

## **Part 3-90—Consolidated groups**

### **Division 700—Guide and objects**

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#### **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

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

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- (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.

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

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## **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.

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

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

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### 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.

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

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*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 2: Section 73BAC of the *Income Tax Assessment Act 1936* overrides this rule for the purposes of the research and development incremental expenditure provisions.

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

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

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### **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*

- (5) However, if:
- (a) the asset is \*trading stock; 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.

- (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;

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

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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.

*Excluded assets*

- (7) If an asset is an excluded asset under subsection 705-35(2), its \*tax cost is not set.

Note: Excluded assets are assets such as entitlements to tax deductions.

**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.

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

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*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.

*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.

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

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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) the asset is \*trading stock 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, the fact that the head company ceases to hold them when the single entity rules ceases to apply to them would not constitute a disposal or other event having tax consequences for the head company.

*Setting value of trading stock at tax-neutral amount*

- (4) 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 \*livestock that was acquired by natural increase—the \*cost of the asset; or

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

- (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.

## 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:

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

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- (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
  - (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.

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

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*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).

*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.

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

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*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) 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 the asset is \*trading stock 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, 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) 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:
- (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

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

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- (b) if paragraph (a) does not apply and the asset is \*livestock 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.

**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.

Note: Section 73BAD of the *Income Tax Assessment Act 1936* overrides this rule for the purposes of the research and development incremental expenditure provisions.

*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 standards, or statements of accounting concepts made by the Australian Accounting Standards Board, is a liability;
  - (c) any business;
  - (d) any registration under section 39J of the *Industry Research and Development Act 1986* for particular research and development activities;

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.

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

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*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:
- (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

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



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
  - (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.

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

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*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 Subdivision 328-D, and sections 73BA and 73BF of the *Income Tax Assessment Act 1936*, is to apply in relation to the asset, the expression means that the provisions apply as if:
- (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—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

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

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of an effective life determined by the Commissioner were limited to one in force 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 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.

*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

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

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apply in relation to the asset—the asset's \*Division 230 starting value at the particular time.

- (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.

*Other provisions*

- (6) If any provision of this Act that is not mentioned above is to apply in relation to the asset, the expression means that the provision applies as if the asset's cost at that time were equal to its \*tax cost setting amount.

**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), (4), (5), (5A) and (6) in relation to the asset at and after the joining time.

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

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Section 701-60

**701-60 Tax cost setting amount**

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

<b>Tax cost setting amount</b>		
<b>Item</b>	<b>If the asset's tax cost is set by:</b>	<b>The asset's tax cost setting amount is:</b>
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) or section 701-45 (Cost of assets consisting of liabilities owed to entity by members of the group)	the *market value of the asset
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.

**701-61 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.

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

Section 701-65

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- (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.

**701-65 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
  - (b) the entity is a partnership;

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

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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.

## 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:
    - (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

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

Section 701-70

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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 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:

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

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***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.

*Pre-joining time proportion of total arrangement assessable income*

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

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

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.

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

Section 701-75

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*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 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

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

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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 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.

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

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Section 701-75

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*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.

*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

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

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 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.

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

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**Chapter 3** Specialist liability rules

**Part 3-90** Consolidated groups

**Division 701** Core rules

**Section 701-85**

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*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.

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.

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

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