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Seminar on Group Relief

Presented by

Corporate Tax Division

29 Oct 2002 – 1 Nov 2002

Overview

- Introduction
- Definition of group companies
- Requirement to have same accounting year
- Availability of loss items for transfer
- Items allowable for transfer and specific exclusions
- Transfer rules
- Operations/Administrative procedures

Introduction of Group Relief

- Effective from Year of Assessment 2003.
- A company belonging to a group may transfer its loss items to another company within the same group.
- The objective is to encourage more risk taking and enterprise.
- *Transferor* company transfers out its loss items.
- *Claimant* company claims the loss items.

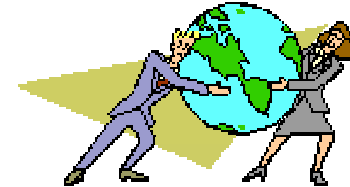


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Who qualifies for Group Relief?

Companies belonging to the same group of companies and

- maintain 75% shareholding threshold, and
- have the same accounting year end

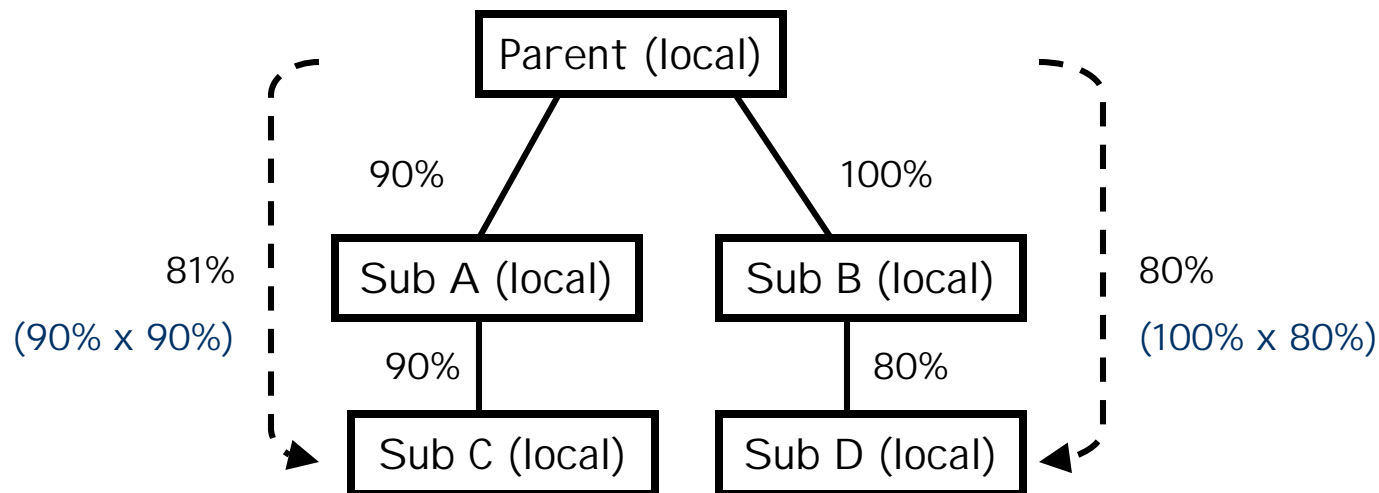




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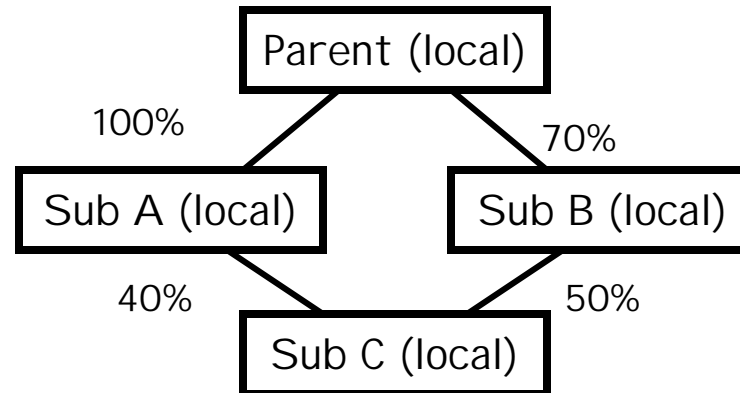
Definition of Group Companies

- A group consists of a S'pore incorporated company and its S'pore incorporated group members.
- 2 S'pore incorporated companies are members of the same group if:
 - a) at least 75% of the ordinary share capital in one company is beneficially held, directly or indirectly by the other; or
 - b) at least 75% of the ordinary share capital in each of the two companies is beneficially held, directly or indirectly by a third S'pore incorporated company





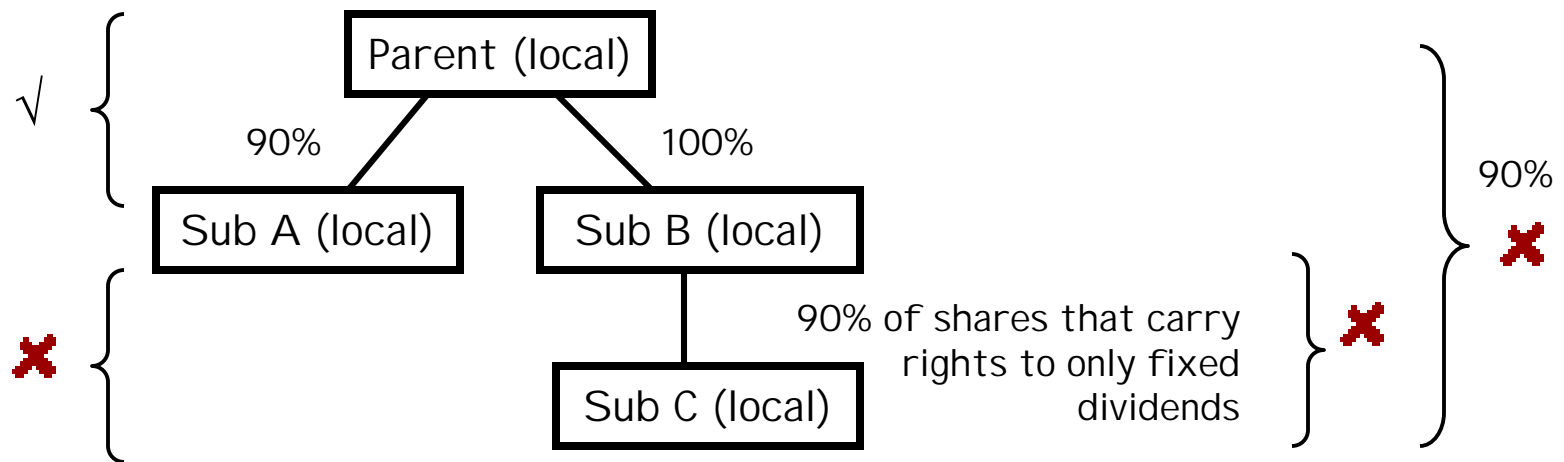
Definition of Group Companies



Loss set-off between	Allowed?	75% shareholding threshold?
Parent & A	√	100%
Parent & B	✘	70%
Parent & C	√	$75\% = [(100\% \times 40\%) + (70\% \times 50\%)]$
A & B	✘	Parent & A = 100%, Parent & B = 70%
A & C	√	Parent & A = 100%, Parent & C = 75%
B & C	✘	Parent & B = 70%, Parent & C = 75%

Definition of Group Companies

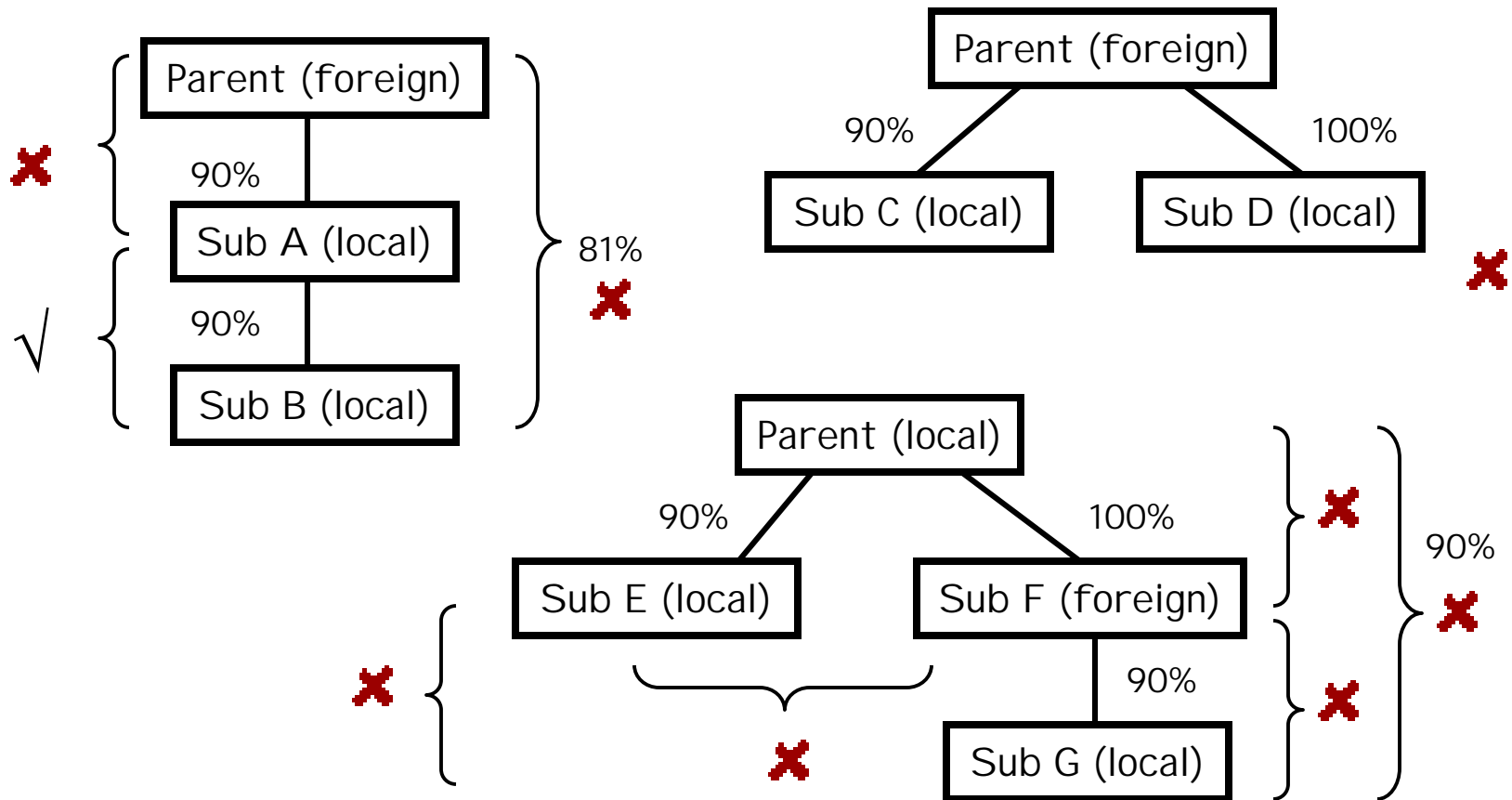
- Shareholdings refer to ordinary shares
- Shares that carry rights to only fixed dividends will be excluded.





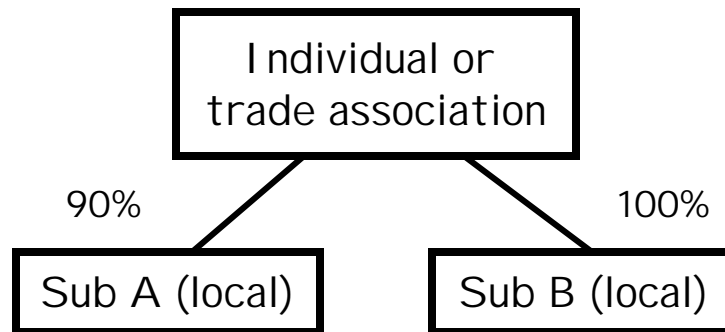
Definition of Group Companies

- Any holdings by companies that are not incorporated in Singapore would be disregarded.



Definition of Group Companies

- Any shareholdings of a company held by an individual or not a Singapore-incorporated company (eg. a trade association) will not be taken into account.



Definition of Group Companies

In determining whether the 75% shareholding requirement is satisfied, two tests will be applied:

First Level Test: Ordinary Shareholding Requirement

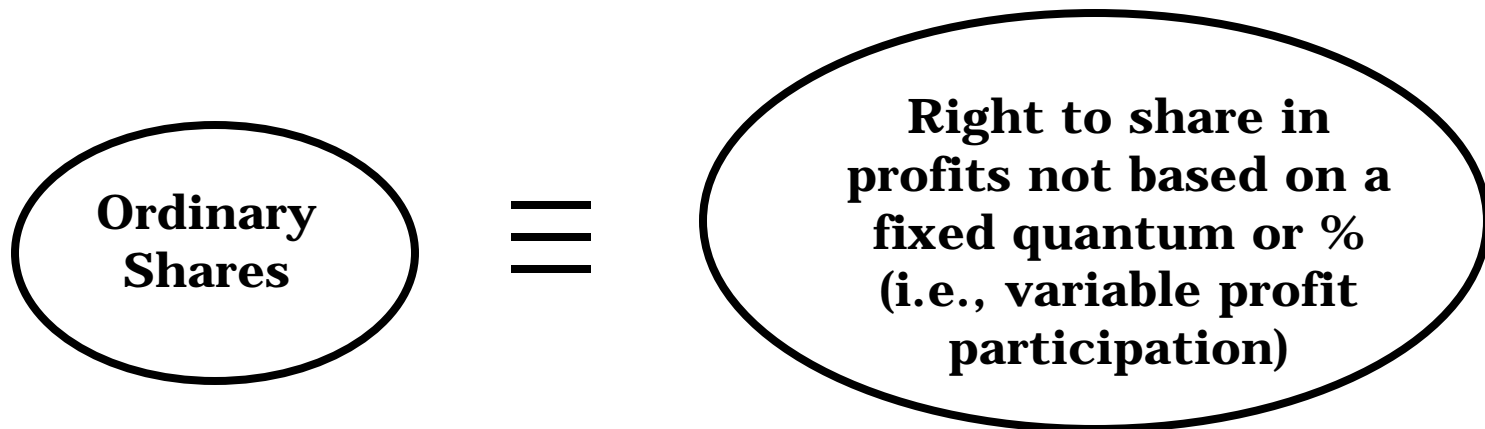
Second Level Test: Profits or assets available for distribution



Definition of Group Companies

First Level Test - Ordinary Shareholding Requirement

- Only ordinary shares taken into account
- Ordinary shares refer to all shares issued by a company ***apart*** from shares that carry only a right to fixed dividends, ie., dividends payable based on
 - (a) a fixed amount;
 - (b) a fixed percentage of the nominal value of the shares; or
 - (c) a fixed percentage of the profits of the company





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Definition of Group Companies

2nd Level Test - Profits/assets available for distribution

- Holders of ordinary shares must demonstrate that they are beneficially entitled, directly or indirectly, to at least 75% of
 - (a) any residual profits of the company available for distribution to the company's equity holders; and
 - (b) any residual assets of the company available for distribution to the company's equity holders upon winding up

- Measure to ensure that holders of ordinary shares are indeed beneficially entitled to profits and assets of the company in proportion to their equity interest

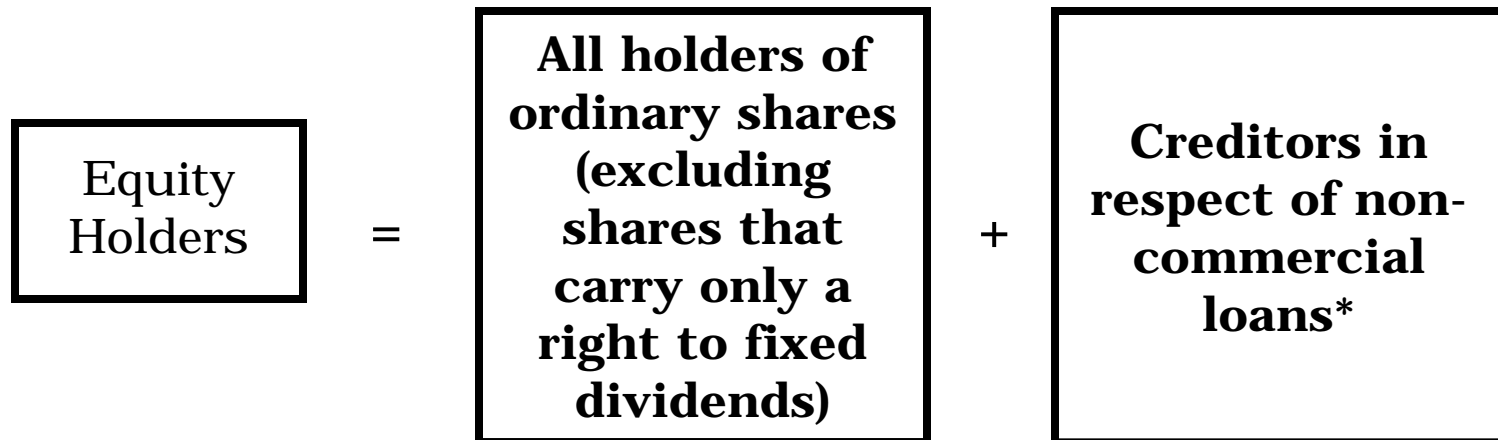


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Definition of Group Companies

2nd Level Test - Profits/assets available for distribution

Equity Holders



* Non-commercial loans: any borrowings which entitle the creditor to variable profit participation in borrower. They are distinguished from commercial loans which entitle the creditor to fixed return (@ fixed amount, fixed rate % of principal loan value, or fixed rate % of profit of borrower.)



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Definition of Group Companies

2nd Level Test - Profits/assets available for distribution

Residual Profits available for distribution to equity holders

- Profits of the company that equity holders would be entitled to receive if a distribution of the co's profits is made.

- Represent profits of the company
 - After deducting*
 - any fixed dividends on all shares that carry a fixed dividend;

 - But before deducting*
 - any non-fixed return on non-commercial loans
 - any non-fixed dividend on ordinary shares



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Definition of Group Companies

2nd Level Test - Profits/assets available for distribution

Residual Assets available for distribution to equity holders

- Net assets of the company upon a notional winding up, after distribution to commercial loan creditors and shareholders other than ordinary shareholders.
- If company has negative assets, notional assets of \$100 will be used to compute notional entitlement.



Definition of Group Companies

Example 1

Co. X is a S'pore incorporated co. with accounting profits of \$100 for YA 2004.

Shares:	Type I		Type II		Type III	
	Right to share in profits based on share K (\$1 par)		Fixed dividend @ 10% on nominal value of share K (\$1 par)		Fixed dividend @ 8% + right to share in profits based on share K (\$1 par)	
Share-holding	Co. A 600 shrs	Co. B 200 shrs	Co. A 120 shrs	Co. B 120 shrs	Co. A 150 shrs	Co. C 50 shrs
Ordinary shares?	√	√	X	X	√	√
Share-holding %	\$ 600/1000 = 60%	\$ 200/1000 = 20%	n.a.	n.a.	\$ 150/1000 = 15%	\$ 50/1000 = 5%

Shareholding Requirement (1st level test): Co. A owns (60 + 15)% = 75% of the OS issued by Co. X. The 1st level test is satisfied.



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Definition of Group Companies

Example 1 (Cont'd)

Assume that Co. X has taken 2 loans:

	Principal Amount	Interest Rate	Annual Interest
Loan 1 (fr Co. Y)	\$400	5% p.a.	\$20
Loan 2 (fr Co. Z)	\$500	3% p.a. + right to share in profits based on principal value of loan	\$15 + variable profit

Loan 1 is a commercial loan whilst Loan 2 is a non-commercial loan



Definition of Group Companies

Example 1 (Cont'd)

Computation of Residual Profits and entitlement:

Accounting profit (after deducting fixed return on loans but before deducting non-fixed return on non-commercial loans)	\$100
Less: Distribution of <u>fixed dividend</u> on shares other than OS (ie. Type II shares) - <ul style="list-style-type: none">• Shareholder A 120 shares @ 10%• Shareholder B 120 shares @ 10%	(\$12) (\$12)
Less: Distribution of <u>fixed dividend</u> on OS (Type III shares)- <ul style="list-style-type: none">• Shareholder A 150 shares @ 8%• Shareholder C 50 shares @ 8%	(\$12) (\$4)
<i>Residual Profits</i> available for distribution to	\$60
❖ Shareholder A $(600+150)/1500 \times \$60$	\$30
❖ Shareholder B $200/1500 \times \$60$	\$8
❖ Shareholder C $50/1500 \times \$60$	\$2
❖ Non-commercial loan creditor Z (Loan 2) $500/1500 \times \$60$	\$20

Total OS (1000) + Principal Value of Loan 2 (500)



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Definition of Group Companies

Example 1 (Cont'd)

Computation of Residual Profits and entitlement:

Accounting profit (after deducting fixed return on loans but before deducting non-fixed return on non-commercial loans)	\$100
Less: Distribution of <u>fixed dividend</u> on shares other than OS (ie. Type II shares) - <ul style="list-style-type: none">• Shareholder A 120 shares @ 10%• Shareholder B 120 shares @ 10%	(\$12) (\$12)
Less: Distribution of <u>fixed dividend</u> on OS (Type III shares)- <ul style="list-style-type: none">• Shareholder A 150 shares @ 8%• Shareholder C 50 shares @ 8%	(\$12) (\$4)
<i>Residual Profits</i> available for distribution to	\$60
❖ Shareholder A $(600+150)/1500 \times \$60$	\$30
❖ Shareholder B $200/1500 \times \$60$	\$8
❖ Shareholder C $50/1500 \times \$60$	\$2
❖ Non-commercial loan creditor Z (Loan 2) $500/1500 \times \$60$	\$20

Co. A's % entitlement to the RP of Co. X = $\$30/\$60 = 50\%$

Therefore, Co. A fails the 2nd level test.



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Definition of Group Companies

Example 2

Computation of Residual Profits and entitlement:

- Same facts as Eg. 1, except that Co. A is now the party to Loan 2

<i>Residual Profits</i> available for distribution to	\$60
❖ Shareholder A $(600+150)/1500 \times \$60$	\$30
❖ Shareholder B $200/1500 \times \$60$	\$8
❖ Shareholder C $50/1500 \times \$60$	\$2
❖ Non-commercial loan creditor <u>A</u> (Loan 2) $500/1500 \times \$60$	\$20

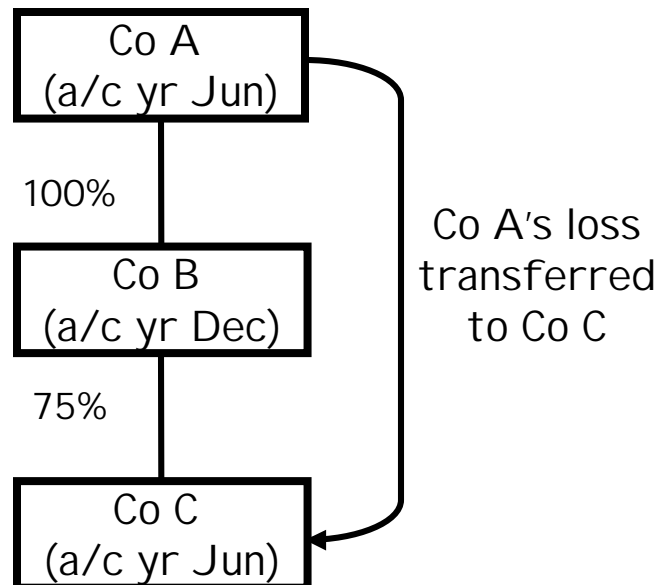
Co. A's % entitlement to the RP of Co. X = $(\$30 + \$20)/\$60 = 83.3\%$

Therefore, Co. A now satisfies the 2nd level test

- Where $RP \leq 0$ in any YA, notional RP of \$100 is used to compute equity holder's notional entitlement

Accounting year end

- Transferor and claimant must have the same accounting year end to qualify for group relief
- If a transferor company (A) and claimant company (C) are related indirectly through a third company (B), B need not have the same accounting year end

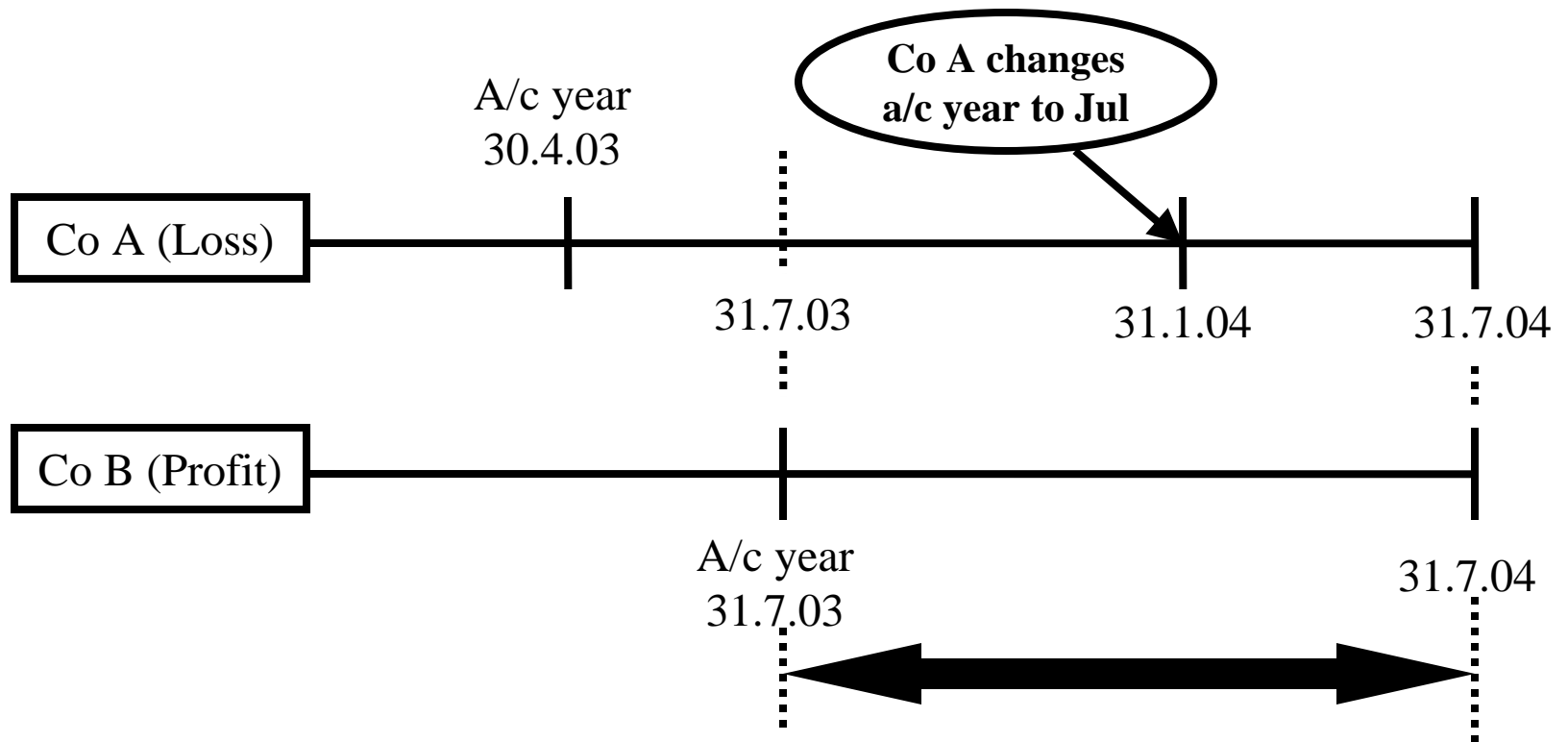




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Accounting year end alignment

Example 1



Same accounting year (YA 2005)

31.7.04

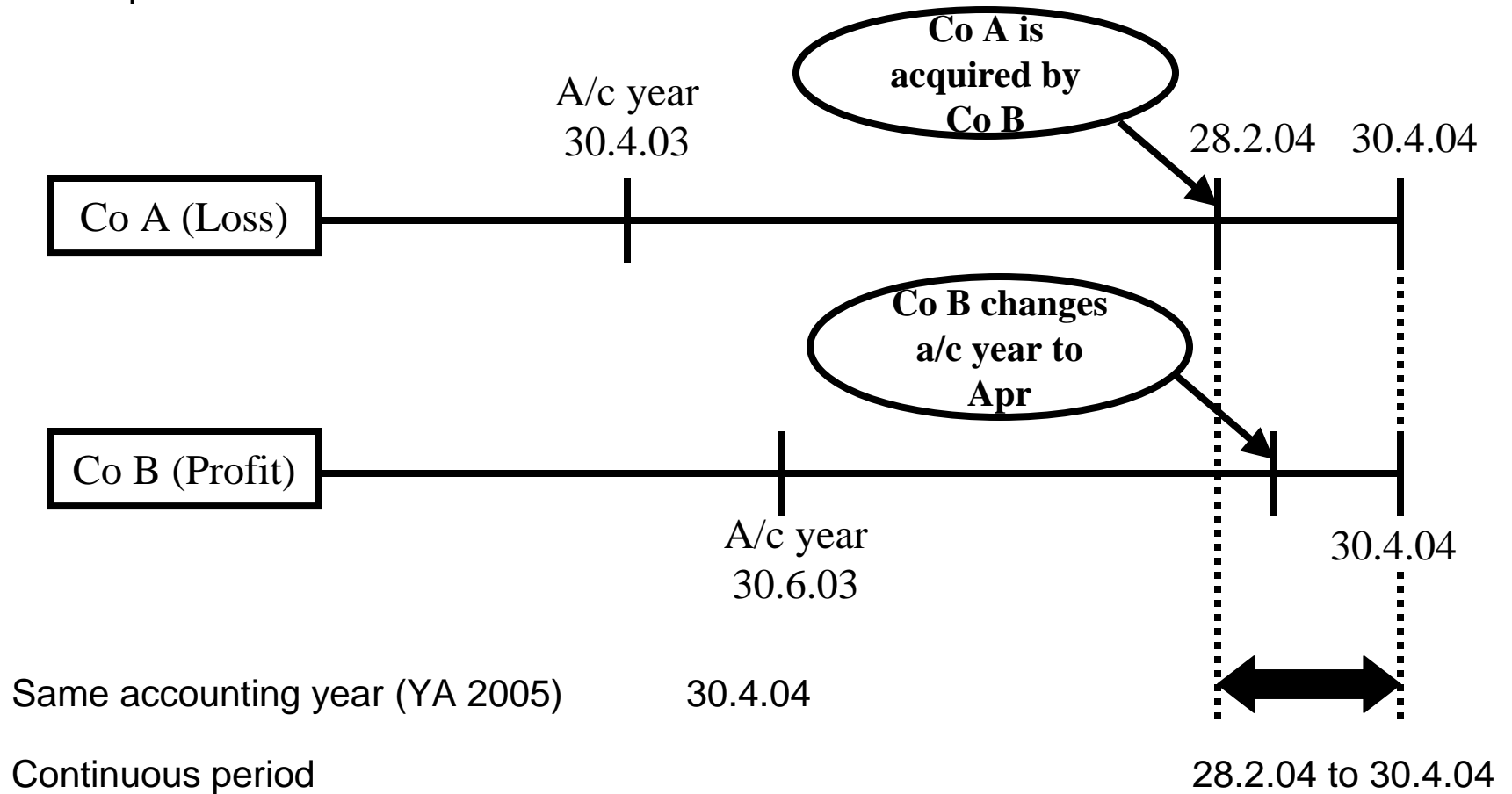
Shorter of the continuous periods

1.8.03 to 31.7.04



Accounting year end alignment

Example 2

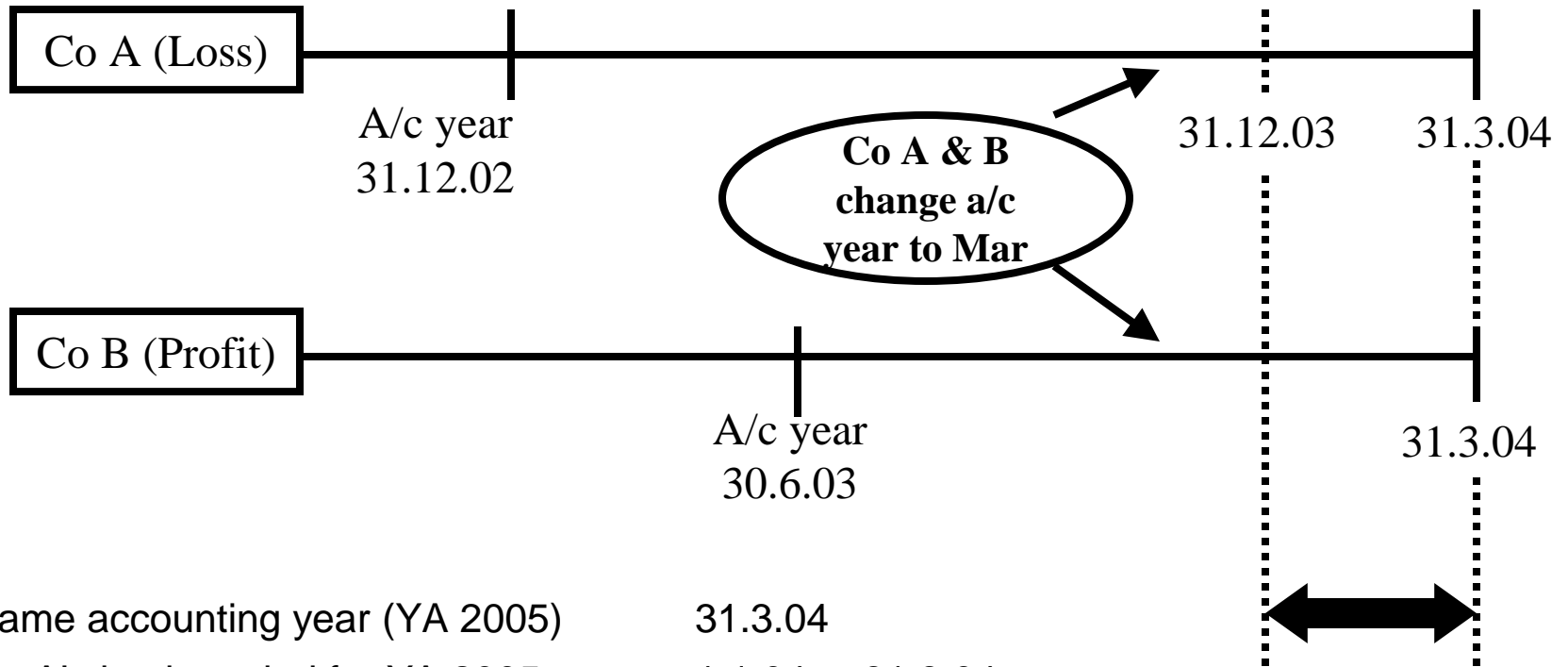




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Accounting year end alignment

Example 3



Same accounting year (YA 2005)
 Co A's basis period for YA 2005
 Co B's basis period for YA 2005
 Shorter of the continuous periods

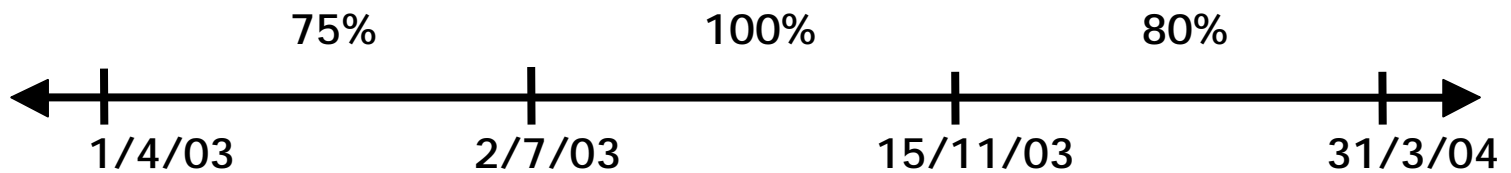
31.3.04
 1.1.04 to 31.3.04
 1.7.03 to 31.3.04

1.1.04 to 31.3.04

Availability of loss items for transfer

- If shareholding level is maintained at or above 75% throughout the basis period for a YA, full amount of loss items can be transferred.

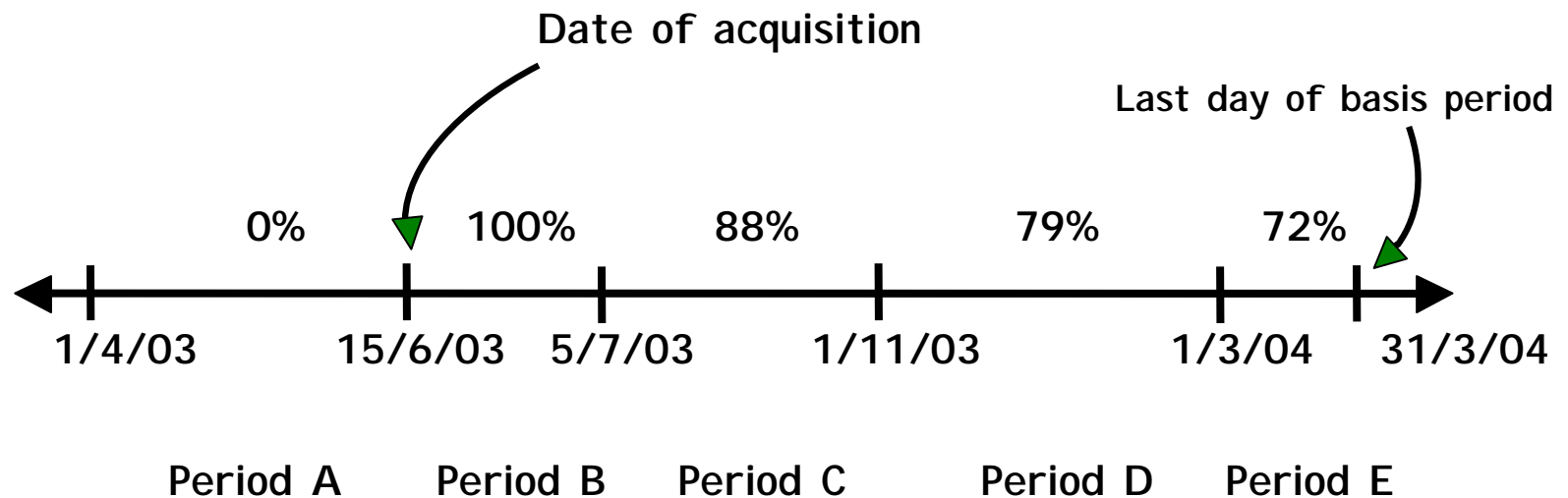
Example:



Availability of loss items for transfer

- If shareholding level is not maintained at or above 75% on the last day of basis period for a YA, no group relief.

Example:



Availability of loss items for transfer

- If shareholding level is maintained at or above 75% on the last day of basis period for a YA but not throughout the whole basis period:

Transferor

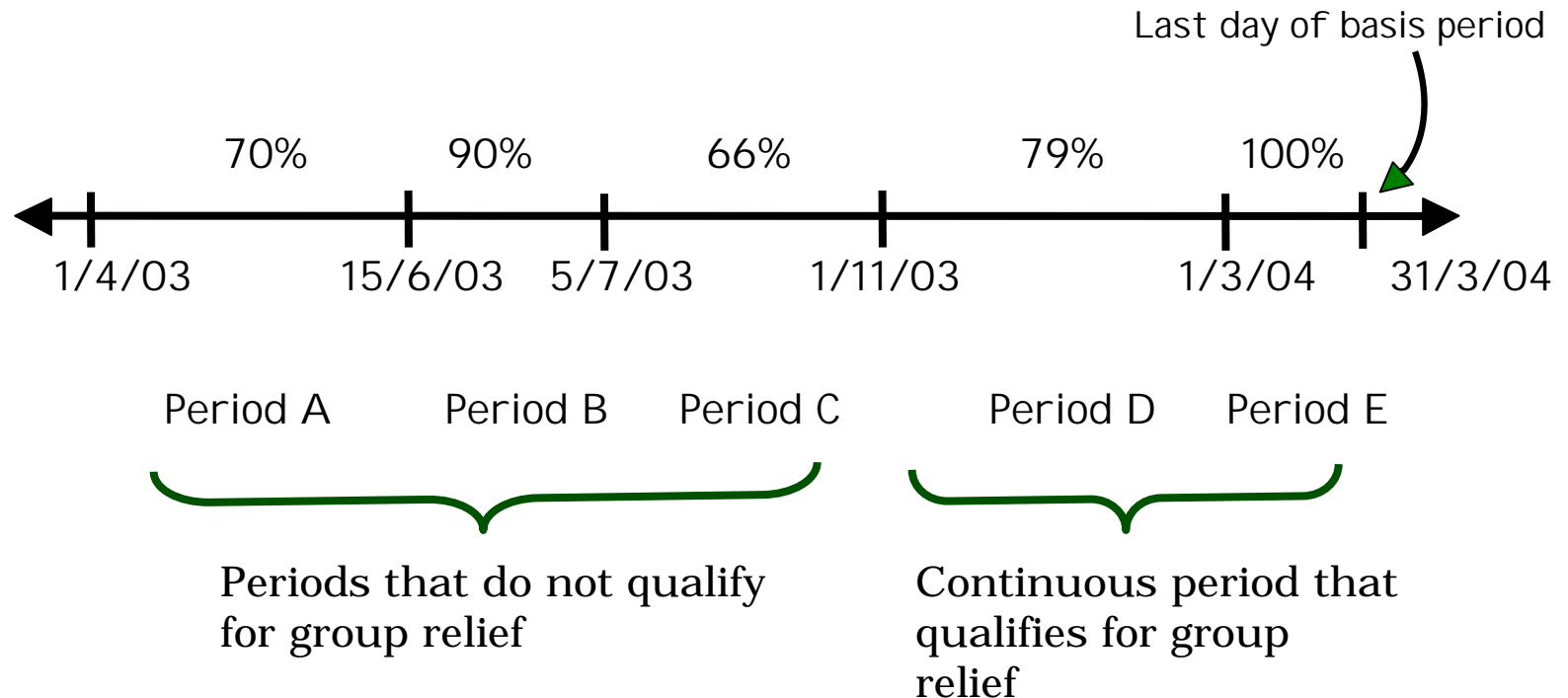
Amount of loss items that can be transferred = Amount of loss items attributable to the continuous period

Claimant

Amount of assessable income that can absorb loss items = Amount of assessable income attributable to the continuous period

Availability of loss items for transfer

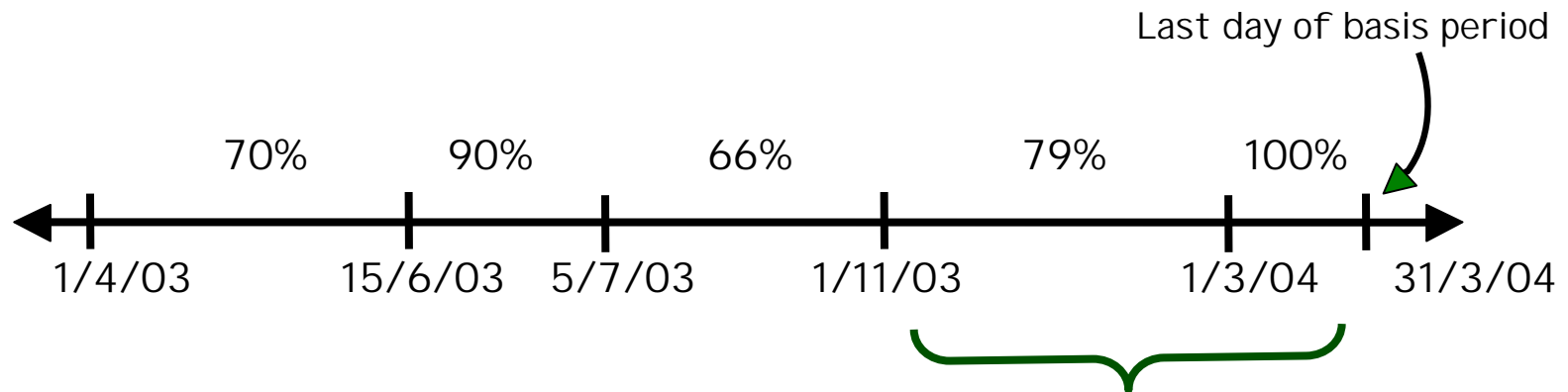
- Continuous period refers to the period ending on the last day of the basis period during which the shareholding level is maintained at or above 75%.





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Availability of loss items for transfer



Continuous period = 152 days

Transferor company

$$\begin{aligned}\text{Loss items available for GR} &= 100,000 \times 152 \text{ days} / 366 \text{ days} \\ &= 41,530\end{aligned}$$

Claimant company

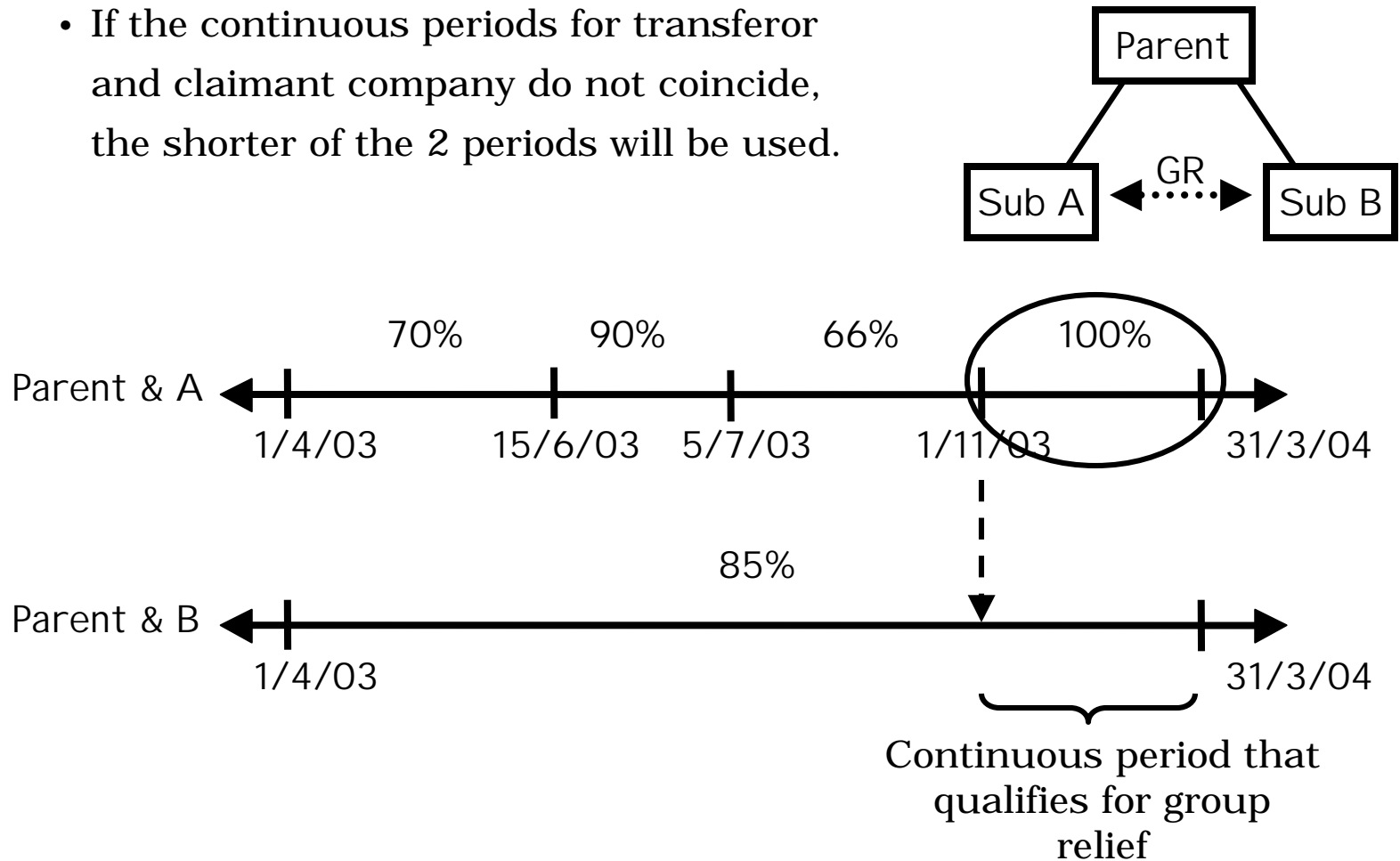
$$\begin{aligned}\text{AI available for GR} &= 80,000 \times 152 \text{ days} / 366 \text{ days} \\ &= 33,224\end{aligned}$$

GR will be the lower of available loss items or AI = 33,224



Availability of loss items for transfer

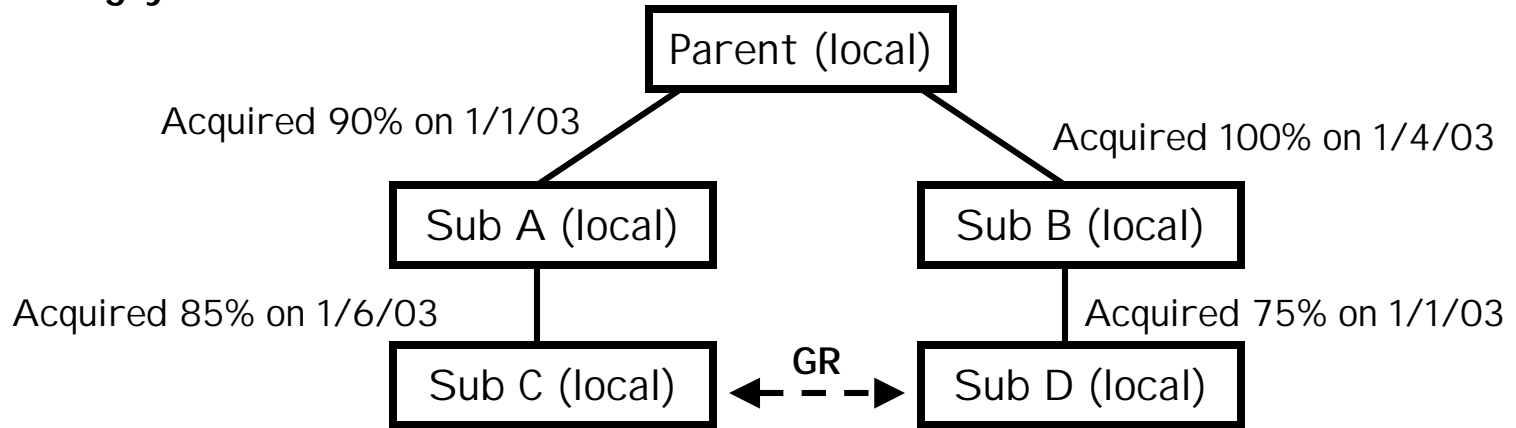
- If the continuous periods for transferor and claimant company do not coincide, the shorter of the 2 periods will be used.





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Accounting year 31/12/03



	1/1/03 to 31/3/03	1/4/03 to 31/5/03	1/6/03 to 31/12/03
Parent & A	90%	90%	90%
A & C	0%	0%	85%
Parent & C	0%	0%	76.5%
Parent & B	0%	100%	100%
B & D	75%	75%	75%
Parent & D	0%	75%	75%

Does not qualify for group relief

Qualify for group relief

Items allowable for transfer

Loss items

- current year unabsorbed capital allowance
- current year unabsorbed trade losses
- current year unabsorbed donations

Transfer of loss items is subject to section 37B adjustment

Specific exclusions

- Losses of foreign branches
- Investment allowances
- Loss items arising from an activity or trade, the income of which is wholly exempt from tax
 - eg. loss from pioneer trade, end of pioneer incentive period
- Loss items not allowed for set-off against income from other activities under the existing law
 - eg. s10D, s10H, s43I

Specific exclusions

- Certain companies enjoying incentives under EEIA
 - eg. investment in new technology co., technopreneur investment incentive, overseas investment and venture capital incentives
- Section 10E companies
 - Current year unabsorbed losses and capital allowances



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RULES

To apply the following order of set-off when determining the loss items of transferor company and assessable income of claimant company:-

- 1 Capital allowances b/f
- 2 Current capital allowances
- 3 Trade losses b/f
- 4 Current trade losses
- 5 Donations b/f (wef YA 2004)
- 6 Current donations

Only unabsorbed amounts of 2, 4 and 6 qualify for Group Relief



Example on Order of Setoff

Transferor company	Quantum	Amount of loss items to be transferred under the group relief system
Adjusted Profit	\$100,000	
<u>Capital allowances</u> Brought forward from prior YA Current year	(\$60,000) (\$35,000)	\$40,000 Not a Loss Item \$5,000 NIL
<u>Trade Losses</u> Brought forward from prior YA Current year	(\$40,000) -	(\$35,000) Not a Loss Item -

RULES TRANSFEROR

- **Order of transfer of loss items**

- 1) current capital allowances
- 2) current trade loss
- 3) current donation

- **If there are different tax rates**

Transfer from higher tax rate category first, then to lower tax rate

- **Quantum**

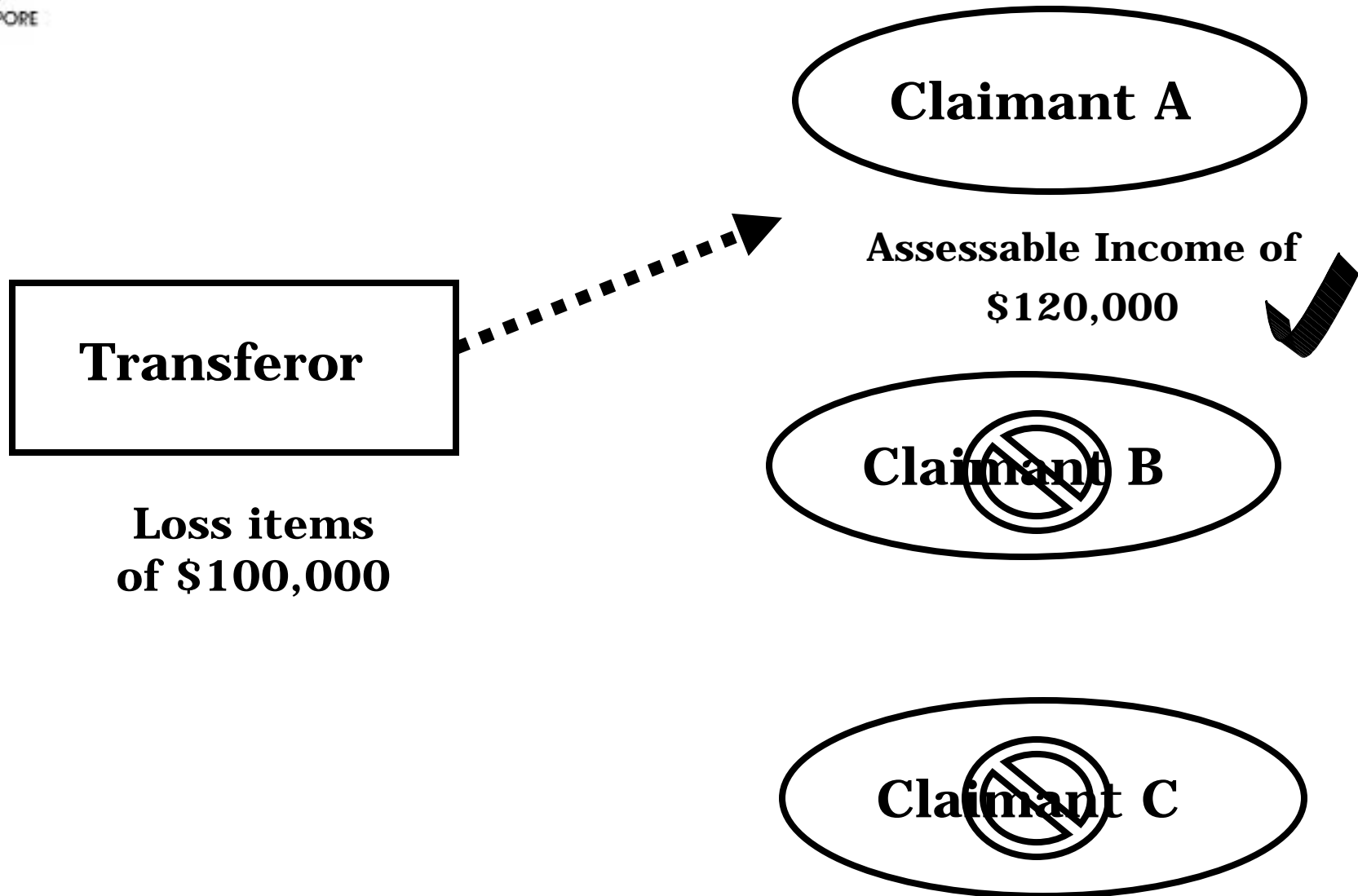
Full amounts of unabsorbed current capital allowances, losses and donations must be transferred to the extent that these are absorbed by the claimant company



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TRANSFEROR

Transfer of Loss Items



RULES TRANSFEROR

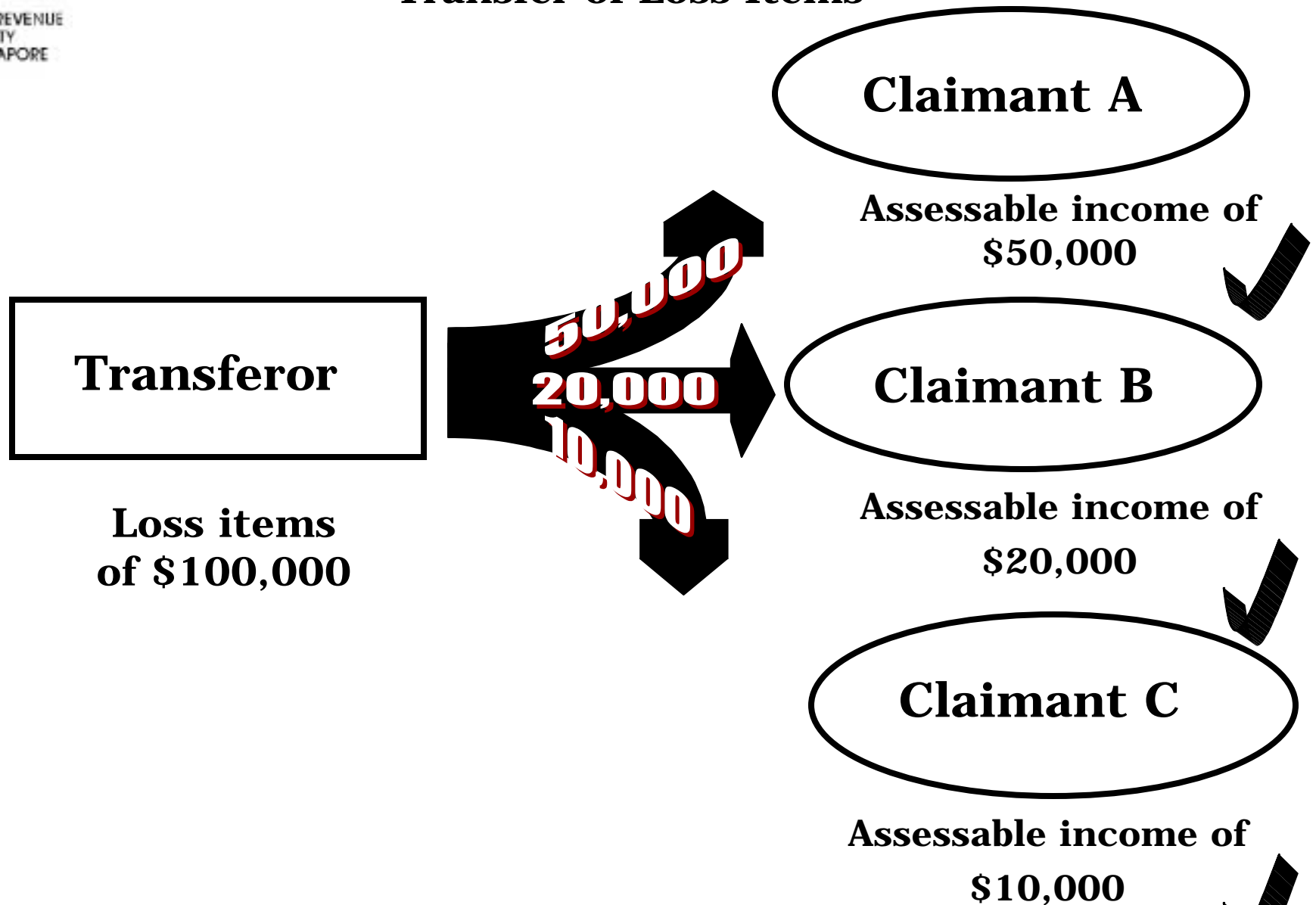
- **Amounts not absorbed by claimant companies**
Any amounts that cannot be absorbed by the claimant companies would be retained in the order of unabsorbed donations, losses, capital allowances



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TRANSFEROR

Transfer of Loss Items

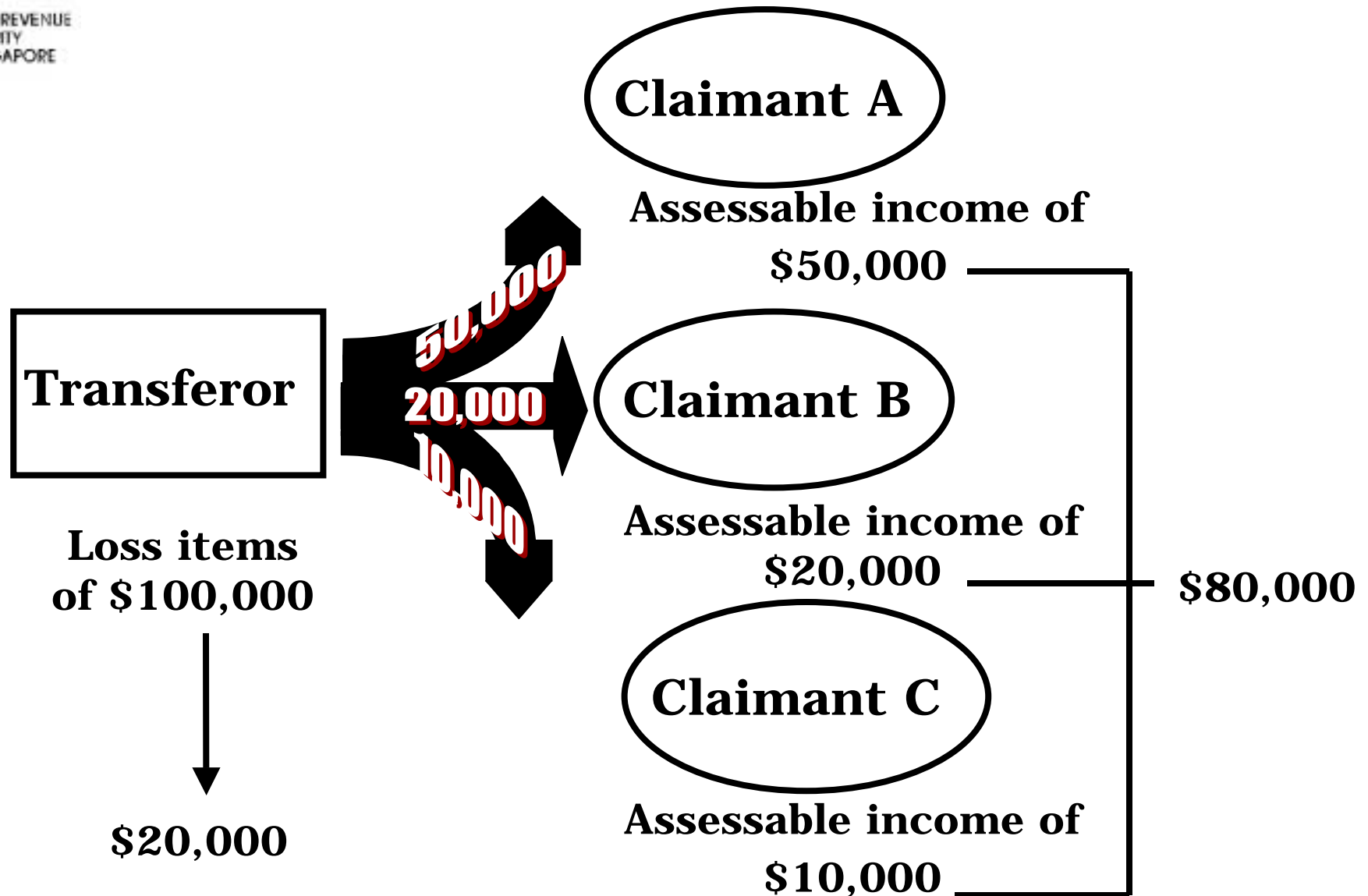




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TRANSFEROR

Transfer of Loss Items



RULES CLAIMANT

- **Order of utilisation of loss items**
 - 1) current capital allowances
 - 2) current trade loss
 - 3) current donation
- **If there are different tax rates**

Loss items will be deducted against assessable income taxable at higher tax rate followed by assessable income taxable at lower tax rate

RULES

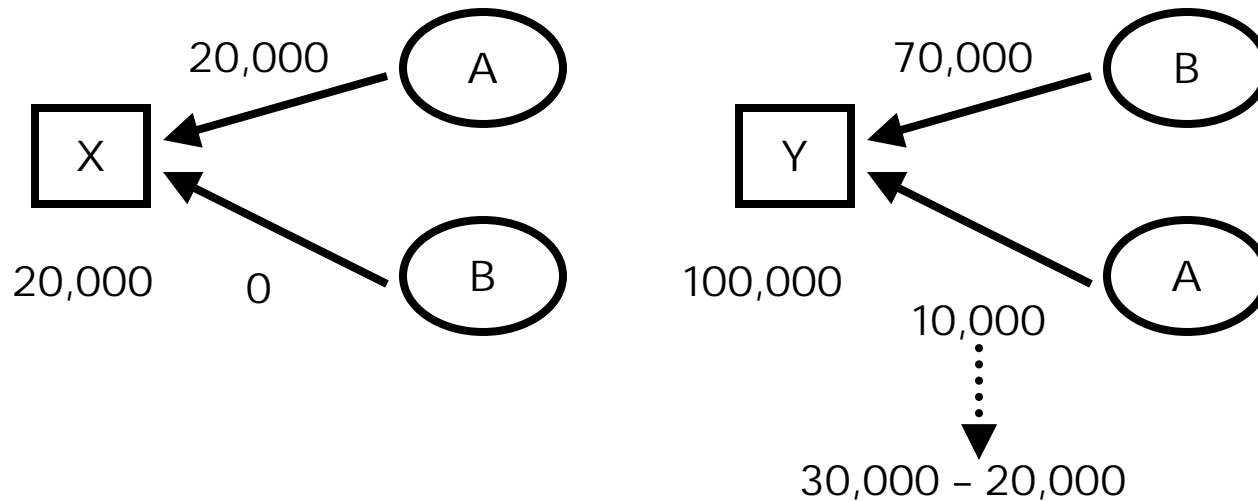
- Transferor company can transfer its loss items to more than one claimant company.
- Claimant company can claim loss items from more than one transferor company.
- Both transferor and claimant companies need to specify the order of priority.



RULES

Example

	(Loss items) / Assessable income	Priority
Transferor A	(30,000)	X, Y
Transferor B	(70,000)	X, Y
Claimant X	20,000	A, B
Claimant Y	100,000	B, A





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Group Relief Forms

- **Transferor company - Form GR-A**
 - To be filed together with Form C
 - State the priority of the claimant companies receiving the loss items
 - Final and irrevocable
- **Claimant company - Form GR-B**
 - To be filed together with Form C
 - State the priority of the transferor companies from which it wishes to claim the loss items
 - Final and irrevocable



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OPERATIONS

FORM GR-A

GROUP RELIEF FORM FOR TRANSFEROR COMPANY FOR YEAR OF ASSESSMENT

Important: Group relief is available to Singapore incorporated companies belonging to the same group and which have the same accounting year end.

This form must be submitted together with the Form C.

Please read the Group Relief guide before completing this form.

Please use separate forms if you have more than 5 claimant companies.

Part 1 Details of transferor company	
Name:	<input type="text"/>
Tax Ref No:	<input type="text"/>
Total loss items transferred ¹	<input type="text"/>

Part 2 Declaration	
<p>I declare that the ordinary shareholding levels of the relevant holding company are maintained at or above 75% during the continuous period² stated in Part 3 and all the information given in this form is true and complete. I understand that I need to retain my computation on the ordinary shareholding levels of the relevant holding company as the Comptroller of Income Tax may request for it.</p>	
_____	_____
Full name & signature of person making the return	Capacity of person making the return
_____	_____
Date	Telephone No

Part 3 Details of claimant companies in ascending order of priority			
Order	Details	Loss items transferred ³	Continuous period ²
<input type="text"/>	Name: _____ _____ _____ Tax Ref No: <input type="text"/>	Unutilised CA (NTR) <input type="text"/> Unutilised CA (CTR) <input type="text"/> Unutilised loss (NTR) <input type="text"/> Unutilised loss (CTR) <input type="text"/> Unutilised donation (NTR) <input type="text"/> Unutilised donation (CTR) <input type="text"/>	From: _____ dd/mm/yy To: _____ dd/mm/yy

¹ Total refers to the aggregate quantum of the loss items transferred as listed under Part 3.

² Continuous period refers to the period ending on the last day of the basis period during which the ordinary shareholding level of the relevant holding company is maintained at or above 75%.

³ The quantum to be completed here is based on tax computation submitted with Form C before S37B adjustment.

NTR = Normal corporate tax rate CTR = Concessionary tax rate



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OPERATIONS

FORM GR-B

GROUP RELIEF FORM FOR CLAIMANT COMPANY FOR YEAR OF ASSESSMENT

Important: Group relief is available to Singapore incorporated companies belonging to the same group that maintain at least 75% shareholdings and have the same accounting year.
This form must be submitted together with the Form C.
Please read the Group Relief guide before completing this form.
Please use separate forms if you have more than 7 transferor companies.

Part 1 Details of claimant company	
Name:	<input type="text"/>
Tax Ref No:	<input type="text"/>

Part 2 Declaration	
<p>I declare that the shareholding levels are maintained at or above 75% during the continuous periods¹ stated in Part 3 and all the information given in this form is true and complete. I understand that I need to retain my computation on the shareholding levels as the Comptroller of Income Tax may request for it.</p>	
Full name & signature of person making the return	Capacity of person making the return
Date	Telephone No

Part 3 Details of transferor companies in ascending order of priority			
Order	Name	Tax Ref No	Continuous period ¹
<input type="text"/>	<input type="text"/>	<input type="text"/>	From <input type="text"/> To <input type="text"/> dd/mm/yy dd/mm/yy
<input type="text"/>	<input type="text"/>	<input type="text"/>	From <input type="text"/> To <input type="text"/> dd/mm/yy dd/mm/yy
<input type="text"/>	<input type="text"/>	<input type="text"/>	From <input type="text"/> To <input type="text"/> dd/mm/yy dd/mm/yy
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¹ Continuous period refers to the period ending on the last day of the basis period during which the shareholding level is maintained at or above 75%



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2003

FORM C

Tax Ref No.

Comptroller of Income Tax 15 Market Road, Riverside Centre, Singapore 207581 Republic of Singapore Tel 656-3366622 http://www.iras.gov.sg	INCOME TAX RETURN (The Income Tax Act Cap. 134)	YEAR OF ASSESSMENT 2003
		The words "PRECEDING YEAR" mean the year ended 31st December 2002.

COMPANY'S PARTICULARS	Date
	Place where control and management is exercised
Accounting Year	

Important: Please read Explanatory Notes before completing Form

Please use this Form C to declare your income of the preceding year. The completed Form C **with** other relevant Forms should be returned by **31st July 2003**.

This Form must be accompanied by

- Audited Accounts
- Tax Computation & Supporting Schedules showing how the chargeable income is arrived at.

KOH CHER SIANG
Comptroller of Income Tax

I Please "X" in the following box(es), where applicable.

- 1 The company did not carry on business & had no income in the preceding year. (see NOTE A)
- 2 The auditors of the company had made a qualification to the audited accounts for the accounting year.
- 3 The company has transferred / claimed loss items under the Group Relief System. The Group Relief Form is attached.

II Declaration

I declare that this Return gives a full and true account of the whole of the income of the company for the preceding year.

Full name of person making the return	Capacity in which the return is made	Signature of person making the return/Date



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OPERATIONS

- **Estimated Chargeable Income**

May factor in the Group Relief

- **Completion of assessment**

Loss items will be transferred / setoff according to the order specified in Forms GR-A and GR-B

- **When assessments of transferor/claimant are revised**

Relevant revisions will be made to transferor companies' and claimant companies' assessments accordingly

OPERATIONS TRANSFEROR

When assessments of transferor company are revised from a position with loss items to a taxable position

- ◆ Any Form GR-A submitted previously would be set aside
- ◆ The new claimant company may claim for the loss items to be transferred via a Form GR-B to be submitted within 30 days from the Notice of Assessment
- ◆ The transferor company from which loss items are to be claimed by the new claimant company should also submit a Form GR-A within 30 days from the Notice of Assessment
- ◆ If the transferor company had previously submitted a Form GR-A, it cannot alter the ranking specified, but may add the new claimant company

OPERATIONS CLAIMANT

When assessments of claimant company are revised from a profit position to a position with loss items

- ◆ The new transferor company may submit a Form GR-A within 30 days from the Notice of Assessment to transfer the loss
- ◆ The claimant companies to which loss items are to be transferred by the new transferor company should also submit a Form GR-B within 30 days from the Notice of Assessment
- ◆ If the claimant companies had previously submitted a Form GR-B, they cannot alter the ranking specified, but may add the new transferor company



Calculation of exempt amount

INLAND REVENUE
AUTHORITY
OF SINGAPORE

	10%	22%
Adjusted profit/(loss) after unabsorbed CA b/f, current CA & unabsorbed loss b/f	(880,000)	480,000
S'pore franked dividend	0	20,000
Rental income	0	35,000
	(880,000)	535,000
S37B set-off	880,000	(400,000)
	0	135,000
Investment allowance		(80,000)
		55,000
Loss items transferred		(25,000)
		30,000
Exempt amount		(16,940)
Chargeable income		13,060

S37B set-off	400,000
Investment allowance	80,000
Loss items transferred	<u>25,000</u>
	<u>505,000</u>

Amt attributable to dividend
 $= 20,000 / 535,000 \times 505,000$
 $= 18,879$

Net dividend = $20,000 - 18,879$
 $= 1,121$

CI excluding net dividend
 $= 30,000 - 1,121 = 28,879$

Exempt amount:	
10,000 x 75%	7,500
<u>18,879</u> x 50%	<u>9,440</u>
<u>28,879</u>	<u>16,940</u>