

# EXPOSURE DRAFT

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1 Inserts for

2 **Tax Laws Amendment (2009 Measures**  
3 **No. 4) Bill 2009: Consolidation**

4 **EXPOSURE DRAFT (22/04/2009)**

If you have any comments on this exposure draft, they should be sent by  
25 May 2009 to:

The Manager  
Company Tax Unit  
Business Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [consolidation@treasury.gov.au](mailto:consolidation@treasury.gov.au)

5  
6 **4 Amendment of assessments**

7 Section 170 of the *Income Tax Assessment Act 1936* does not  
8 prevent the amendment of an assessment if:

- 9 (a) the assessment was made before the commencement of this  
10 section; and  
11 (b) the amendment is made within 4 years after that  
12 commencement; and  
13 (c) the amendment is made for the purpose of giving effect to  
14 Schedule 1.

15  
16 **Schedule 1—Consolidation**

17 **Part 1—Use of the tax cost setting amount**

18 ***Income Tax Assessment Act 1997***

19 **1 Subsection 701-55(3)**

20 After “Division 70”, insert “(other than Subdivision 70-E)”.

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## 2 Subsection 701-55(6)

Repeal the subsection, substitute:

*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:

- (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 relation to 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: This subsection modifies the application of the provision only for the purpose of determining the amount included in assessable income or the amount of the deduction. Therefore:

- (a) the acquisition mentioned in this subsection is recognised only for that purpose; and
- (b) that acquisition does not affect the operation of section 701-5 (the entry history rule) in relation to the asset for other purposes.

(7) To avoid doubt, subsection (6) does not apply in relation to the asset if it is \*trading stock.

## 3 Transitional—use of the tax cost setting amount

(1) This item 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 or MEC group, at the asset's tax cost setting amount; and
- (b) the asset is a trade receivable that is denominated in foreign currency; and
- (c) CGT event C2 happens in relation to the asset:
  - (i) after the joining time; and
  - (ii) before 23 August 2006; and

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- (d) just before the CGT event, the head company of the group held the asset because of the operation of subsection 701-1(1) of the *Income Tax Assessment Act 1997* (the single entity rule); and
  - (e) disregarding section 118-20 of that Act, there is a capital gain or capital loss from the event.

- (2) These provisions do not apply to the CGT event:
  - (a) section 6-5 of the *Income Tax Assessment Act 1997* (about ordinary income);
  - (b) any other provision of that Act that includes an amount in assessable income, other than a provision in Part 3-1 or 3-3 of that Act;
  - (c) section 8-1 of that Act (about amounts you can deduct);
  - (d) any other provision of that Act that allows you to deduct an amount from your assessable income;
  - (e) section 118-20 of that Act.
- (3) The provisions referred to in subitem (2) can apply to the CGT event to the extent that any capital gain or capital loss from the event is attributable to currency exchange rate fluctuations.

## 4 Application

The amendments made by this Part apply on and after 1 July 2002.

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## 2 **Part 2—Group restructures**

### 3 *Income Tax Assessment Act 1997*

#### 4 **5 Paragraph 703-75(2)(d)**

5 Omit “group);”, substitute “group); or”.

#### 6 **6 After paragraph 703-75(2)(d)**

7 Insert:

8 (e) section 719-125 (about the effects of a group conversion  
9 involving a MEC group); or

#### 10 **7 Section 719-25 (heading)**

11 Omit “and subsidiary members”, substitute “, **subsidiary members**  
12 **and members**”.

#### 13 **8 At the end of section 719-25**

14 Add:

15 (3) The *members* of a \*MEC group are the \*head company of the  
16 group and the \*subsidiary members of the group.

#### 17 **9 Subparagraph 719-65(3)(d)(i)**

18 Omit “the group came into existence as a result of a choice under  
19 section 719-50, and”.

#### 20 **10 After paragraph 719-90(2)(c)**

21 Insert:

22 (ca) section 719-125 (about the effects of a group conversion  
23 involving a MEC group); or

#### 24 **11 After subdivision 719-B**

25 Insert:

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## Subdivision 719-BA—Group conversions involving MEC groups

### 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*).
- (2) However, this Subdivision applies 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.
- (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 (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
  - (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 [*Subdivision*].
- (3) Subsections (1) and (2) have effect:

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- 1 (a) for the head company core purposes in relation to an income  
2 year ending after the conversion time; and  
3 (b) for the entity core purposes in relation to an income year  
4 ending after the conversion time; and  
5 (c) for the purposes of determining the balance of the \*franking  
6 account of the head company of the new group at and after  
7 the conversion time.

- 8 (4) Subsections (1) and (2) have effect subject to:  
9 (a) section 701-40 (Exit history rule); and  
10 (b) a provision of this Act to which section 701-40 is subject  
11 because of section 701-85 (about exceptions to the core rules  
12 in Division 701).

13 Note: An example of provisions covered by paragraph (b) of this subsection  
14 is Subdivision 717-E (about transferring to a company leaving a  
15 consolidated group various surpluses under the CFC and FIF rules in  
16 Parts X and XI of the *Income Tax Assessment Act 1936*).

## 17 **719-130 Provisions of this Part not to apply to conversion**

- 18 (1) A provision mentioned in subsection (5) that applies on an entity  
19 becoming a \*member of a \*consolidated group or \*MEC group  
20 does *not* apply to an entity becoming such a member because of a  
21 situation described in subsection 719-120(1), unless the provision  
22 is expressed to apply despite this subsection.

23 Note: An example of the effect of this subsection is that section 701-5 (Entry  
24 history rule) does not apply. See instead section 719-125.

- 25 (2) Subsection (1) does not affect the application of subsection  
26 701-1(1) (the single entity rule).

- 27 (3) A provision mentioned in subsection (5) that applies on an entity  
28 ceasing to be a \*member of a \*consolidated group or \*MEC group  
29 does *not* apply to an entity ceasing being such a member because  
30 of a situation described in subsection 719-120(1), unless the  
31 provision is expressed to apply despite this subsection.

32 Note: An example of the effect of this subsection is that section 701-40 (Exit  
33 history rule) does not apply. See instead section 719-125.

- 34 (4) Subsection (3) does not apply if:  
35 (a) the old group mentioned in subsection 719-120(1) is a  
36 \*consolidated group; and  
37 (b) the new group mentioned in subsection 719-120(1) is a  
38 \*MEC group; and
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1 (c) the entity ceasing to be a \*member of the old group becomes  
2 an \*eligible tier-1 company in respect of the new group.

3 (5) The provisions are as follows:

4 (a) section 165-212E;

5 (b) this Part (other than this Subdivision);

6 (c) Part 3-90 of the *Income Tax (Transitional Provisions) Act*  
7 *1997*.

## 8 **719-135 Provisions of this Part applying to conversion despite** 9 **section 719-130**

10 (1) This section applies despite subsections 719-130(1) and (3).

11 (2) If the new group is a \*consolidated group, the following provisions  
12 may apply on an entity ceasing to be a \*member of the old group:

13 (a) Subdivision 719-K;

14 (b) any other provision of this Part, to the extent that the  
15 application of the provision is necessary for the application of  
16 another provision mentioned in a paragraph of this  
17 subsection.

## 18 **12 Section 995-1(1) (after paragraph (b) of the definition of** 19 **member)**

20 Insert:

21 (ba) in relation to a \*MEC group—has the meaning given by  
22 section 719-25; and

23 (bb) in relation to a \*potential MEC group—has the meaning  
24 given by section 719-10; and

## 25 **13 Application**

26 The amendments made by this Part apply in relation to the creation of a  
27 MEC group from a consolidated group, or a consolidated group from a  
28 MEC group, on or after 27 October 2006.

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## 2 **Part 3—Pre-CGT proportions**

### 3 *Income Tax Assessment Act 1997*

#### 4 **14 Section 705-125 (heading)**

5 Omit “Pre-CGT factor for assets of”, substitute “Pre-CGT  
6 proportion for”.

#### 7 **15 Subsection 705-125(1)**

8 Omit “That mechanism involves working out a factor by which the  
9 pre-CGT status can be attached to the joining entity’s assets and then  
10 recognised in membership interests held in an entity that owns the  
11 assets on ceasing to be a \*subsidiary member of the joined group.”,  
12 substitute “That mechanism involves:

- 13 (a) working out the proportion (measured by market value) of  
14 the membership interests in the joining entity that have  
15 pre-CGT status; and  
16 (b) if the joining entity later ceases being a member of the group,  
17 attaching pre-CGT status to that proportion of membership  
18 interests in it (see section 711-65), subject to integrity rules  
19 (see section 711-70).”.

#### 20 **16 Subsections 705-125(2) and (3)**

21 Repeal the subsections, substitute:

##### 22 *How to work out pre-CGT proportion*

- 23 (2) The pre-CGT proportion is the amount worked out by dividing:  
24 (a) the sum of the \*market value of each \*membership interest in  
25 the joining entity that is:  
26 (i) held by a \*member of the group at the joining time; and  
27 (ii) is a \*pre-CGT asset;  
28 by:  
29 (b) the sum of the market value of each membership interest in  
30 the joining entity that is held by a member of the group at the  
31 joining time.

#### 32 **17 Subsection 705-125(4)**

33 Omit “paragraph (3)(a)”, substitute “paragraph (2)(a)”.

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1 **18 Section 705-165**

2 Repeal the section.

3 **19 Section 705-205**

4 Repeal the section.

5 **20 Section 705-245**

6 Repeal the section.

7 **21 Section 711-65 (heading)**

8 Omit “—simple case”.

9 **22 Subsection 711-65(1)**

10 Repeal the subsection, substitute:

11 (1) This section applies unless:

- 12 (a) Subdivision 705-C (about one group joining another  
13 consolidated group) applies in relation to the old group; and  
14 (b) the leaving entity is a \*subsidiary member of the old group.

15 **23 Subsection 711-65(2) (Note)**

16 Omit the note.

17 **24 Subsection 711-65(4) (definition of *leaving entity’s*  
18 *pre-CGT proportion*)**

19 Omit “subsection (5)”, substitute “section 705-125”.

20 **25 Subsection 711-65(5)**

21 Repeal the subsection.

22 **26 Section 711-70**

23 Repeal the section, substitute:

24 **711-70 Additional integrity rules if membership interests treated as  
25 having been acquired before 20 September 1985 under  
26 section 711-65**

27 *Application of Division 149 to head company*

- 28 (1) The \*pre-CGT proportion of the leaving entity at the leaving time  
29 is taken to be nil if:

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- 1 (a) the leaving entity held assets at the time it became a  
2 \*subsidiary member of the old group (disregarding subsection  
3 701-1(1) (the single entity rule)); and  
4 (b) some or all of the assets:  
5 (i) stopped being \*pre-CGT assets under Division 149 at a  
6 time when the \*head company of the group held them  
7 under subsection 701-1(1) (the single entity rule); or  
8 (ii) would have stopped being pre-CGT assets under  
9 Division 149 at a time when the head company of the  
10 group held them under subsection 701-1(1) (the single  
11 entity rule) if they had been pre-CGT assets just before  
12 that time; and  
13 (c) the leaving entity was a subsidiary member of the group at  
14 that time.

## 15 *Application of CGT event K6*

- 16 (2) Subsections (3) and (4) apply if the leaving entity ceases to be a  
17 \*subsidiary member of the old group because of a situation giving  
18 rise to \*CGT event A1, C2, E1, E2 or E8 in relation to one or more  
19 \*membership interests in the leaving entity.
- 20 (3) For the purposes of applying subsections 104-230(2) and (8) in  
21 relation to those \*membership interests:  
22 (a) disregard subsection 701-1(1) (the single entity rule); and  
23 (b) treat the reference in subsection 104-230(2) to “Just before  
24 the other event happened” as a reference to “At the leaving  
25 time”.
- 26 (4) For the purposes of applying subsection 104-230(6) in relation to  
27 each asset that has its \*tax cost set at the leaving time under  
28 section 701-45 or 701-50, treat the \*cost base of the asset at that  
29 time as its \*tax cost setting amount.

## 30 **27 Section 713-245**

31 Repeal the section.

## 32 **28 Section 713-270**

33 Repeal the section.

## 34 **29 Subsection 995-1(1) (definition of *pre-CGT factor*)**

35 Repeal the definition.

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1 **30 Subsection 995-1(1)**

2           Insert:

3                       *pre-CGT proportion* has the meaning given by section 705-125.

4 **31 Application**

5           The amendments made by this Part apply on and after 1 July 2002.

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## 2 **Part 4—No double counting of amounts in ACA**

### 3 *Income Tax Assessment Act 1997*

#### 4 **32 After section 705-60**

5 Insert:

#### 6 **705-62 No double counting of amounts in allocable cost amount**

- 7 (1) The object of this section is to prevent a particular amount from  
8 being taken into account twice in calculating the \*allocable cost  
9 amount for the joining entity, in order to promote the object of this  
10 Subdivision set out in section 705-10.
- 11 (2) Subsection (3) applies if, apart from this section, 2 or more  
12 provisions of this Act operate with the result of altering:  
13 (a) the \*allocable cost amount for the joining entity; or  
14 (b) the allocable cost amount for another entity that becomes a  
15 \*subsidiary member of the group at the joining time;  
16 because of a particular economic attribute of the joining entity.
- 17 (3) Only the alteration that is most appropriate (in the light of the  
18 object of this Subdivision) is to be made.
- 19 (4) For the purposes of this section, the economic attributes of the  
20 joining entity include the joining entity's:  
21 (a) retained profits; and  
22 (b) distributions of profits to other entities; and  
23 (c) realised and unrealised losses; and  
24 (d) deductions; and  
25 (e) accounting liabilities (within the meaning of subsection  
26 705-70(1)).

#### 27 **33 Application**

28 The amendments made by this Part apply on and after 1 July 2002.

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## 2 **Part 5—Pre-joining time roll-overs**

### 3 *Income Tax Assessment Act 1997*

#### 4 **34 Paragraph 104-505(1)(b)**

5 Omit “(after any application of section 705-150)”.

#### 6 **35 Section 705-60 (table item 3A)**

7 Repeal the item, substitute:

- |    |  |  |
|----|--|--|
| 3A | For each step 3A amount (if any) under section 705-93 (which is about pre-joining time roll-overs):  | To adjust for certain roll-overs before the joining time affecting deferred gains and losses |
|    | (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 |  |

#### 8 **36 Section 705-93 (heading)**

9 Omit “**foreign resident company**”, substitute “**foreign resident**  
10 **company or stick entity**”.

#### 11 **37 After paragraph 705-93(1)(a)**

12 Insert:

- 13 (aa) at the joining time, as a result of the Subdivision 126-B  
14 roll-over or the section 160ZZO roll-over, the roll-over asset  
15 has:
- 16 (i) a \*deferred roll-over gain; or
  - 17 (ii) a \*deferred roll-over loss; and

#### 18 **38 Paragraph 705-93(1)(b)**

19 Repeal the paragraph, substitute:

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1 (b) the originating company in relation to the Subdivision 126-B  
2 roll-over, or the transferor in relation to the section 160ZZO  
3 roll-over:

4 (i) was a foreign resident; or

5 (ii) is a \*stick entity in relation to the joined group; and

## 6 **39 Paragraph 705-93(1)(c)**

7 Repeal the subsection, substitute:

8 (c) the recipient company in relation to the Subdivision 126-B  
9 roll-over, or the transferee in relation to the section 160ZZO  
10 roll-over:

11 (i) was an Australian resident; and

12 (ii) is a \*spread entity in relation to the joined group; and

## 13 **40 Paragraph 705-93(1)(d)**

14 Repeal the paragraph, substitute:

15 (d) if the recipient company was previously a \*subsidiary  
16 member of another consolidated group—the conditions in  
17 section 104-182 were *not* satisfied at any time in relation to  
18 the other group between the Subdivision 126-B roll-over, or  
19 the section 160ZZO roll-over, and the joining time; and

## 20 **41 Subsection 705-93(2)**

21 Repeal the subsection, substitute:

22 (2) The step 3A amount is the amount of the \*deferred roll-over gain  
23 or the \*deferred roll-over loss mentioned in paragraph (1)(aa).

## 24 **42 Subsections 705-147(3), (4) and (5)**

25 Repeal the subsections, substitute:

26 *Membership interests in subsidiary members of group*

27 (3) In applying section 705-93 for the purposes of this Subdivision,  
28 disregard paragraph 705-93(1)(f) if:

29 (a) the rollover asset mentioned in that section is a \*membership  
30 interest in an entity that becomes a \*subsidiary member at the  
31 formation time; and

32 (b) the rollover asset is *not* held at that time by the entity that  
33 becomes the \*head company of the group.

34 Note: The step 3A amount is worked out under section 705-93.

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## 43 Section 705-150

Repeal the section.

## 44 Subsections 705-227(3), (4) and (5)

Repeal the subsections, substitute:

*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.

## 45 Subsection 995-1(1)

Insert:

*deferred roll-over gain*: an asset has a deferred roll-over gain at a particular time if:

- (a) before that time there was a roll-over under a provision or former provision of this Act in relation to a \*CGT event that happened in relation to the asset; and
- (b) as a result of the roll-over all or part of a \*capital gain from the CGT event was disregarded.

The amount of the deferred roll-over gain is equal to the amount of the capital gain that was disregarded, reduced by the amount (if any) by which the gain has been taken into account in working out a \*net capital gain (section 102-5) or \*net capital loss (section 102-10) in relation to the asset between the roll-over time and the particular time.

## 46 Subsection 995-1(1)

Insert:

*deferred roll-over loss*: an asset has a deferred roll-over loss at a particular time if:

- (a) before that time there was a roll-over under a provision or former provision of this Act in relation to a \*CGT event that happened in relation to the asset; and

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1 (b) as a result of the roll-over all or part of a \*capital loss from  
2 the CGT event was disregarded.

3 The amount of the deferred roll-over loss is equal to the amount of  
4 the capital loss that was disregarded, reduced by the amount (if  
5 any) by which the loss has been taken into account in working out  
6 a \*net capital gain (section 102-5) or \*net capital loss  
7 (section 102-10) in relation to the asset between the roll-over time  
8 and the particular time.

## 9 **47 Subsection 995-1(1)**

10 Insert:

11 *spread entity*, in relation to a \*consolidated group or \*MEC group,  
12 means a \*member of the group that is not a \*stick entity in relation  
13 to the group.

## 14 **48 Subsection 995-1(1)**

15 Insert:

16 *stick entity*:

17 (a) in relation to a \*consolidated group—means a \*member of the  
18 group that is:

- 19 (i) the \*head company of the group; or  
20 (ii) a chosen transitional entity (within the meaning of  
21 Division 701 of the *Income Tax (Transitional*  
22 *Provisions) Act 1997*); or  
23 (iii) a transitional foreign-held subsidiary (within the  
24 meaning of Division 701C of the *Income Tax*  
25 *(Transitional Provisions) Act 1997*); or

26 (b) in relation to a \*MEC group—means a \*member of the group  
27 that is:

- 28 (i) the \*head company of the group; or  
29 (ii) a chosen transitional entity (within the meaning of  
30 Division 701 of the *Income Tax (Transitional*  
31 *Provisions) Act 1997*); or  
32 (iii) a transitional foreign-held subsidiary (within the  
33 meaning of Division 701C of the *Income Tax*  
34 *(Transitional Provisions) Act 1997*); or  
35 (iv) an \*eligible tier-1 company.



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1 *Income Tax (Transitional Provisions) Act 1997*

2 **49 Section 126-165 (paragraph (c) of the Example)**

3 Omit “section 705-150”, substitute “section 705-93”.

4 **50 Application**

5 The amendments made by this Part apply on and after 1 July 2002.

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## **Part 6—Phasing out over-depreciation adjustments**

### *Income Tax Assessment Act 1997*

#### **51 Paragraph 705-50(2)(b)**

Omit “before the joining time”, substitute “during the period of 5 years ending at the joining time”.

#### **52 Application**

The amendment made by this Part applies in relation to entities that become members of a consolidated group or MEC group after 8 May 2007.

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## 2 **Part 7—Leaving time liabilities**

### 3 *Income Tax Assessment Act 1997*

#### 4 **53 Subsection 711-20(1) (cell at table item 1, column headed** 5 **“What the step requires”)**

6 Omit “the \*terminating values of assets that the leaving entity takes with  
7 it when it ceases to be a \*subsidiary member”, substitute “the  
8 \*terminating values of the leaving entity’s assets just before the leaving  
9 time”.

#### 10 **54 Subsection 711-20(1) (cell at table item 2, column headed** 11 **“What the step requires”)**

12 Omit “the \*terminating value of the assets that the leaving entity takes  
13 with it”, substitute “the \*terminating value of the leaving entity’s assets  
14 just before the leaving time”.

#### 15 **55 Subsection 711-20(1) (cell at table item 4, column headed** 16 **“What the step requires”)**

17 Omit:

18 (a) the liabilities that the leaving entity takes with it when it  
19 ceases to be a \*subsidiary member; and

20 substitute:

21 (a) the leaving entity’s liabilities just before the leaving time;  
22 and

#### 23 **56 Section 711-25 (heading)**

24 Omit “assets that the leaving entity takes with it”, substitute “the  
25 leaving entity’s assets”.

#### 26 **57 Subsection 711-45(1)**

27 Omit “is a liability of the leaving entity at the leaving time”, substitute  
28 “is a liability of the leaving entity just before the leaving time”.

#### 29 **58 Subsection 711-45(8)**

30 Repeal the subsection, substitute:

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*Adjustment where amount of liability differed for purpose of calculating allocable cost amount on entry*

(8) Subsections (9) and (10) apply if:

(a) any of the following was taken into account in working out the \*allocable cost amount for a \*subsidiary member (whether or not the leaving entity) of the old group in accordance with Division 705 (the *original entry ACA*):

(i) a liability mentioned in subsection (5);

(ii) an employee share interest mentioned in subsection (6);

(iii) a \*share mentioned in subsection (6A);

(iv) a \*debt interest mentioned in subsection (7); and

(b) the amount mentioned in subsection (9) (the *entry amount*) is different from the amount of the liability, employee share interest, share or debt interest that was so taken into account (the *exit amount*) following the application of subsection (5), (6), (6A) or (7); and

(c) the original entry ACA exceeds or falls short of the amount (the *adjusted entry ACA*) that it would have been if the exit amount, instead of the entry amount, had been taken into account in working it out.

(9) The amount is:

(a) in the case of a liability—the amount of the liability that was taken into account in working out the original entry ACA (after any adjustments made under sections 705-70, 705-75 or 705-80); or

(b) otherwise—the amount of the employee share interest, share or debt interest that was taken into account in working out the original entry ACA.

(10) The step 4 amount is altered by:

(a) if the original entry ACA exceeds the adjusted entry ACA—increasing the step 4 amount by the excess; or

(b) if the original entry ACA falls short of the adjusted entry ACA—decreasing the step 4 amount by the shortfall.

## **59 Paragraph 713-265(4)(a)**

Omit “is a liability of the leaving entity at the leaving time”, substitute “is a liability of the leaving entity just before the leaving time”.

## **60 Paragraph 713-265(4)(b)**

# EXPOSURE DRAFT

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1 Omit “of the partner at the leaving time”, substitute “of the partner just  
2 before the leaving time”.

3 **61 Subsection 713-265(4)**

4 Omit “of the partner at the leaving time,”, substitute “of the partner just  
5 before the leaving time,”.

6 **62 Application**

7 The amendments made by this Part apply on and after 1 July 2002.

# EXPOSURE DRAFT

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1

## 2 **Part 8—Accounting principles**

### 3 *Income Tax Assessment Act 1997*

#### 4 **63 Paragraph 701-40(2)(b)**

5 Omit “\*accounting standards, or statements of accounting concepts  
6 made by the Australian Accounting Standards Board”, substitute  
7 “\*accounting principles”.

#### 8 **64 Paragraph 705-56(1)(b)**

9 Omit “\*accounting standards, or statements of accounting concepts  
10 made by the Australian Accounting Standards Board”, substitute “its  
11 \*accounting principles for tax cost setting”.

#### 12 **65 Subsection 705-58(1)**

13 Omit “\*accounting standards, or statements of accounting concepts  
14 made by the Australian Accounting Standards Board, require them to be  
15 set off against each other”, substitute “, in accordance with \*accounting  
16 principles, they are required to be set off against each other”.

#### 17 **66 Subsection 705-59(2)**

18 Omit “\*accounting standards, or statements of accounting concepts  
19 made by the Australian Accounting Standards Board”, substitute “the  
20 entity’s \*accounting principles for tax cost setting”.

#### 21 **67 Subsection 705-70(1)**

22 Omit “\*accounting standards, or statements of accounting concepts  
23 made by the Australian Accounting Standards Board”, substitute “the  
24 joining entity’s \*accounting principles for tax cost setting”.

#### 25 **68 Subsection 705-70(1)**

26 Omit “that can or must be recognised in the entity’s statement of  
27 financial position”.

#### 28 **69 Subsection 705-70(1A)**

29 Omit “those \*accounting standards or statements”, substitute “the  
30 joining entity’s \*accounting principles for tax cost setting”.

#### 31 **70 At the end of section 705-70**

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# EXPOSURE DRAFT

1 Add:

2 *Joining entity's accounting principles for tax cost setting*

3 (3) The joining entity's *accounting principles for tax cost setting* are  
4 the \*accounting principles that the entity would use if it were to  
5 prepare its financial statements just before the joining time.

6 **71 Paragraph 705-80(1)(a)**

7 Omit “\*accounting standards or statements of accounting concepts made  
8 by the Australian Accounting Standards Board”, substitute “the joining  
9 entity's \*accounting principles for tax cost setting”.

10 **72 Paragraph 705-85(3)(b)**

11 Omit “\*accounting standards, or statements of accounting concepts  
12 made by the Australian Accounting Standards Board”, substitute “the  
13 joining entity's \*accounting principles for tax cost setting”.

14 **73 Subsection 705-90(2)**

15 Omit “\*accounting standards, or statements of accounting concepts  
16 made by the Australian Accounting Standards Board”, substitute “the  
17 joining entity's \*accounting principles for tax cost setting”.

18 **74 Subsection 705-90(2)**

19 Omit “that could be recognised in the joining entity's statement of  
20 financial position if that statement were prepared as at the joining time”.

21 **75 Subsection 711-45(1)**

22 Omit “\*accounting standards, or statements of accounting concepts  
23 made by the Australian Accounting Standards Board”, substitute “the  
24 leaving entity's \*accounting principles for tax cost setting”.

25 **76 Subsection 711-45(1)**

26 Omit “that can or must be identified in the entity's statement of  
27 financial position”.

28 **77 After subsection 711-45(1)**

29 Insert:

30 *Leaving entity's accounting principles for tax cost setting*

31 (1A) The leaving entity's *accounting principles for tax cost setting* are  
32 the \*accounting principles that the group would use if it were to

# EXPOSURE DRAFT

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1 prepare its financial statements [*just before*] the leaving time  
2 [(*disregarding subsection 701-1(1) (the single entity rule)*)].

## 3 **78 Subsection 711-45(5)**

4 Omit “\*accounting standards, or statements of accounting concepts  
5 made by the Australian Accounting Standards Board”, substitute “the  
6 leaving entity’s \*accounting principles for tax cost setting”.

## 7 **79 Subsection 711-45(7)**

8 Omit “\*accounting standards, or statements of accounting concepts  
9 made by the Australian Accounting Standards Board”, substitute “the  
10 leaving entity’s \*accounting principles for tax cost setting”.

## 11 **80 Paragraph 713-225(6)(a)**

12 Omit “according to \*accounting standards, or statements of accounting  
13 concepts made by the Australian Accounting Standards Board”,  
14 substitute “in accordance with the \*accounting principles that the  
15 partnership would use if it were to prepare its financial statements just  
16 before the joining time”.

## 17 **81 Paragraph 713-225(6)(a)**

18 Omit “that can or must be recognised in the partnership’s statement of  
19 financial position”.

## 20 **82 Paragraph 713-265(4)(a)**

21 Omit “according to \*accounting standards, or statements of accounting  
22 concepts made by the Australian Accounting Standards Board”,  
23 substitute “in accordance with the \*accounting principles that the  
24 partnership would use if it were to prepare its financial statements [*just*  
25 *before*] the leaving time [(*disregarding subsection 701-1(1) (the single*  
26 *entity rule)*]”.

## 27 **83 Paragraph 713-265(4)(a)**

28 Omit “that can or must be recognised in the partnership’s statement of  
29 financial position”.

## 30 **84 Subsection 995-1(1)**

31 Insert:

32 *accounting principles*: A matter is in accordance with *accounting*  
33 *principles* if it is in accordance with:

34 (a) \*accounting standards; or

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# EXPOSURE DRAFT

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1 (b) if there are no accounting standards applicable to the  
2 matter—authoritative pronouncements of the Australian  
3 Accounting Standards Board that apply to the preparation of  
4 financial statements.

## 5 **85 Subsection 995-1(1)**

6 Insert:

7 *accounting principles for tax cost setting* has the meaning given  
8 by:

- 9 (a) subsection 705-70(3); and  
10 (b) subsection 711-45(1A).

## 11 **86 Application**

12 The amendments made by this Part apply on and after 1 July 2002.

# EXPOSURE DRAFT

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1

## 2 **Part 9—Inherited deductions**

### 3 *Income Tax Assessment Act 1997*

#### 4 **87 Subsection 705-115(2)**

5 Omit “section 701-5”, substitute “subsection 701-1(1) (the single entity  
6 rule) and section 701-5 (the entry history rule) ”.

#### 7 **88 At the end of section 705-115**

8 Add:

9 (3) Subsection (2) does *not* cover a deduction under section 43-15  
10 (which relates to \*undeducted construction expenditure) if the  
11 joining entity \*acquired the asset to which the deduction relates at  
12 or before 7.30 pm, by legal time in the Australian Capital Territory,  
13 on 13 May 1997.

#### 14 **89 Subsection 711-35(1)**

15 Repeal the subsection, substitute:

16 (1) Work out the step 2 amount for the purposes of the table in  
17 subsection 711-20(1) by multiplying all deductions covered by  
18 subsection (2) by the \*general company tax rate.

#### 19 **90 At the end of section 711-35**

20 Add:

21 (3) Subsection (2) does *not* cover a deduction under section 43-15  
22 (which relates to \*undeducted construction expenditure) if, because  
23 of section 701-40 (the exit history rule), the leaving entity is taken  
24 to have \*acquired the asset to which the deduction relates at or  
25 before 7.30 pm, by legal time in the Australian Capital Territory,  
26 on 13 May 1997.

#### 27 **91 Application**

28 The amendments made by this Part apply on and after 1 July 2002.

# EXPOSURE DRAFT

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1

## 2 **Part 10—General insurance companies**

### 3 *Income Tax Assessment Act 1997*

#### 4 **92 At the end of Subdivision 713-M**

5 Add:

#### 6 **713-725 Treatment of certain assets and liabilities of general** 7 **insurance companies**

- 8 (1) This section applies if a \*general insurance company becomes or  
9 ceases to be a \*subsidiary member of a \*consolidated group.
- 10 (2) If the \*general insurance company becomes a \*subsidiary member  
11 of the group:
- 12 (a) in working out the step 2 amount for the purposes of the table  
13 in section 705-60, reduce that amount by the sum of the  
14 amount of each thing mentioned in subsection (4); and
- 15 (b) in working out the \*tax cost setting amount of a thing  
16 mentioned in subsection (4) for the purposes of  
17 section 705-35, treat the \*market value of the thing as zero.
- 18 (3) If the \*general insurance company ceases to be a \*subsidiary  
19 member of the group:
- 20 (a) in working out the step 4 amount for the purposes of the table  
21 in section 711-20, reduce that amount by the sum of the  
22 amount of each thing mentioned in subsection (4); and
- 23 (b) for the purposes of section 711-25, treat the \*terminating  
24 value of a thing mentioned in subsection (4) as zero.
- 25 (4) The things are the \*general insurance company's:
- 26 (a) deferred acquisition costs in relation to the company's  
27 unearned premium reserve; and
- 28 (b) deferred reinsurance expenses in relation to the company's  
29 unearned premium reserve; and
- 30 (c) recoveries receivable in relation to the company's  
31 \*outstanding claims.

#### 32 **93 Application**

33 The amendment made by this Part applies on and after 1 July 2002.

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# EXPOSURE DRAFT

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## 2 **Part 11—Retained cost base assets**

### 3 **Division 1—Cash management trusts**

#### 4 *Income Tax Assessment Act 1997*

##### 5 **94 Subsection 705-25(2)**

6 Omit “paragraph (a) or (b)”, substitute “paragraph (a), (b) or (ba)”.

##### 7 **95 After paragraph 705-25(5)(b)**

8 Insert:

9 (ba) a unit in a \*cash management trust, if:

- 10 (i) the redemption value of the unit is expressed in  
11 Australian dollars; and  
12 (ii) the redemption value of the unit cannot increase; or

##### 13 **96 Subsection 995-1(1)**

14 Insert:

15 *cash management trust* means a trust that satisfies these  
16 requirements:

- 17 (a) the trust is of a kind commonly known as a cash management  
18 trust;  
19 (b) either:  
20 (i) each asset of the trust is covered by paragraph  
21 705-25(5)(a) or (b); or  
22 (ii) the value of the assets of the trust is made up  
23 predominantly by the value of assets covered by  
24 paragraph 705-25(5)(a) or (b);  
25 (c) each unit in the trust carries the same rights as every other  
26 unit in the trust.

### 27 **Division 2—Rights to future income**

##### 28 **97 After subsection 705-25(4A)**

29 Insert:

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# EXPOSURE DRAFT

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*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.

## **98 Subparagraph 705-25(5)(c)(ii)**

Omit “is incurred.”, substitute “is incurred; or”.

## **99 After paragraph 705-25(5)(c)**

Insert:

- (d) a right to receive a payment in respect of work (but not goods), if:
  - (i) the work has not been performed to a stage where a recoverable debt has arisen; and
  - (ii) it is reasonable to expect that a recoverable debt will arise in relation to the right; and
  - (iii) at the time the right was created, the \*head company was the head company of a \*consolidatable group; and
  - (iv) at the time the right was created, the joining entity was a \*subsidiary member of the consolidatable group; or
- (e) a right to receive a payment [*under*] a contract for the sale of goods (other than \*trading stock) if:
  - (i) the contract has not been completed to a stage where a recoverable debt has arisen; and
  - (ii) it is reasonable to expect that a recoverable debt will arise in relation to the right; and
  - (iii) at the time the right was created, the head company was the head company of a consolidatable group; and
  - (iv) at the time the right was created, the joining entity was a \*subsidiary member of the consolidatable group; or

## **Division 3—Application**

### **100 Application**

The amendments made by this Part apply on and after 1 July 2002.

# EXPOSURE DRAFT

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## **Part 12—Application of losses with nil available fraction**

### ***Income Tax Assessment Act 1936***

#### **101 At the end of subsection 245-105(1) in Schedule 2C**

Add:

Note: The total net forgiven amount may be reduced under section 707-415.

### ***Income Tax Assessment Act 1997***

#### **102 At the end of subsection 104-520(3)**

Add:

Note: The amount remaining may be reduced under section 707-415.

#### **103 Subsection 243-35(2) (at the end of step 1 of the method statement)**

Add:

Note: The amount of a capital allowance deduction may be reduced under section 707-415.

#### **104 At the end of Subdivision 707-D**

Add:

### **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 \*subsidiary 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
- (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:

# EXPOSURE DRAFT

Item	If ...	the head company can choose to apply the loss in reduction of ...	for the purposes of ...
1	<p>(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</p> <p>(b) the loss is wholly or partly attributable to the debt; and</p> <p>(c) Subdivision 245-E in Schedule 2C to the <i>Income Tax Assessment Act 1936</i> 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</p>	the total net forgiven amount mentioned in subsection 245-105(1) in that Schedule	applying that total net forgiven amount in accordance with subsections 245-105(5), (6), (7) and (8) of that Act
2	<p>(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</p> <p>(b) Division 243 applies in relation to the debt; and</p> <p>(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.</p>	the deduction	working out the excess referred to in subsection 243-35(1)
3	<p>(a) the joining entity ceases to be a *subsidiary member of the group at a time (the <i>leaving time</i>) after the joining time; and</p> <p>(b) the entity's liabilities at</p>	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

# EXPOSURE DRAFT

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Item	If ...	the head company can choose to apply the loss in reduction of ...	for the purposes of ...
	the leaving time are the same as, or are reasonably connected to, the liabilities that it had at the joining time		subsection 104-520(3)

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## *Limits on application of loss*

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- (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.

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- (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 (within the meaning of section 245-75 in Schedule 2C to the *Income Tax Assessment Act 1936*) of the debt to which the loss is attributable.

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- (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.

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- (6) For the purposes of item 3 of the table in subsection (2), if:

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- (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

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- (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.

23

- (7) To avoid doubt, a loss can be applied under this section only to the extent that it has not already been applied.

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## **105 Application**

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The amendments made by this Part apply on and after 1 July 2002.



# EXPOSURE DRAFT

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2 **Part 13—Application of CGT event L7 before 8 May**  
3 **2007**

4 *Income Tax Assessment Act 1997*

5 **106 At the end of section 104-530**

6 Add:

7 (6) If:

8 (a) you make a \*capital gain or \*capital loss under this section;  
9 and

10 (b) the difference mentioned in paragraph (3)(b) has been or will  
11 be taken into account (directly or indirectly) in working out  
12 *[your]* taxable income, or an amount of *[your]* \*tax loss, for  
13 any income year;

14 reduce the amount of the capital gain or capital loss to the extent  
15 that the difference has been or will be so taken into account.

16 **107 Application**

17 The amendments made by this Part apply on and after 1 July 2002.

# EXPOSURE DRAFT

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1

2 **Part 14—Removal of CGT event L7**

3 *Income Tax Assessment Act 1997*

4 **108 Section 104-5 (table item relating to CGT event L7)**

5 Repeal the item.

6 **109 Section 104-530**

7 Repeal the section.

8 **110 Section 110-10 (table item relating to CGT event L7)**

9 Repeal the item.

10 *Income Tax (Transitional Provisions) Act 1997*

11 **111 Section 701-34**

12 Repeal the section.

13 **112 Application**

14 The amendments made by this Part apply on and after 8 May 2007.

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## Part 15—Doubtful debts and CGT event L3

### *Income Tax Assessment Act 1997*

#### **113 After section 705-25**

Insert:

#### **705-27 Reduction in tax cost setting amount for retained cost base assets that are impaired debts**

(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; and
- (d) if the asset is an \*intra-group asset of the \*consolidated group—the joining entity has not 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 (a);

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 the \*tax cost setting amount of two or more of the joining entity's assets could be reduced under subsection (1):

- (a) subsection (1) applies sequentially to each of those assets; and
- (b) the head company may choose the sequence of assets to which subsection (1) applies; and
- (c) if the head company does not make such a choice—subsection (1) applies sequentially to each of those assets according to the time at which they were created, from earliest to latest.

# EXPOSURE DRAFT

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1 Note: Once the amount of the capital gain is reduced to nil as a result of the  
2 application of subsection (1), no further reductions of tax cost setting  
3 amount can be made under that subsection.

4 (3) A choice the head company can make under paragraph (2)(b) must  
5 be made:

6 (a) by the day the head company lodges its \*income tax return  
7 for the income year in which the \*CGT event happened; or

8 (b) within a further time allowed by the Commissioner.

9 (4) The way the head company prepares its \*income tax return is  
10 sufficient evidence of the making of the choice.

## 11 **114 After section 705-35(1)(b)**

12 Omit “in accordance with section 705-25”.

## 13 **115 Subsection 995-1(1)**

14 Insert:

15 *intra-group asset* of a \*consolidated group or \*MEC group means  
16 an asset in respect of which the requirements in subsection  
17 701-58(1) are satisfied.

## 18 **116 Application**

19 The amendments made by this Part apply in relation to entities that  
20 become members of a consolidated group or MEC group after 8 May  
21 2007.

# EXPOSURE DRAFT

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2 **Part 16—Blackhole expenditure for MEC Groups**

3 *Income Tax Assessment Act 1997*

4 **117 Paragraph 110-35(10)(a)**

5 After “a \*consolidated group”, insert “or \*MEC group”.

6 **118 Application**

7 The amendment made by item P-10 applies to CGT events happening  
8 on and after 1 July 2005.

# EXPOSURE DRAFT

1

## 2 **Part 17—Transitional concession for SAPs**

### 3 *New Business Tax System (Consolidation and Other* 4 *Measures) Act 2003*

#### 5 **119 Section 2 (table item 2)**

6 Repeal the item, substitute:

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1A. Schedule 1, items 1 to 27	Immediately after the commencement of Schedule 1 to the <i>New Business Tax System</i> ( <i>Consolidation and Other Measures</i> ) Act ( <i>No. 1</i> ) 2002	24 October 2002
1B. Schedule 1, item 27A	Immediately after the commencement of the provisions covered by table item 1A	24 October 2002
1C. Schedule 1, items 28 to 36	Immediately after the commencement of Schedule 1 to the <i>New Business Tax System</i> ( <i>Consolidation and Other Measures</i> ) Act ( <i>No. 1</i> ) 2002	24 October 2002
2. Schedules 2 and 3	Immediately after the commencement of Schedule 1 to the <i>New Business Tax System</i> ( <i>Consolidation and Other Measures</i> ) Act ( <i>No. 1</i> ) 2002	24 October 2002

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#### 7 **120 After Item 27 of Schedule 1**

8 Insert:

#### 9 **27A Paragraph 701-30(1)(a)**

10 Repeal the paragraph, substitute:

11 (a) on or before the first day of the first income year of the head  
12 company starting after 30 June 2003; and

13 Note: Section 701-30 of the *Income Tax (Transitional Provisions) Act 1997* was repealed by  
14 item 285 of Schedule 1 to the *Tax Laws Amendment (Repeal of Inoperative Provisions)*  
15 *Act 2006* on 14 September 2006. Therefore the amendment made by this Part will not  
16 apply after that repeal.

17 *[Note: This Schedule will commence on Royal Assent.]*

# EXPOSURE DRAFT

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## 2 **Part 18—Loss multiplication rules for widely held** 3 **companies**

### 4 *Income Tax Assessment Act 1997*

#### 5 **121 After subsection 165-115X(2)**

6 Insert:

7 (2A) A \*widely held company that, apart from this subsection, would  
8 have a relevant equity interest in a \*loss company at a particular  
9 time does not have such an interest at that time.

10 (2B) Subsection (2A) does not apply if:

11 (a) an entity has a controlling stake in the loss company (see  
12 section 165-115Z); and

13 (b) that entity has a direct or indirect interest in, or is owed a  
14 debt by, the \*widely held company, being an interest or debt  
15 in respect of which:

16 (i) the entity could, if a \*CGT event happened in respect of  
17 the interest or debt, make a \*capital loss (other than a  
18 capital loss that would be disregarded) that reflects any  
19 part of the loss company's overall loss; or

20 (ii) the entity has deducted or can deduct, or could deduct at  
21 a later time, an amount in respect of the cost of the  
22 \*acquisition, or a net loss on the \*disposal, of the interest  
23 or debt, where the deduction reflected or would have  
24 reflected, or would reflect, as the case may be, any part  
25 of the company's overall loss.

26 (2C) Subsection (2A) does not apply in respect of a particular time if an  
27 entity that had a direct or indirect interest in, or was owed a debt  
28 by, the \*widely held company at an earlier time, and had a  
29 controlling stake in the loss company (see section 165-115Z) at the  
30 earlier time:

31 (a) made a capital loss (other than a capital loss that was  
32 disregarded) because a \*CGT event happened in respect of  
33 the interest or debt, where the capital loss reflected any part  
34 of the \*loss company's overall loss; or

35 (b) has deducted or could have deducted at an earlier time, or  
36 could deduct at a later time, an amount in respect of the cost  
37 of the \*acquisition, or a net loss on the \*disposal, of the

# EXPOSURE DRAFT

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1 interest or debt, where the deduction reflected or would have  
2 reflected, or would reflect, as the case may be, any part of the  
3 company's overall loss.

## 4 **122 After subsection 165-115X(3)**

5 Insert:

6 (3A) Subsection (3) does not apply if the first entity is a \*widely held  
7 company.

## 8 **123 Subsection 165-115X(4)**

9 Omit "However, subsection (3)", substitute "Subsection (3)".

## 10 **124 After subsection 165-115Y(3)**

11 Insert:

12 (3A) A \*widely held company that, apart from this subsection, would  
13 have a relevant debt interest in a \*loss company at a particular time  
14 does not have such an interest at that time.

15 (3B) Subsection (3A) does not apply if:

16 (a) an entity has a controlling stake in the loss company (see  
17 section 165-115Z); and

18 (b) that entity has a direct or indirect interest in, or is owed a  
19 debt by, the \*widely held company, being an interest or debt  
20 in respect of which:

21 (i) the entity could, if a \*CGT event happened in respect of  
22 the interest or debt, make a \*capital loss (other than a  
23 capital loss that would be disregarded) that reflects any  
24 part of the loss company's overall loss; or

25 (ii) the entity has deducted or can deduct, or could deduct at  
26 a later time, an amount in respect of the cost of the  
27 \*acquisition, or a net loss on the \*disposal, of the interest  
28 or debt, where the deduction reflected or would have  
29 reflected, or would reflect, as the case may be, any part  
30 of the company's overall loss.

31 (3C) Subsection (3A) does not apply in respect of a particular time if an  
32 entity that had a direct or indirect interest in, or was owed a debt  
33 by, the \*widely held company at an earlier time, and had a  
34 controlling stake in the loss company (see section 165-115Z) at the  
35 earlier time:



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- 1 (a) made a capital loss (other than a capital loss that was  
2 disregarded) because a \*CGT event happened in respect of  
3 the interest or debt, where the capital loss reflected any part  
4 of the \*loss company's overall loss; or  
5 (b) has deducted or could have deducted at an earlier time, or  
6 could deduct at a later time, an amount in respect of the cost  
7 of the \*acquisition, or a net loss on the \*disposal, of the  
8 interest or debt, where the deduction reflected or would have  
9 reflected, or would reflect, as the case may be, any part of the  
10 company's overall loss.

## 11 **125 After subsection 165-115Y(4)**

12 Insert:

- 13 (4A) Subsection (4) does not apply if the first entity is a \*widely held  
14 company.

## 15 **126 Subsection 165-115Y(5)**

16 Omit "However, subsection (4)", substitute "Subsection (4)".

## 17 **127 After paragraph 715-255(1)(b)**

18 Insert:

- 19 and (ba) the \*head company has a relevant equity interest under  
20 section 165-115X in the leaving entity at the leaving time;

## 21 **128 Subsection 715-270(5)**

22 Omit "If the trust is a \*loss company at the leaving time, the \*head  
23 company must", substitute "If the trust is a \*loss company at the leaving  
24 time and the \*head company has a relevant equity interest under  
25 section 165-115X in the leaving entity at the leaving time, the head  
26 company must".

## 27 **129 Application**

28 The amendments made by this Part apply on and after 1 July 2002.