced by the amount of the *head company's overall loss under section 165-115R or 165-115S at that alteration time; but

(b) paragraph (a) of this subsection *only* affects the application of those formulas because of subsection 719-570(3) (to work out the *reduced cost base of a *membership interest).

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

719-740 Head company does not have relevant equity or debt interest in a loss company if widely held top company does not have such an interest

(1) For the purposes of Subdivision 165-CD, treat the *head company of a *MEC group as *not* having a relevant equity interest in a *loss company at a particular time if:

(a) the *top company of the group is a *widely held company at that time; and

(b) because of subsections 165-115X(2A), (2B) and (2C), the top company does not have a relevant equity interest under section 165-115X in the loss company at that time.

(2) For the purposes of paragraph (1)(b), disregard the operation of subsection 701-1(1) (the single entity rule) in determining whether subsection 165-115X(2C) has the effect that the *top company has the relevant equity interest mentioned in that paragraph.

(3) For the purposes of Subdivision 165-CD, treat the *head company of a *MEC group as *not* having a relevant debt interest in a *loss company at a particular time if:

(a) the *top company of the group is a *widely held company at that time; and

(b) because of subsections 165-115Y(3A), (3B) and (3C), the top company does not have a relevant debt interest under section 165-115Y in the loss company at that time.

How indirect value shifting rules apply to a MEC group

719-755 Effect on MEC group cost setting rules if head company is losing entity or gaining entity for indirect value shift

(1) This section has effect for the purposes of working out the consequences (if any) of an *indirect value shift if the *losing entity or *gaining entity is the *head company of a *MEC group. (Subsection (3) has effect in addition to section 727-455.)

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) An *equity or loan interest can be an *affected interest in the *head company only if it is:

(a) an *equity or loan interest in the *top company for the MEC group; or

(b) an *indirect equity or loan interest in the top company.

(3) Subdivision 719-K (MEC group cost setting rules: pooling cases) applies to the *MEC group, in relation to the first time referred to in that Subdivision as a trigger time that happens at or after the *IVS time, on the basis that:

(a) what would, apart from this section, be the pooled cost amount for the purposes of the formulas in subsections 719-570(1) and (2) is:

(i) if the *head company is the *losing entity—reduced; or

(ii) if the head company is the gaining entity—increased;

by the amount of the indirect value shift; and

(b) paragraph (a) of this subsection also affects the application of those formulas because of subsection 719-570(3) (to work out the *reduced cost base of a *membership interest).

Cancelling loss on realisation event for direct or indirect interest in a subsidiary member of a MEC group

719-775 Cancellation of loss

(1) This section reduces to nil a loss that would otherwise be *realised for income tax purposes by a *realisation event that happens to an *equity or loan interest (the ***realised interest***) in an entity (the ***first entity***) when it is owned by another entity (the ***owner***), if the conditions in subsections (2) and (4) are met.

(2) The first condition is that, at some time during the period (the ***ownership period***) when the owner owned the realised interest:

(a) the first entity was a *subsidiary member of a *MEC group (except an *eligible tier-1 company), and the owner was *not* a *member of the group; or

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(b) the realised interest was an *external indirect equity or loan interest in a subsidiary member of a MEC group (except an eligible tier-1 company); or

(c) the realised interest was an *equity or loan interest in an entity that, at that time:

(i) owned an equity or loan interest in a subsidiary member of a MEC group (except an eligible tier-1 company); and

(ii) was *not* a member of the group; or

(d) the realised interest was an equity or loan interest in an entity that owned at that time an external indirect equity or loan interest in a subsidiary member of a MEC group (except an eligible tier-1 company); or

(e) the realised interest was an equity or loan interest, or an *indirect equity or loan interest, in an eligible tier-1 company that was a member of a MEC group at that time.

(3) An *equity or loan interest in an entity (the ***test entity***) is an ***external indirect equity or loan interest*** in a *subsidiary member of a *MEC group if, and only if, neither the owner of the interest nor the test entity is a member of the group and:

(a) the test entity owns an equity or loan interest in the subsidiary member; or

(b) the test entity owns an equity or loan interest that is an external indirect equity or loan interest in the subsidiary member because of one or more other applications of this subsection.

(4) The second condition is that, at the same or a different time during the ownership period:

(a) the owner was, or *controlled (for value shifting purposes), the *head company of a *MEC group because of which the first condition is satisfied; or

(b) the owner was an *associate of an entity that, at the same or a different time during the ownership period, was, or controlled (for value shifting purposes), the head company of such a MEC group.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

719-780 Exception for pooled interests in eligible tier-1 companies

The first condition in section 719-775 cannot be satisfied, because of a *MEC group, at a time when the realised interest was a *pooled interest in an *eligible tier-1 company that is a member of the group.

719-785 Exception for interests in top company

The first condition in section 719-775 cannot be satisfied, because of a *MEC group, at a time when:

(a) the first entity was the *top company for the MEC group; or

(b) the realised interest was an *indirect equity or loan interest in the top company for the MEC group.

719-790 Exception for interests in entity leaving MEC group

Membership interests in leaving entity

(1) If:

(a) the realised interest is a *membership interest; and

(b) during the ownership period the first entity ceased to be a *subsidiary member of a *MEC group;

the first condition in section 719-775 cannot be satisfied, because of that MEC group, at a time when the first entity was a member of the group, unless the interest needed to be disregarded under section 719-30 (about employee shares) in order for the first entity to be a member of the group at that time.

Liabilities owed by leaving entity

(2) If the realised interest:

(a) consists of a liability owed by the first entity to the owner; and

(b) became an asset of the owner because subsection 701-1(1) (the single entity rule) ceased to apply to the first entity when it ceased to be a *subsidiary member of a *MEC group;

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

the first condition in section 719-775 cannot be satisfied, because of that MEC group, at a time when the first entity was a member of the group.

719-795 Exception if loss attributable to certain matters

(1) The loss is not reduced if all of it can be shown to be attributable to things other than these:

(a) something that would be reflected in what would, apart from this Part, be an overall loss under section 165-115R or 165-115S, of a *member of a *MEC group (an ***excluded group***) because of which the first condition in section 719-775 is satisfied, at an *alteration time for that member;

(b) an *indirect value shift for which, apart from this Part, a member of an excluded group would be the *losing entity or the *gaining entity.

(2) If only part of the loss can be shown to be attributable to things other than the ones listed in subsection (1), the loss is reduced to the amount of that part.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Division 721—Liability for payment of tax where head company fails to pay on time

Guide to Division 721

721-1 What this Division is about

If the head company of a consolidated group fails to meet an income tax related liability by the time it becomes due and payable, entities that were subsidiary members of the group during the period to which the liability relates can also be responsible for all or part of the liability.

Table of sections

Object

721-5 Object of this Division

When this Division operates

721-10 When this Division operates

Joint and several liability of contributing member

721-15 Head company and contributing members jointly and severally liable to pay group liability
721-17 Notice of joint and several liability for general interest charge
721-20 Limit on liability where group first comes into existence

Tax sharing agreements

721-25 When a group liability is covered by a tax sharing agreement
721-30 TSA contributing members liable for contribution amounts
721-32 Notice of general interest charge liability under TSA
721-35 When a TSA contributing member has left the group clear of the group liability
721-40 TSA liability and group liability are linked

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Object

721-5 Object of this Division

The object of this Division is to secure the payment of certain tax liabilities of the *head company of a *consolidated group where the head company fails to meet all of those liabilities by the time they become due and payable. Accordingly:

(a) if a relevant liability is *not* covered by a tax sharing agreement—this Division provides for a process to make certain entities that were *subsidiary members of the group for at least part of the period to which each tax liability relates jointly and severally liable with the head company for those liabilities; or

(b) if a relevant liability is covered by a tax sharing agreement—this Division:

(i) provides for a process to make each of those entities liable for the amount determined under the agreement in relation to the liability; but

(ii) exempts an entity from a liability determined under the agreement if it leaves the group in certain circumstances.

When this Division operates

721-10 When this Division operates

(1) This Division operates if:

(a) a *tax-related liability mentioned in subsection (2) (a ***group liability***) of the *head company of a *consolidated group was not paid or otherwise discharged in full by the time the liability became due and payable (the ***head company's due time***); and

(b) one or more entities (the ***contributing members***) were *subsidiary members of the group for at least part of the period to which the group liability relates.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Note: This Division operates even if some or all of the contributing members were no longer members of the group at the head company's due time.

(2) The following table lists the *tax-related liabilities for the purposes of paragraph (1)(a) and the periods to which each of those liabilities relate:

Tax-related liabilities of the head company and the periods to which they relate

Item	The tax-related liability of the head company that becomes due and payable as specified in this provision ...	... relates to this period
3	section 5-5 of the *Income Tax Assessment Act 1997* (income tax, and other amounts treated in the same way as income tax under that section)	the *financial year to which the income tax etc. relates
5	section 197-70 of the *Income Tax Assessment Act 1997* (untainting tax)	the *franking period of the *head company in which the *untainting tax became due and payable
10	subsection 214-150(1) of the *Income Tax Assessment Act 1997* (franking tax)	the income year to which the *franking tax relates
15	subsection 214-150(2) of the *Income Tax Assessment Act 1997* (franking tax—part year assessment)	the particular period mentioned in subsection 214-70(1) to which the *franking tax relates
20	subsection 214-150(3) of the *Income Tax Assessment Act 1997* (franking tax—amended assessments otherwise than because of deficit deferral)	the income year (or particular period mentioned in subsection 214-70(1)) to which the *franking tax relates
22	subsection 214-150(4) of the *Income Tax Assessment Act 1997* (franking tax—deficit deferral)	the income year (or particular period mentioned in subsection 214-70(1)) to which the *franking deficit tax relates

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Tax-related liabilities of the head company and the periods to which they relate		
Item	**The tax-related liability of the head company that becomes due and payable as specified in this provision ...**	**... relates to this period**
30	section 45-61 in Schedule 1 to the *Taxation Administration Act 1953* (quarterly *PAYG instalment)	the *instalment quarter to which the *instalment relates
32	section 45-67 in Schedule 1 to the *Taxation Administration Act 1953* (monthly *PAYG instalment)	the *instalment month to which the *instalment relates
35	section 45-70 in Schedule 1 to the *Taxation Administration Act 1953* (annual *PAYG instalment)	the income year to which the *instalment relates
40	section 8AAE of the *Taxation Administration Act 1953* (general interest charge)	the period provided for in this table for the *tax-related liability to which the general interest charge relates
45	subsection 45-230(4) in Schedule 1 to the *Taxation Administration Act 1953* (general interest charge on shortfall in instalment worked out on basis of varied rate)	the *instalment quarter or *instalment month to which the general interest charge relates
50	subsection 45-232(5) in Schedule 1 to the *Taxation Administration Act 1953* (general interest charge on shortfall in quarterly instalment worked out on basis of estimated benchmark tax)	the *instalment quarter to which the general interest charge relates
55	subsection 45-235(5) in Schedule 1 to the *Taxation Administration Act 1953* (general interest charge on shortfall in annual instalment)	the income year to which the general interest charge relates
60	subsection 45-875(2) in Schedule 1 to the *Taxation Administration Act 1953* (head company's liability to GIC on shortfall in instalment)	the *instalment quarter or *instalment month to which the general interest charge relates

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Tax-related liabilities of the head company and the periods to which they relate		
Item	**The tax-related liability of the head company that becomes due and payable as specified in this provision ...**	**... relates to this period**
65	if an administrative penalty of a kind mentioned in section 284-75, 284-145, 286-75 or 288-25 in Schedule 1 to the *Taxation Administration Act 1953* relates only to another *tax-related liability mentioned in this table—section 298-15 in that Schedule	the period provided for in this table for the *tax-related liability to which the penalty relates
70	Division 280 in Schedule 1 to the *Taxation Administration Act 1953* (shortfall interest charge)	the period provided for in this table for the *tax-related liability to which the shortfall interest charge relates
115	Subsection 177P(3) of the *Income Tax Assessment Act 1936* (diverted profits tax)	the income year to which the diverted profits tax relates

Note: The other amounts referred to in item 3 of the table are interest payable under section 102AAM of the *Income Tax Assessment Act 1936* (distributions from certain non-resident trust estates).

(3) Item 30 of the table in subsection (2) is taken not to include a *PAYG instalment of the *head company if the Commissioner gave the head company its *initial head company instalment rate after the end of the *instalment quarter of the head company to which the PAYG instalment relates.

(3A) Item 32 of the table in subsection (2) is taken not to include a *PAYG instalment of the *head company if the Commissioner gave the head company its *initial head company instalment rate on or after the start of the *instalment month of the head company to which the PAYG instalment relates.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

Joint and several liability of contributing member

721-15 Head company and contributing members jointly and severally liable to pay group liability

(1) The following are jointly and severally liable to pay the group liability:

(a) the *head company; and

(b) each contributing member (other than a contributing member excluded by subsection (2)).

Note: A group liability is a tax-related liability in relation to the head company and each contributing member. For rights of contribution in respect of such a liability, see subsection 265-45(2) in Schedule 1 to the *Taxation Administration Act 1953*.

(2) For the purposes of paragraph (1)(b), a contributing member is excluded by this subsection if it is, at the head company's due time, prohibited according to the effect of an *Australian law from entering into any arrangement under which the entity becomes subject to a liability referred to in subsection (1).

(3) Subsection (1) does not operate if the group liability is covered by a tax sharing agreement (see section 721-25).

(3A) Subsection (1) is taken never to have made a particular contributing member jointly and severally liable to pay the group liability if:

(a) the group liability was taken never to have been covered by the tax sharing agreement because of subsection 721-25(3); and

Note: Subsection 721-25(3) provides for this to happen if the Commissioner did not receive a copy of the tax sharing agreement within 14 days after the Commissioner gave the head company the notice under that subsection.

(b) the Commissioner gave the contributing member written notice of the group liability under subsection (5); and

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(c) apart from the operation of subsection 721-25(3), the contributing member left the group clear of the group liability in accordance with section 721-35; and

(d) the contributing member gave the Commissioner a copy of the tax sharing agreement (that is, the relevant agreement mentioned in paragraph 721-25(1)(a)) in the *approved form; and

(e) if the Commissioner gave the contributing member written notice of the group liability under subsection (5) (ignoring subsection 721-17(2))—the contributing member gave that copy of the agreement to the Commissioner within 14 days after that notice was given.

(4) The joint and several liability of the contributing members under subsection (1) arises just after the *head company's due time.

(5) The joint and several liability of a particular contributing member under subsection (1) becomes due and payable by the member 14 days after the Commissioner gives the member written notice under this subsection of the liability.

Note 1: If the Commissioner gives this notice to one contributing member, and gives this notice to another contributing member on another day, the 2 contributing members will have different due and payable dates for the same liability.

Note 2: This section does not affect the time at which the group liability arose for, or became due and payable by, the head company.

(5A) Despite subsection (5), if the group liability is *general interest charge for a day, the joint and several liability of a particular contributing member under subsection (1) becomes due and payable by the member at the end of the day on which the Commissioner gives the member written notice of the liability under subsection (5).

(6) To the extent that the contributing members' liability under subsection (1) is not a liability for income tax, that liability is to be treated as a liability for income tax for the purposes of section 254 of the *Income Tax Assessment Act 1936*.

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*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

721-17 Notice of joint and several liability for general interest charge

(1) This section operates if:

(a) the group liability is *general interest charge for a day in relation to another liability (the ***primary liability***); and

(b) the Commissioner gives a particular contributing member written notice under subsection 721-15(5) of the group liability; and

(c) general interest charge arises for a subsequent day in relation to the primary liability; and

(d) the general interest charge for the subsequent day has not been paid or otherwise discharged in full by the time it became due and payable.

(2) The Commissioner is taken to have given the contributing member written notice under subsection 721-15(5) of the *general interest charge for the subsequent day. The notice is taken to have been given on that day.

721-20 Limit on liability where group first comes into existence

(1) This section operates if the group came into existence during the period to which a group liability relates.

(2) The contributing members' liability under subsection 721-15(1) to pay the group liability is limited to the proportion of the group liability that is reasonably attributable to the period:

(a) beginning at the time the group came into existence; and

(b) ending at the time when the period to which the group liability relates ends.

Tax sharing agreements

721-25 When a group liability is covered by a tax sharing agreement

(1) For the purposes of this Division, a group liability is covered by a tax sharing agreement if, just before the head company's due time:

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(a) an agreement existed between the *head company of the group and one or more of the contributing members (the ***TSA contributing members***); and

(b) a particular amount (the ***contribution amount***) could be determined under the agreement for each TSA contributing member in relation to the group liability; and

(c) the contribution amounts for each of the TSA contributing members in relation to the group liability, as determined under the agreement, represented a reasonable allocation of the total amount of the group liability among the head company and the TSA contributing members; and

(d) the agreement complied with the requirements (if any) set out in the regulations.

(1A) The requirement in paragraph (1)(c) is taken to be satisfied if:

(a) the group liability is a *tax-related liability mentioned in item 3 of the table in subsection 721-10(2) in relation to an income year; and

(b) before, at or after the head company's due time, the *head company of the group became entitled to either or both of the following:

(i) a credit under section 45-30 in Schedule 1 to the *Taxation Administration Act 1953* for that income year;

(ii) a credit under section 45-865 in Schedule 1 to that Act for that income year; and

(c) just before the head company's due time, the contribution amounts for each of the TSA contributing members in relation to the group liability, as determined under the agreement, represented a reasonable allocation among the head company and the TSA contributing members of the difference between:

(i) the total amount of the group liability; and

(ii) the amount of the credit, or the sum of the credits, mentioned in paragraph (b).

(1B) Despite subsections (1)and (1A), the group liability is *not* covered by a tax sharing agreement for the purposes of this Division if,

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Authorised Version C2022C00307 registered 22/10/2022

apart from this subsection, the requirements in those subsections in relation to the group liability would be satisfied in relation to 2 or more agreements.

(2) Despite subsections (1)and (1A), the group liability is *not* covered by a tax sharing agreement for the purposes of this Division if:

(a) the agreement mentioned in paragraph (1)(a) was entered into as part of an arrangement; and

(b) a purpose of the arrangement was to prejudice the recovery by the Commissioner of some or all of the amount of the group liability or liabilities of that kind.

(3) Despite subsections (1)and (1A), the group liability is taken never to have been covered by a tax sharing agreement for the purposes of this Division if:

(a) the Commissioner gives the *head company of the group written notice under this subsection (whether before, at or after the head company's due time) in relation to the group liability; and

(b) the notice requires the head company to give the Commissioner a copy of the agreement mentioned in paragraph (1)(a) in the *approved form within 14 days after the notice is given; and

(c) the Commissioner does not receive a copy of the agreement by the time required.

Note: If this subsection operates, joint and several liability can arise under section 721-15 in relation to the group liability.

721-30 TSA contributing members liable for contribution amounts

(1) This section operates if a group liability is covered by a tax sharing agreement.

(2) Each TSA contributing member is liable to pay to the Commonwealth an amount equal to the contribution amount for that member in relation to the group liability.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(3) Despite subsection (2), a TSA contributing member is not liable under that subsection if the member left the group clear of the group liability (see section 721-35).

(4) The liability of a TSA contributing member under subsection (2) arises just after the *head company's due time.

(5) The liability of a TSA contributing member under subsection (2) becomes due and payable by the member 14 days after the Commissioner gives the member written notice under this subsection of the liability.

Note: This section does not affect the time at which the group liability arose for, or became due and payable by, the head company.

(5A) Despite subsection (5), if the group liability is *general interest charge for a day, the liability of a TSA contributing member under subsection (2) becomes due and payable by the member at the end of the day on which the Commissioner gives the member written notice of the liability under subsection (5).

(6) The liability of a TSA contributing member under subsection (2) is to be treated as a liability for income tax for the purposes of section 254 of the *Income Tax Assessment Act 1936*.

721-32 Notice of general interest charge liability under TSA

(1) This section operates if:

(a) the group liability is *general interest charge for a day in relation to another liability (the ***primary liability***); and

(b) the Commissioner gives a particular TSA contributing member written notice under subsection 721-30(5) of its liability under subsection 721-30(2) in relation to the general interest charge for that day; and

(c) general interest charge arises for a subsequent day in relation to the primary liability; and

(d) the TSA contributing member is liable under subsection 721-30(2) for an amount in relation to the general interest charge for the subsequent day.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022

(2) The Commissioner is taken to have given the TSA contributing member written notice under subsection 721-30(5) of the amount in relation to the *general interest charge for the subsequent day. The notice is taken to have been given on that day.

721-35 When a TSA contributing member has left the group clear of the group liability

For the purposes of subsection 721-30(3), a TSA contributing member left the group clear of the group liability if:

(a) the TSA contributing member ceased to be a member of the group at a time (the ***leaving time***) before the *head company's due time; and

(b) the cessation of membership was not part of an arrangement, a purpose of which was to prejudice the recovery by the Commissioner of some or all of the amount of the group liability or liabilities of that kind; and

(c) before the leaving time, the TSA contributing member had paid to the head company:

(i) if the contribution amount for that member in relation to the group liability could be determined before the leaving time—an amount equal and attributable to that amount; or

(ii) otherwise—an amount that is a reasonable estimate of, and attributable to, that amount.

721-40 TSA liability and group liability are linked

(1) The liability of a TSA contributing member under subsection 721-30(2) (the ***TSA liability***) is separate and distinct for all purposes from the group liability to which it relates (the ***linked group liability***). For example, the Commissioner may take proceedings to recover the unpaid amount of the TSA liability, proceedings to recover the unpaid amount of the linked group liability, or both.

Note: The TSA contributing member will not be jointly and severally liable for the linked group liability under section 721-15 (see

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Authorised Version C2022C00307 registered 22/10/2022

subsection 721-15(3)). However, the head company of the group remains liable for the linked group liability.

Payment or discharge of TSA liability

(2) If an amount is paid or applied at a particular time towards discharging the TSA liability, the linked group liability is discharged at that time to the extent of the same amount.

Payment or discharge of linked group liability

(3) If:

(a) an amount is paid or applied at a particular time towards discharging the linked group liability; and

(b) as a result, the amount unpaid on the TSA liability at that time (apart from this section) exceeds the amount unpaid on the linked group liability at that time;

the TSA liability is discharged at that time to the extent of the excess.

(4) Subsections (2) and (3) operate in relation to a liability under a judgment (the ***judgment liability***):

(a) if the judgment liability is for the entire amount unpaid on the TSA liability—as if the judgment liability were the TSA liability; and

(b) if the judgment liability is for the entire amount unpaid on the linked group liability—as if the judgment liability were the linked group liability.

(5) This section does not discharge a liability to a greater extent than the amount of the liability.

*To find definitions of asterisked terms, see the Dictionary, starting at section 995-1.

Authorised Version C2022C00307 registered 22/10/2022