

IRAS CIRCULAR

LOSS TRANSFER SYSTEM OF GROUP RELIEF



**INLAND REVENUE
AUTHORITY
OF SINGAPORE**

Published by
Inland Revenue Authority of Singapore

Published on 23 October 2002

First revision on 30 December 2002

Second revision on 30 June 2006. Second revision consist of the following amendments:

- sections quoted in the circular have been renumbered with reference to the Income Tax Act (revised edition 2004)
- paragraphs 8 and 11, footnote 8 and Example 1 of Annex 1A amended to reflect changes arising from the abolition of the concept of par value of shares, and the change to allow repurchased shares to be held as treasury shares, under the Companies (Amendment) Act 2005
- paragraph 32A and footnote 18 inserted to clarify that prior to YA 2007, transfer of unabsorbed industrial building allowances of section 10E companies under the group relief system was not permissible under the law
- editorial amendments made to paragraphs 24, 25, 30, 32 and footnotes 1, 4, 6, 13 to 17 and 25

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LOSS TRANSFER SYSTEM OF GROUP RELIEF

INTRODUCTION

On 3rd May 2002, DPM and Minister for Finance announced in his Budget Statement 2002 that a loss-transfer system of group relief for companies will be introduced with effect from Year of Assessment (YA) 2003. The objective of this corporate tax change is to encourage more risk taking and enterprise.

2 This circular provides details of the loss-transfer system of group relief (referred to hereinafter as “group relief system”).

CURRENT TAX TREATMENT OF CAPITAL ALLOWANCES, TRADE LOSSES AND DONATIONS

3 Currently, each company within a group exists as a single corporate legal entity, though it may be related by common shareholding to other companies within the same group. For income tax purposes, the tax liability of each company is separate and distinct from that of other companies within the same group. Consequently, any

- (a) capital allowance¹ in excess of all sources of income for any YA (hereinafter referred to as “unabsorbed capital allowances”) of a company within a group; or
- (b) trade loss² in excess of all sources of income for any YA (hereinafter referred to as “unabsorbed trade losses”) incurred by a company within a group

cannot be transferred to and deducted against assessable income³ of a related company within the same group. Unabsorbed capital allowances and trade losses, however, may be retained and carried forward within the same company for setoff in future YAs, subject to satisfaction of certain conditions, e.g. shareholding test under sections 23(4) and 37(12) of the Singapore Income Tax Act (revised edition 2004) (“ITA”).

¹ to be given under section 16, 17, 18A (repealed), 19, 19A, 19B, 19C, 19D or 20 of the Singapore Income Tax Act (revised edition 2004) (“ITA”) and includes any excess capital allowances from prior YAs

² including trade losses carried forward from prior YAs

³ In this circular, assessable income of a company refers to assessable income as determined under section 37, after deducting any investment allowance under part X of the Economic Expansion Incentive (Relief from Income Tax) Act (revised edition 2005) [EEIA].

4 Currently, a company can deduct the value of approved donations⁴ made in a basis period (i.e. calendar year for the purpose of tax deduction for approved donations) for a YA against its statutory income. However, any value of such donation in excess of the statutory income⁵ for a YA is disregarded and cannot be carried forward within the same company for deduction against its statutory income for future YAs. With effect from the YA 2003, the scope of tax deduction for approved donations has been enhanced. In addition to allowing double tax deduction for certain approved donations⁶, another feature of the enhancement is to allow the value of approved donation made by a company in a basis period for a YA which exceeds its statutory income (hereinafter referred to as “unabsorbed donations”) for that YA to be carried forward within the same company and set off against its statutory income for any subsequent YA up to a maximum of five YAs. Where a company is subject to tax at different tax rates, its approved donation for a YA will be attributed to the respective tax rate categories using the same basis of allocating common expenses to the different tax rate categories, unless otherwise prescribed. However, in the absence of the group relief system, such unabsorbed donations are not available for transfer and deduction against assessable income of a related company within the same group.

GROUP RELIEF SYSTEM AND EFFECTIVE DATE OF IMPLEMENTATION

5 The group relief system will be implemented with effect from the YA 2003. Under the group relief system, a company belonging to a group may transfer its current year unabsorbed capital allowances, current year unabsorbed trade losses and current year unabsorbed donations (collectively referred to hereinafter as “loss items⁷”) to another company belonging to the same group, to be deducted against the assessable income of the latter company. The transfer of loss items under the group relief system is hereinafter referred to as “group relief”.

6 Under the group relief system, a company with any loss item to be transferred to another company belonging to the same group will be referred to as the “transferor” company. The company that claims any loss item from another company

⁴ i.e. Donations in kind or cash to approved recipients as provided under sections 37(3)(b), 37(3)(c), 37(3)(d) and 37(3)(f) of ITA.

⁵ Defined as the income of any person for each year of assessment from each source of income.

⁶ All donations (whether in cash or kind) presently provided for under sections 37(3)(b) to (d) of ITA made by a company on or after 1 Jan 2002, or under section 37(3)(f) on or after 1 April 2003, would qualify for double tax deduction, except for those donations to IPCs with naming opportunities (i.e. where the recipient of the donation or any facility of the recipient of the donation e.g. building, scholarship, prize, etc. is named after a person) made prior to 1 January 2005. With effect from 1 January 2005, donations to IPCs with naming opportunities would also qualify for double tax deduction.

⁷ See paragraph 23 to 26 for further details of these items.

belonging to the same group for deduction against its assessable income will be referred to as the “claimant” company.

7 Group relief is:

- (a) available to companies belonging to the same group of companies as defined for the purpose of the group relief system (see paragraphs 8 to 14) and which have the same accounting year end (see paragraphs 15 to 16); and
- (b) confined to the loss items specified under paragraph 5 above; and
- (c) subject to the rules governing the order of transfer of loss items and the restriction on the quantum to be transferred (see paragraphs 17 to 45).

Group relief is also subject to compliance with administrative procedures spelt out in this circular and as the Comptroller of Income Tax (CIT) may from time to time impose under the group relief system. The details of these administrative procedures are spelt out in paragraphs 46 to 58.

DEFINITION OF GROUP COMPANIES

8 For the purpose of the group relief system, a group must consist of a Singapore incorporated company and its Singapore incorporated group members. Two Singapore-incorporated companies are members of the same group if

- (a) at least 75% of the total number of issued ordinary shares in one company are beneficially held, directly or indirectly⁸, by the other (i.e. the relevant holding company); or
- (b) at least 75% of the total number of issued ordinary shares in each of the two companies are beneficially held, directly or indirectly⁸, by a third Singapore incorporated company (i.e. the relevant holding company).

The above requirements of companies to constitute members of a group are considered met only if the two level tests set out in paragraphs 10 to 14 are met.

9 In determining ownership under the group relief system, any holdings by or through companies that are not incorporated in Singapore would be disregarded. In

⁸ Where a Singapore incorporated company beneficially owns directly or indirectly a fraction of the total number of issued ordinary shares of a second Singapore incorporated company which in turn beneficially owns directly or indirectly a fraction of the total number of issued ordinary shares of a third Singapore incorporated company, the Singapore incorporated company is deemed to have beneficial ownership of the number of issued ordinary shares of the third Singapore incorporated company equal to such fraction of the total number as results from the multiplication of those 2 fractions. This process may be followed through any number of companies.

other words, where there is a foreign incorporated company in the ownership chain, shareholdings by the foreign incorporated company will not be considered for the purpose of determining direct or indirect shareholdings under paragraph 8(a) or (b). Similarly, any direct or indirect shareholdings by an entity which is not a Singapore-incorporated company (e.g. a trade association, an individual, etc.) will also be disregarded. Examples illustrating when two or more Singapore-incorporated companies are members of the same group are provided in Annex 1.

Ordinary shareholding requirement (first level test)

10 When considering whether the 75% ordinary shareholding requirement under the group relief system is met, only ownership by virtue of ordinary shares will be taken into account. Since ownership is based on holdings of ordinary shares, a company with no share capital (e.g. a company limited by guarantee) would not qualify for group relief.

11 Under the group relief system, ordinary shares are all shares issued by a company apart from treasury shares [as defined in section 4(1) of the Companies Act (Chapter 50)] and shares that carry only a right to fixed dividends i.e. dividends payable based on

- (a) a fixed amount;
- (b) a fixed rate percentage of the value of the shares; or
- (c) a fixed rate percentage of the profits of the company.

In other words, for the purpose of the group relief system, ordinary shares are shares (other than treasury shares) which carry a right to share in profits of a company not based on a fixed quantum or a fixed rate percentage (i.e. shares which carry a right to variable profit participation). Therefore, shares which carry rights to fixed dividends as well as a right to participate in profits of the company remaining after payment of fixed dividends will be considered ordinary shares. On the other hand, shares which carry only a right to a fixed dividend but no right to variable profit participation would not be considered ordinary shares. In addition, shares that carry a right to fixed dividends, together with rights other than variable profit participation e.g. rights of conversion to shares of other description or rights to acquire new shares, are not ordinary shares.

Profits or assets available for distribution (second level test)

12 Besides satisfying the 75% ordinary shareholding requirement (paragraph 10), which is a first level test, the holders of these ordinary shares must also demonstrate, via a second level test, 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 of the company.

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

13 The term "equity holders" includes all holders of ordinary shares (i.e. all shares excluding shares that carry only a right to fixed dividends) in the company, as well as any creditors in respect of non-commercial loans⁹. Residual profits available for distribution to equity holders refer to the profits of the company that equity holders would be entitled to receive if a distribution of the company's profits is made. Accordingly, residual profits represent profits of the company

- (a) after deducting any fixed dividends on all shares (including any fixed dividends on ordinary shares);
- (b) but before deducting any non-fixed return on non-commercial loans and any non-fixed dividend on ordinary shares.

Where a company has no residual profits, a notional residual profit of \$100 is used for the purpose of calculating equity holders' notional entitlement.

14 Similarly, residual assets available for distribution to equity holders refer to net assets of the company upon a notional winding up, after distribution to commercial loan creditors and shareholders other than ordinary shareholders. If the company has negative residual assets, notional residual assets of \$100 will be used for purposes of the calculation. The beneficial entitlement of the ordinary shareholders and non-commercial loan creditors to the notional residual assets of \$100 will be determined based on the ratio of sharing residual assets agreed amongst the equity holders (which is generally based on the respective values of the ordinary shares held and the principal values of the non-commercial loans). In the event that the company has positive residual assets, the ordinary shareholders' percentage entitlement to residual assets will be determined based on the actual value of residual assets distributable to them in a notional winding up. The application of the first and second level tests (i.e. ordinary shareholding requirement and profits/assets test) is illustrated in Annex 1A.

⁹ Non-commercial loans are any borrowings other than commercial loans. Commercial loans are any borrowings which entitle the creditor to only a fixed return i.e. a return payable at a fixed amount, a fixed rate percentage (including a specified floating rate) of the principal value of the loan, or a fixed rate percentage of the profits of the company which obtained the loan. In other words, non-commercial loans are any borrowings which entitle the creditor to variable profit participation in a company.

REQUIREMENT FOR GROUP COMPANIES TO HAVE SAME ACCOUNTING YEAR END

15 In addition to satisfying the definition of group companies described above, members of the same group must have the same accounting year end to qualify for group relief. This is in view that group companies are usually required to have the same accounting year end for financial reporting purposes, and the requirement will also simplify compliance under the group relief system. The combined effect of the two requirements is that two companies with different accounting year end will not be eligible for transfer of loss items between themselves, even if they are members of the same group within the definition stated under paragraphs 8 to 14.

16 The requirement for members of the same group to have the same accounting year end is only applicable between a transferor company and claimant company. In other words, if a transferor company (A) and claimant company (B) are related indirectly through a third company (C) within the same group, the third company (C) need not have the same accounting year end if it is neither transferring its loss items to (B) nor claiming a tax deduction in respect of loss items from (A). Only the transferor company (A) and claimant company (B) are required to have the same accounting year end to qualify for transfer of loss items between themselves. The requirement for members of the same group to have the same accounting year end is illustrated in Annex 2.

APPLICATION OF ORDINARY SHAREHOLDING TEST

17 In determining whether companies meet the shareholding threshold under the group relief system and hence are eligible to transfer loss items between themselves, reference is made to the ordinary shareholding (direct or indirect) held by the relevant holding company. Accordingly,

- (a) where a group comprises two companies in which one is directly or indirectly owned by the other (i.e. the relevant holding company), the eligibility to transfer loss items between these companies is dependent on the ordinary shareholding level (direct or indirect) of the relevant holding company in the former company.
- (b) where a group comprises two companies, both of which are owned directly or indirectly by a third Singapore incorporated company (i.e. the relevant holding company), the eligibility to transfer loss items between these two companies is dependent on the ordinary shareholding level (direct or indirect) of the relevant holding company in both companies.

18 Under the group relief system, loss items for a basis period of any YA can be transferred fully¹⁰ between two companies even if the ordinary shareholding level of the relevant holding companies (see paragraphs 17(a) and (b) above) is not 100%, as long as such shareholding level is maintained at or above 75% throughout the basis period for the YA.

19 Where the ordinary shareholding level of the relevant holding company falls below 75% at any time during the basis period for a YA, loss items attributable to the period prior to such time cannot be transferred under the group relief system between the companies referred to under paragraph 17(a) and (b) above. This is because, when the ordinary shareholding level falls below 75%, the companies are no longer considered as members of the same group for the purpose of the group relief system. Therefore, if the ordinary shareholding level of the relevant holding company on the last day of the basis period for a YA falls below 75%, any loss item arising during the basis period for that YA cannot be transferred under the group relief system. This is notwithstanding that there may be periods during the basis period when the ordinary shareholding level is maintained at or above 75%.

20 Where the ordinary shareholding level of the relevant holding company is maintained at or above 75% on the last day of the basis period for a YA, but had fallen below 75% during the basis period for the YA, the transfer of loss items between the companies referred to under paragraph 17(a) and (b) above may be effected for that YA, but on a limited basis. The amount of loss items allowed to be transferred or claimed is restricted¹¹ to the amount applicable (generally determined on a pro-rated basis) to the continuous period ending on the last day of that basis period during which the relevant holding company's ordinary shareholding level is maintained at or above 75% (hereinafter referred to as the "continuous period").

21 In addition, where two companies are owned directly or indirectly by another relevant holding company (i.e. paragraph 17(b) above) and the length of the continuous periods for both companies do not coincide, only the amount of loss items attributable to the shorter of the two continuous periods can be transferred from one company to the other.

22 Examples of how these requirements are applied are shown in Annex 3.

¹⁰ This is applicable only if both the transferor and claimant companies have the same basis period, and the quantum of loss items allowed to be transferred is limited by the available assessable income of the claimant company (see paragraph 41 for more details). Paragraph 41 also spells out how the quantum of loss items allowed to be transferred is computed where the transferor and claimant companies have different basis periods.

¹¹ The quantum of loss items allowed to be transferred is limited by the available assessable income of the claimant company (see paragraph 41 for more details).

ITEMS ALLOWABLE FOR TRANSFER UNDER THE GROUP RELIEF SYSTEM

23 As mentioned under paragraph 5, the loss items available for transfer under the group relief system comprise current year unabsorbed capital allowances, current year unabsorbed trade losses, and current year unabsorbed donations.

24 Current year unabsorbed capital allowances (which arise where a company has insufficient income for a particular YA against which capital allowances specified under sections 16, 17, 18A (repealed), 19, 19A, 19B, 19C, 19D and 20 of the ITA may be deducted) may be transferred to and deducted against the assessable income for the same YA of a member of the same group. Notwithstanding the transfer, as capital allowances have been made to the transferor company, such capital allowances that have been transferred by the transferor company will be taken into account when computing any balancing charge or allowance arising upon disposal or write-off in subsequent YAs of any asset giving rise to the capital allowance.

25 Where the trade loss incurred by a company for a YA exceeds the company's other sources of income for that YA, the excess (i.e. current year unabsorbed trade losses) may be transferred to and deducted against assessable income for the same YA of a member of the same group, as long as the trade loss, if it had been a profit, would have been assessable to tax in Singapore as income of the transferor company (whether at the normal corporate tax rate or at concessionary tax rates).

26 Current year unabsorbed trade losses of Singapore incorporated companies (for the purpose of the group relief system) do not include losses that are attributable to the operations of their foreign branches. In addition, for the avoidance of doubt, investment allowance given under the Economic Expansion Incentives (Relief from Income Tax) Act (revised edition 2005) [EEIA] will not be available for transfer under the group relief system.

SPECIFIC EXCLUSIONS

Loss items in respect of income wholly exempt from tax

27 Current year unabsorbed capital allowance, trade loss and donation of a company whose income from its trade or activity is wholly exempt from tax [e.g. income from an activity of a pioneer enterprise approved under section 5(2) of the EEIA] will continue to be deducted only against such exempt income within the same company and would not be available for transfer under the group relief system. Even if there are provisions for such loss items to be deducted against other non-exempt income within the same company (i.e. income taxed at normal or concessionary tax rates) at the end of the incentive period (for example, under the pioneer incentive), such loss items are not available for transfer to other group companies under the group relief system.

Loss items in respect of specific categories of activities or trade

28 In addition, where there are rules that restrict the deduction of current year capital allowances and trade losses from specific categories of activities or trade against income from such activities or trade (e.g. income from finance leases¹² taxable under section 10D of ITA, income from business of hiring out motor cars under section 10H of ITA, etc.), such unabsorbed capital allowances or trade losses are not available for transfer under the group relief system.

Companies enjoying certain incentives

A) Investment in new technology company

29 An approved technology company¹³ under the “Investments in New Technology Companies Incentive Scheme” is not eligible for group relief. Therefore, such a company cannot avail itself of the group relief system and cannot transfer its loss items to another member of the same group, nor can the company claim loss items from another member of the same group, to be deducted against its own assessable income.

B) Enterprise Investment Incentive Scheme and Overseas Investment and Venture Capital Incentives

30 Similarly,

- (a) a start-up company approved¹⁴ under the “Enterprise Investment Incentive Scheme”;
- (b) a venture company or a technology investment company approved¹⁵ under the “Venture Capital Incentive Scheme”; and
- (c) an overseas investment company approved¹⁶ under the “Overseas Investment Incentive Scheme”

are also not eligible for group relief. These companies cannot avail themselves of the group relief system to transfer their loss items to another member of the same group, nor can they receive loss items from another member of the same group, to be deducted against their own assessable income.

¹² entered into on or after 1st April 1990

¹³ under section 94(2) (repealed) of the EEIA

¹⁴ under section 97T(2) of the EEIA

¹⁵ under section 97B(2) (repealed) and section 97C(2) (repealed) of the EEIA

¹⁶ under section 97C(4) (repealed) of the EEIA

31 An eligible investor company holding qualifying shares in the companies specified under paragraph 30 above, or an eligible investment company¹⁷ holding shares in an overseas company, may incur capital loss upon

- (a) the sale of its qualifying shares; or
- (b) the liquidation of the companies specified under paragraph 30 or an overseas company.

Under the respective incentive schemes, the eligible investor company is allowed to deduct such capital loss in the same manner as a loss incurred from a trade or business carried on by the eligible investor company. Nevertheless, any unabsorbed amount of such loss shall not be eligible for transfer under the group relief system. Apart from this restriction, the eligible investor company qualifies for group relief in all other respects (i.e. it can claim loss items from and transfer such items to other members of the same group).

Section 10E companies

32 A company deriving income from the business of the making of investments and subject to tax in accordance with section 10E of the ITA is eligible for group relief only to a limited extent. Any of its excess

- (a) outgoings and expenses, and
- (b) capital allowance granted under sections 19, 19A, 20 and 21 of the ITA

over income derived from income-producing investments in any year (which are currently not allowed to be carried forward) would not be eligible for transfer under the group relief system. Unabsorbed donations of such companies may, however, be transferred to members of the same group under the group relief system. The company is also eligible to claim loss items from another member of the same group, for deduction against its own assessable income.

32A Notwithstanding paragraph 32 above, based on section 37C(15)(a) of the ITA read together with section 37C(14)(a), a company which is subject to the provisions of section 10E is not eligible to transfer its unabsorbed industrial building allowance (which is granted under sections 16 and 17 of the ITA) to members of the same group under the group relief system. However, the transfer of such unabsorbed industrial building allowance will be allowed with effect from YA 2007. Section 37C(14)(a) has been amended as part of the draft 2006 Income Tax (Amendment) Bill¹⁸ to support this position.

¹⁷ approved under section 97G(2) (repealed) of the EEIA

¹⁸ The draft 2006 Income Tax (Amendment) Bill is put out for public consultation for the period from 9 June 2006 to 8 July 2006. The said Bill can be downloaded from the Ministry of Finance website www.mof.gov.sg.

TRANSFER RULES UNDER GROUP RELIEF SYSTEM

A) Existing order of setoff of capital allowances, losses and donations within a company

33 Currently, in determining the income chargeable to tax for a company, the following items will be set off against gains or profits from all sources of the company in the following order:

- (a) capital allowances brought forward from a prior YA¹⁹ (due to insufficiency of statutory income of a prior YA) followed by capital allowances for current YA;
- (b) trade losses brought forward from a prior YA (due to insufficiency of statutory income of a prior YA) followed by trade losses²⁰ for current YA;
- (c) approved donations for current YA²¹.

34 Where a company has chargeable income in the normal tax rate category (i.e. income subject to tax at the normal corporate tax rate) and loss items in respect of concessionary income (i.e. income subject to tax at the concessionary tax rate) or vice versa, the adjustment stipulated under section 37B²² of ITA will currently be applied within the company for set-off across income chargeable under these two tax rate categories.

B) Order of setoff within a transferor company or claimant company to remain the same under the group relief system

35 Notwithstanding the introduction of the group relief system, the current order of setoff within a company as explained in paragraph 33 above and the section 37B

¹⁹ Where capital allowances or trade losses are brought forward from more than one prior YA, the balance of allowances or trade losses for the earliest YA shall be deducted first, followed by the balance of allowances or trade losses for the next earliest YA, and so on.

²⁰ Where an eligible investor company specified in paragraph 31 has both trade losses as well as capital losses arising from the sale of its qualifying shares or the liquidation of its investments in specified companies, it may set off its capital losses before its trade losses when determining the quantum of loss items available for transfer under the group relief system.

²¹ In view of the enhancement of the scope of tax deduction for donations as explained in paragraph 4, with effect from YA 2004, donations brought forward from prior YAs (due to insufficiency of statutory income of a prior YA) will also be available for set off against the statutory income of the company in future YAs. Set off of such donations brought forward from a prior YA shall be effected before the set off of current year donations. Where donations are brought forward from more than one prior YA, the balance of donations for the earliest YA shall be deducted first, followed by the balance of donations for the next earliest YA, and so on.

²² With effect from YA 2003, Section 37B of ITA will also be applicable to the setoff of unabsorbed allowances, losses and donations in respect of income of a company subject to tax at a concessionary rate of tax against chargeable income of the company subject to tax at another concessionary rate of tax.

adjustment explained in paragraph 34 above, will continue to apply in arriving at a claimant company's assessable income, or ascertaining a transferor company's loss items. Through applying the order of setoff, a transferor company will not be able to pick and choose the category of loss item to be transferred. The type of loss item, as well as the quantum that can be transferred is dependent on the circumstances of the company in terms of the quantum of each loss item, its unabsorbed capital allowance, trade loss and donation brought forward from prior YAs and its current year income.

36 The example below illustrates the order of setoff that a transferor company has to follow under the group relief system.

| 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) | Not a Loss Item NIL |
| <u>Trade Losses</u> Brought forward from prior YA Current year | (\$40,000) - | Not a Loss Item |

In this example, after deducting capital allowances brought forward from prior YA of \$60,000, the company has a net trade income of \$40,000. Although it has current year capital allowances (which can be transferred under the group relief system if it is not utilised as well as trade losses brought forward from a prior YA (which cannot be transferred under the group relief system), it cannot choose to utilise the trade losses brought forward from the prior YA for set off against its net trade income of \$40,000, so that it can transfer its current year capital allowances (i.e. \$35,000) under the group relief system. As a result of applying the set off rules stipulated under paragraph 33 (i.e. fully utilising the current year capital allowance of \$35,000 before utilising part of its trade loss brought forward from prior YA), the company will have no loss item for transfer to another member of the same group.

C) Order of transfer of loss items under group relief system

37 If a transferor company has loss items for transfer after application of the existing rules for the order of setoff, the loss items are to be transferred under the group relief system in the following order:

- (a) first, current year unabsorbed capital allowances, if any;
- (b) second, current year unabsorbed trade losses, if any; and
- (c) lastly, current year unabsorbed donations, if any

Where, within each category of loss item, there are amounts relating to income subject to tax at more than one rate of tax, any amount relating to income subject to tax at the higher rate of tax will be transferred first, followed by the amount relating to income subject to tax at a lower rate of tax (subject to the adjustment specified under section 37B of ITA, if applicable).

38 The utilisation of loss items under the group relief system against the assessable income of a claimant company (remaining after the existing setoff rules for capital allowances, losses and approved donations are applied within the claimant company) will be made in the following order:

- (a) current year unabsorbed capital allowances transferred in under the group relief system;
- (b) current year unabsorbed trade losses transferred in under the group relief system; and
- (c) current year unabsorbed donations transferred in under the group relief system.

Where a claimant company has assessable income subject to tax at more than one rate of tax, the loss items will be transferred in according to the order spelt out above and deducted, first against assessable income of the claimant company subject to tax at the higher rate of tax, followed by assessable income of the claimant company subject to tax at the lower rate of tax (subject to the adjustment specified under section 37B of ITA, if applicable).

39 Under the New Corporate Tax Regime²³ which accords partial tax exemption to a company, an amount up to \$52,500²⁴ of a company's normal chargeable income (i.e. income subject to tax at the normal corporate tax rate) may be exempt from tax. For the purpose of determining a claimant company's normal chargeable income based on which such partial tax exemption is computed, the amount after deduction of items (a) to (c) as spelt out in paragraph 38 should be used. In addition, when computing partial tax exemption, the tax attributable to Singapore dividend has to be determined. To do so, a proportionate amount of the items (a) to (c) would also be attributed to the Singapore dividend received by the claimant company. Annex 4 provides worked examples to illustrate the concepts in paragraphs 33 to 39.

²³ Please refer to IRAS Circular on New Corporate Tax Regime dated 23 February 2001 and subsequent clarification materials dated 14 December 2001.

²⁴ i.e. 75% of the first \$10,000 of chargeable income (excluding Singapore dividends) [\$7,500] and 50% of the next \$90,000 [\$45,000].

D) Quantum of loss items to be transferred under group relief system

40 As mentioned in paragraph 18, a transferor company may transfer 100% of its loss items to a claimant company within the same group under the group relief system, notwithstanding that the ordinary shareholding level (direct or indirect) of the relevant holding company is less than 100%, as long as such shareholding level is maintained at or above 75% throughout the basis period for a YA. If the ordinary shareholding level is not maintained at or above 75% throughout the basis period for a YA, but is maintained at or above 75% on the last day of the basis period for a YA, the availability of loss items for transfer by the transferor company is subject to rules prescribed in paragraph 20. The quantum of loss items that can be transferred is also subject to the available assessable income of the claimant company.

41 Based on the above, the quantum of each loss item of a transferor company that may be transferred (in the order stated in paragraphs 37 and 38) to a particular claimant company for any year of assessment is the lower of:

- (a) the available assessable income of the claimant company, determined based on:

$A/B \times C$; or

- (b) the available quantum of loss item of the transferor company, determined based on:

$A/D \times E$,

- where
- A is the number of days in the continuous period ending on the last day of the basis period for that year of assessment during which the companies were members of the same group, or where the continuous periods of the transferor and claimant companies are different, reference is made to the number of days in the shorter of the continuous periods;
 - B is the number of days in the basis period of the claimant company for that year of assessment;
 - C is the assessable income of the claimant company for that year of assessment;
 - D is the number of days in the basis period of the transferor company for that year of assessment; and
 - E is the amount of loss items of the transferor company for that year of assessment.

42 Subject to the above conditions, any excess amount of the loss items that cannot be transferred due to insufficient available assessable income of claimant companies in the group will be retained within the transferor company. Such excess loss items will be carried forward within the transferor company for setoff in future YAs, subject to the conditions imposed under the ITA (e.g. shareholding test, etc.). In particular, the carry forward of unabsorbed donations, which is subject to a maximum of 5 YAs, will apply to unabsorbed donations of transferor companies that are not transferred out under the group relief system.

TRANSFER OF LOSS ITEMS TO MORE THAN ONE CLAIMANT COMPANY

43 Where a transferor company wishes to transfer its loss items to more than one claimant company, the transfer rules as stated under paragraphs 35 to 42 remain applicable. In such cases, the loss items must be fully set off against available assessable income of the first claimant company in accordance with the transfer rules before any excess loss items are set off against the available assessable income of the second claimant company and so on. Pursuant to this rule, the transferor company must specify the priority in which the claimant companies within the same group are to receive the loss items.

44 Similarly, a claimant company may claim loss items from one or more transferor companies within the same group. Where a claimant company claims loss items from more than one transferor company, it must specify the priority of the transferor companies from which it wishes to claim such loss items. The loss items transferred from the first transferor company must be fully deducted against the assessable income of the claimant company before loss items may be transferred from a second transferor company to be deducted against the remaining assessable income of the claimant company.

45 Since a claimant company may claim loss items from more than one transferor company, and the loss items of a transferor company may be transferred to more than one claimant company,

- (a) where a claimant company claims loss items from more than one transferor company, the available assessable income of the claimant company to utilise loss items from any transferor company, for the purpose of paragraph 41(a), will be

$$(A/B \times C) - F$$

where F is the aggregate of the amount of loss items previously claimed from any other transferor company for the same year of assessment, if any; and

(b) where a transferor company transfers loss items to more than one claimant company, the available loss items of the transferor company to be transferred to any claimant company, for the purpose of paragraph 41(b), will be

$(A/D \times E) - G$

where G is the aggregate of the amount of loss items previously transferred to any other claimant company for the same year of assessment, if any.

The effects of the requirements under paragraphs 43 and 44 are illustrated in Annex 5.

ADMINISTRATIVE REQUIREMENTS FOR APPLICATION OF GROUP RELIEF

46 Companies wishing to transfer loss items under the group relief system to members of the same group are required to make an application by submitting a prescribed form²⁵ [hereinafter referred to as the group relief form A (“Form GR-A”) – specimen copy at Annex 6A] together with their annual tax returns to CIT. Such an application is final and irrevocable. Failure to furnish Form GR-A at the time of submission of annual tax returns for any YA will disqualify the company from group relief for that YA.

47 Where a transferor company wishes to transfer its loss items to more than one claimant company, it must specify the priority in which the claimant companies within the same group are receiving the loss items in Form GR-A. This will ensure that the transfer is effected according to the priority (see paragraph 43) specified. The priority as stated in Form GR-A cannot be altered once the form has been submitted. Where a transferor company, in determining the priority, is unable to ascertain the exact number of claimant companies to which it intends to transfer its loss items (due to the final tax positions of the transferor company or the claimant companies being subject to agreement), it may specify a list of claimant companies even though the combined provisional assessable income of these companies is higher than the provisional quantum of loss items available for set off. This will ensure that where the quantum of loss items of the transferor company is subsequently increased, or where the assessable income of any of the claimant company is subsequently reduced, the transferor company may be able to transfer its loss items to the extent possible to the remaining claimant companies in the order of priority listed in its Form GR-A.

²⁵ The prescribed form can be downloaded from IRAS website (<http://www.iras.gov.sg>). Alternatively, a fax copy of the form can be requested via the Corporate Tax Integrated Phone Service @ 1800-356-8622.

48 A claimant company which intends to claim group relief is also required to make an application by submitting a prescribed form [hereinafter referred to as the group relief form B (“Form GR-B”) – specimen copy at Annex 6B] together with its annual tax returns to CIT. Such an application is final and irrevocable. In the case where the claimant company claims group relief from more than one transferor company, it must also state the priority of the transferor companies within the same group from which it wishes to claim loss items under the group relief system. Similarly, the priority specified in Form GR-B cannot be altered. Failure to furnish Form GR-B at the time of submission of annual tax returns for any YA will disqualify the claimant company from group relief for that YA. Where the claimant company, in determining the priority of transferor companies from which it wishes to claim loss items, is unable to ascertain the exact number of transferor companies (due to the final tax positions of the claimant company or the transferor companies being subject to agreement), it may specify a list of transferor companies even though the combined provisional quantum of loss items of the transferor companies available for set off is higher than the provisional assessable income of the claimant company. This will ensure that where the assessable income of the claimant company is subsequently increased, or where the quantum of loss items of any of the transferor companies is subsequently reduced, the claimant company may be able to claim loss items to the extent possible from the remaining transferor companies in the order of priority listed in its Form GR-B.

49 Where, due to inconsistency in the order of priority specified by a transferor company and the claimant company receiving loss items from it, a transfer of loss items cannot be effected in accordance with the priority specified by both parties, the order of priority specified by the transferor company will take precedence over the order of priority specified by the claimant company. See Annex 6C for an illustration of this scenario.

Claim for Group Relief in submission of estimated chargeable income and tax computations, and timing of submission of claim for Group Relief

(a) Estimated Chargeable Income (“ECI”)

50 Companies that qualify for group relief may factor in the effect of group relief in the computation of their estimated chargeable income (“ECI”) for each YA²⁶. The quantum of group relief may be based on the provisional tax computations of both the claimant company and the transferor company at the time of submission of ECI. However, Form GR-A and Form GR-B are not required to be furnished at this stage.

(b) Tax Computations

51 A formal application for group relief must be made (see paragraphs 46 to 48) by both transferor and claimant companies to CIT when they file their annual tax

²⁶ to be furnished to CIT within 3 months after the end of the accounting period relating to that YA

returns. This is done by completing Form GR-A (transferor company) or GR-B (claimant company). The quantum of loss items to be transferred under the group relief system at the time of submission of Forms GR-A or GR-B may be based on the tax computations submitted to CIT of each member company within the group. Notwithstanding this, the quantum of group relief to be allowed is conditional upon the completion of the tax assessments of the transferor and claimant companies within the group. Therefore, the quantum of group relief may have to be adjusted whenever the tax assessments of the transferor and claimant companies are revised. The transferor and claimant companies are not required to submit revised Form GR-A or GR-B whenever there is a revision of an assessment.

52 Once the tax assessment of the transferor company has been completed, CIT will transfer the appropriate quantum of the loss items based on the priority in which loss items are to be transferred from the transferor company to the claimant companies within the group as specified in the Form GR-A and GR-B submitted to CIT. The loss items will be fully set off against the assessable income of the first claimant company in the list, and if there is any balance, an appropriate quantum will be transferred to the next specified claimant company, for set off against this claimant company's assessable income, and so on.

53 If additional/amended assessments are subsequently made on any of the claimant companies that have received loss items from the transferor company, CIT will revise the quantum of loss items to be transferred by the transferor company to each claimant company based on the specified list of priority of the transferor and claimant companies in Form GR-A or GR-B.

54 Alternatively, when it is determined that loss items of the transferor company available for transfer under the group relief system is a higher or lower amount, relevant revisions will also be made to the assessments of the claimant companies in the order specified by the transferor and claimant companies in Form GR-A or GR-B.

Where assessable income of claimant company is reduced to a loss upon completion of tax assessment

55 If a claimant company's assessable income for a YA as shown in its tax computation is subsequently reduced to a current year unabsorbed loss, capital allowance and/or donation for that YA upon completion of its tax assessment, it would have loss items that it may wish to transfer under the group relief system. Under the rules spelt out in paragraph 46, this company would be unable to transfer its loss items to a related company within the same group since it did not furnish Form GR-A at the time of submission of its annual tax return for that YA (due to the fact that its tax computation at that time would have shown that it had assessable income for that YA).

56 In order not to penalise a company in this situation (hereinafter referred to as a “new transferor company”), it is allowed to submit Form GR-A within 30 days from the date of the notice of assessment which shows that it has loss items available for transfer for that YA. The claimant companies to which the loss items are to be transferred must also submit Form GR-B in relation to the loss items to be received from the new transferor company within 30 days from the date of the said notice of assessment. If the claimant companies had previously submitted Form GR-B specifying the priority of transferor companies from which they would receive loss items for that YA, they cannot alter the original priority specified in the form submitted previously, but may only add on the new transferor company to this list after the transferor companies originally specified. If either Form GR-A or Form GR-B (new or revised) is not submitted within 30 days from the date of the said notice of assessment, transfer of loss items from the new transferor company to the relevant claimant companies is not allowed.

Where loss of transferor company is adjusted and gives rise to assessable income upon completion of tax assessment

57 On the other hand, a transferor company may have loss items available for transfer under the group relief system based on its tax computation for a YA submitted to CIT. However, its tax computation may be adjusted subsequently, giving rise to assessable income for that YA. In such a case, any Form GR-A previously furnished by this company (hereinafter referred to as “new claimant company”) for that YA would be set aside.

58 Nevertheless, the new claimant company may submit a new Form GR-B for that YA if it wishes to receive loss items for that YA from another transferor company within the same group. The new Form GR-B must be submitted within 30 days from the date of the notice of assessment showing that it has assessable income for that YA. The transferor companies from which loss items will be claimed by the new claimant company may also submit Form GR-A within 30 days from the date of this notice of assessment. If a transferor company in the same group as the new claimant company had previously submitted Form GR-A specifying the priority of claimant companies to which it would transfer loss items, it cannot alter the original priority specified in the form submitted previously, but may add on the new claimant company to this list after the claimant companies originally specified. If either Form GR-A (new or revised) or Form GR-B is not submitted within 30 days from the date of the said notice of assessment, transfer of loss items from the relevant transferor companies to the new claimant company is not allowed.

ANTI-AVOIDANCE MEASURE

59 Notwithstanding the above paragraphs, where CIT discovers that any transfer or claim of loss items under the group relief system has become excessive, he may make an assessment on the amount which should rightly be charged to tax. For

example, a transferor company that anticipates losses on some of its existing projects that have yet to be recognised in the profit and loss accounts may be acquired by another company with the intent of claiming the loss items that the acquired company will recognise after the acquisition under the group relief system. In such instances, CIT may, according to the best of his judgement, determine the quantum of loss items that had already been incurred by the transferor company prior to being acquired and deny the transfer of this amount. This is for purposes of countering tax avoidance schemes aimed at exploiting the group relief system.

PAYMENTS MADE BY A CLAIMANT COMPANY TO A TRANSFEROR COMPANY FOR TRANSFER OF LOSS ITEMS – SUBVENTION PAYMENTS

60 For tax purposes, there is no requirement that a claimant company receiving the benefit of a deduction under group relief should pay for such a benefit. Nevertheless, a compensatory payment may be made by the claimant company in recognition of the rights of minority shareholders of the transferor company. Where such a payment is made by a claimant company for the benefit of claiming loss items transferred to it by a transferor company under the group relief system, the payer (i.e. the claimant company) would not be entitled to claim a tax deduction in respect of such a payment, while the recipient (i.e. the transferor company) would not be subject to tax on such a payment.

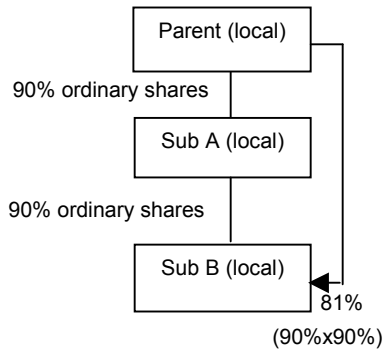
ENQUIRIES

61 Clarifications on the contents of this circular may be directed to IRAS at 1800-356 8622.

Inland Revenue Authority of Singapore

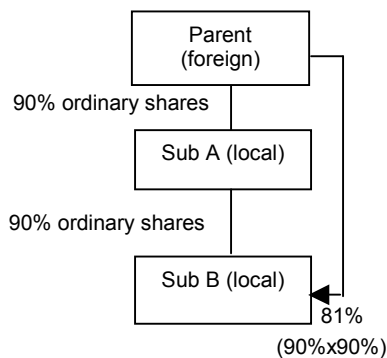
Illustration of whether two or more Singapore-incorporated companies are members of the same group

Example 1



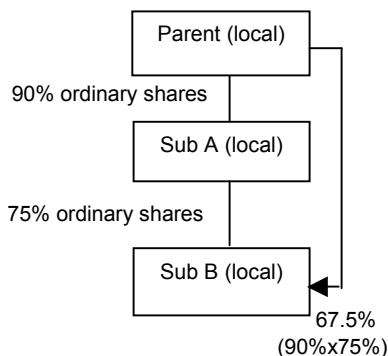
| Companies | Same group? | Rationale |
|------------------------|-------------|--|
| Parent (L) & Sub A (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |
| Parent (L) & Sub B (L) | Yes | Meet threshold limit of indirect shareholding of 75% ordinary shares |
| Sub A (L) & Sub B (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |

Example 2



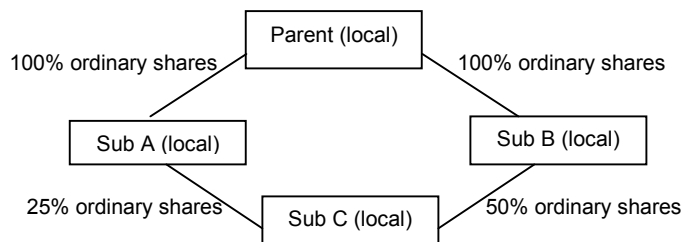
| Companies | Same group? | Rationale |
|------------------------|-------------|---|
| Parent (F) & Sub A (L) | No | Direct shareholding of the parent (F), being a direct shareholding by a foreign incorporated company, is disregarded |
| Parent (F) & Sub B (L) | No | Indirect shareholding of the parent (F), being an indirect shareholding by a foreign incorporated company, is disregarded |
| Sub A (L) & Sub B (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |

Example 3



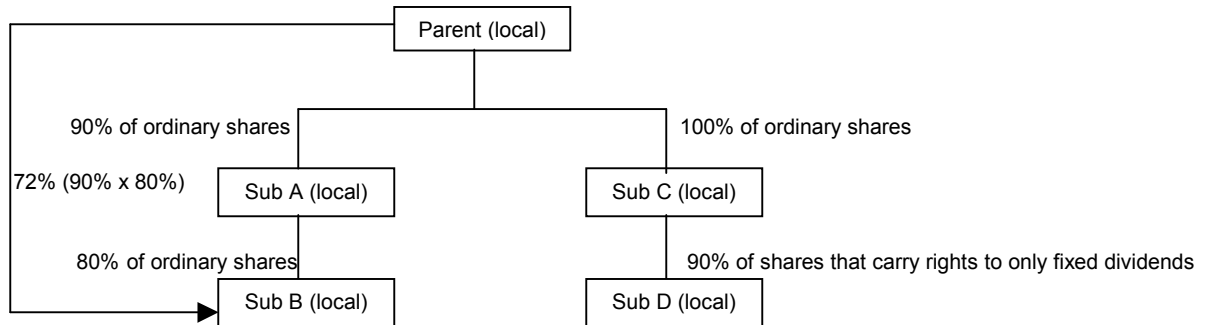
| Companies | Same group? | Rationale |
|------------------------|-------------|---|
| Parent (L) & Sub A (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |
| Parent (L) & Sub B (L) | No | Does not meet threshold limit of indirect shareholding of 75% ordinary shares |
| Sub A (L) & Sub B (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |

Example 4



| Companies | Same group? | Rationale |
|--|-------------|---|
| Parent (L) & Sub A (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |
| Parent (L) & Sub B (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |
| Parent (L) & Sub C (L) [Shareholding = (100%x25%) + (100%x50%) i.e. 75%] | Yes | Meet threshold limit of indirect shareholding of 75% ordinary shares |
| Sub A (L) & Sub C (L) | Yes | Both Sub A (L) and Sub C(L) are at least 75% owned, directly or indirectly, by Parent (L) |
| Sub B (L) & Sub C (L) | Yes | Both Sub B (L) and Sub C(L) are at least 75% owned, directly or indirectly, by Parent (L) |
| Sub A (L) & Sub B (L) | Yes | Both Sub A (L) and Sub B(L) are at least 75% owned by Parent (L) |

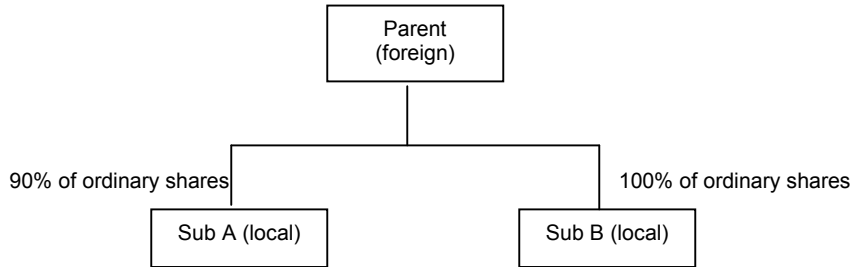
Example 5



- Sub D (local) is not part of the group for the purpose of the group relief system as its relationship with the Sub C (local) is via shareholdings in shares that carry rights to only fixed dividends and not via shareholdings in ordinary shares.

| Companies | Same group? | Rationale |
|------------------------|-------------|---|
| Parent (L) & Sub A (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |
| Parent (L) & Sub B (L) | No | Does not meet threshold limit of indirect shareholding of 75% ordinary shares |
| Parent (L) & Sub C (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |
| Parent (L) & Sub D (L) | No | Parent(L)'s indirect shareholding in Sub D (L) is not considered under the group relief system since Sub D (L) is owned by Sub C (L) via shares other than ordinary shares |
| Sub A (L) & Sub B (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |
| Sub A (L) & Sub C (L) | Yes | Both Sub A (L) & Sub C (L) are at least 75% owned by Parent (L). |
| Sub A (L) & Sub D (L) | No | Parent(L)'s indirect shareholding in Sub D (L) is not considered under the group relief system since Sub D (L) is owned by Sub C (L) via shares other than ordinary shares |
| Sub B (L) & Sub C (L) | No | Sub B (L) is not owned indirectly by Parent (L) by 75% or more through Sub A(L) |
| Sub B (L) & Sub D (L) | No | Parent(L)'s indirect shareholding in Sub D (L) is not considered under the group relief system since Sub D (L) is owned by Sub C (L) via shares other than ordinary shares. In addition, Sub B (L) is not owned indirectly by Parent (L) by 75% or more through Sub A (L) |
| Sub C (L) & Sub D (L) | No | Sub C(L)'s direct shareholding in Sub D (L) via shares other than ordinary shares is not considered under the group relief system. |

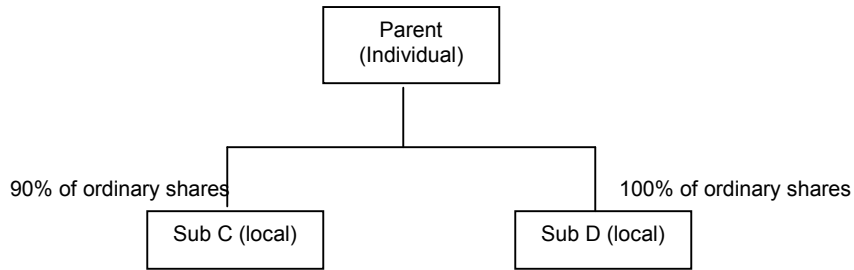
Example 6



Explanation

Sub A (local) and Sub B (local) are not members of the same group as they are not owned by a Singapore incorporated company.

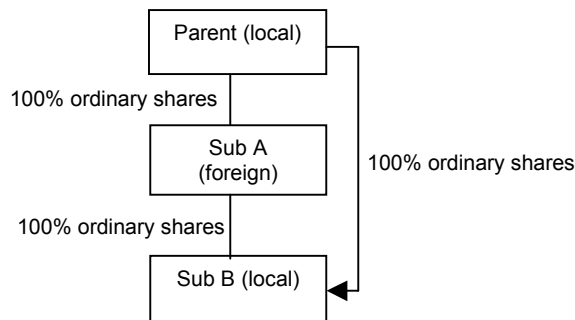
Example 7



Explanation

Sub C (local) and Sub D (local) are not members of the same group as they are not owned by a Singapore incorporated company.

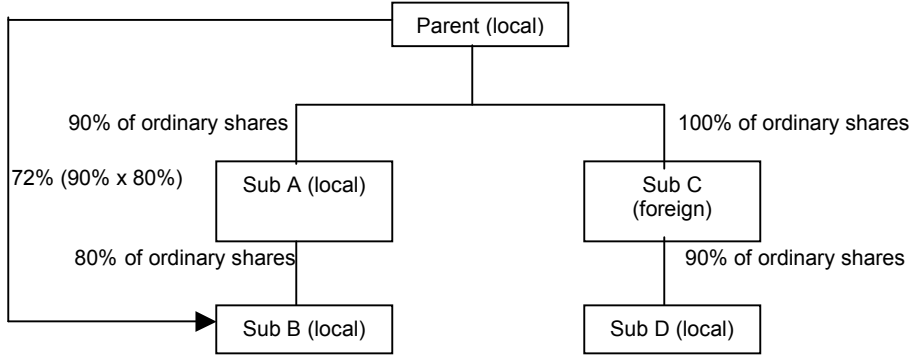
Example 8



Explanation

As there is a foreign incorporated company in the ownership chain, shareholdings by the foreign incorporated company [i.e. Sub A (F)] will not be considered when determining direct shareholding of Sub A (F) in Sub B (L) or indirect shareholding of Parent (L) in Sub B (L) via Sub A (F). Therefore, Parent (L) and Sub B (L) are not members of the same group under the group relief system.

Example 9



| Companies | Same group? | Rationale |
|------------------------|-------------|---|
| Parent (L) & Sub A (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |
| Parent (L) & Sub B (L) | No | Does not meet threshold limit of indirect shareholding of 75% ordinary shares |
| Parent (L) & Sub C (F) | No | Sub C (F) cannot be a member of the same group as Parent (L) for the purpose of the group relief system as it is not a Singapore incorporated company |
| Parent (L) & Sub D (L) | No | Parent (L)'s indirect shareholding in Sub D (L) via Sub C (F) is disregarded as Sub C (F) is a foreign incorporated company |
| Sub A (L) & Sub B (L) | Yes | Meet threshold limit of direct shareholding of 75% ordinary shares |
| Sub A (L) & Sub C (F) | No | Sub C (F) cannot be a member of same group as Sub A (L) for the purpose of the group relief system as it is not a Singapore incorporated company |
| Sub A (L) & Sub D (L) | No | Parent (L)'s indirect shareholding in Sub D (L) via Sub C (F) is disregarded as Sub C (F) is a foreign incorporated company. |
| Sub B (L) & Sub C (F) | No | Sub C (F) cannot be a member of the same group as Sub B (L) for the purpose of the group relief system as it is not a Singapore incorporated company. In addition, Sub B (L) is not owned indirectly by Parent (L) by 75% or more through Sub A (L) |
| Sub B (L) & Sub D (L) | No | Parent (L)'s indirect shareholding in Sub D (L) via Sub C (F) is disregarded as Sub C (F) is a foreign incorporated company. In addition, Sub B (L) is not owned indirectly by Parent (L) by 75% or more through Sub A (L) |
| Sub C (F) & Sub D (L) | No | Sub C (F) cannot be a member of the same group as Sub D (L) for the purpose of the group relief system as it is not a Singapore incorporated company |

ANNEX 1A

ILLUSTRATION OF ORDINARY SHAREHOLDING REQUIREMENT AND ENTITLEMENT TO PROFITS/ASSETS TEST

Example 1

Company X is a Singapore incorporated company with accounting profits of \$100 for YA 2007. The table below shows the shareholding structure of Company X:

| | Type I shares which carry right to share in profits based on number of shares held | | Type II shares yielding fixed dividend at 10% on value of shares | | Type III shares yielding fixed dividend at 8% on value of shares, with right to share in profits based on number of shares held | |
|-----------------------------|--|-------------------------|--|-------------------------|---|------------------------|
| | Company A 600 shares | Company B 200 shares | Company A 120 shares | Company B 120 shares | Company A 150 shares | Company C 50 shares |
| Ordinary share [@] | Yes | Yes | No# | No# | Yes | Yes |
| Shareholding Percentage | 600/1000** = 60% | 200/1000 = 20% | - | - | 150/1000 = 15% | 50/1000 = 5% |

[@] does not include treasury shares

this is not an ordinary share since it only carries a right to fixed dividend (i.e. in this case, dividend at a fixed rate percentage of the value of shares).

**1000 ordinary shares made up of Type I shares (600+200) and Type III shares (150+50).

To determine whether Company A and X are members of the same group for YA 2007,

Ordinary Shareholding Requirement

Company A owns (60% + 15%) = 75% of the ordinary shares issued by Company X. Therefore, it satisfies the ordinary shareholding requirement.

Profits/Assets Test

Assume that Company X has taken 2 loans as follows:

| | Principal Amount | Rate of Return | Annual Return |
|--------------------|------------------|--|------------------------|
| Loan 1 (from Co Y) | \$400 | 5% p.a. | \$20 |
| Loan 2 (from 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 since in addition to a fixed return, the creditor is also entitled to a right to share in profits of the company.

Example 1 (cont'd)

Company X's profits of \$100 is distributed in the following manner:

| | | | |
|---|-----------|-------|-------------|
| Accounting Profit (after deduction of fixed return on loans i.e. \$20-Loan 1 and \$15-Loan 2 but before deducting non-fixed return on non-commercial loans) | | | \$100 |
| Less: Distribution of fixed dividend on shares other than ordinary shares (i.e. Type II shares) | | | |
| (a) Shareholder A \$120 at 10% | \$120x10% | \$ 12 | |
| (b) Shareholder B \$120 at 10% | \$120x10% | \$ 12 | \$24 |
| | | | \$76 |
| Less: Distribution of fixed dividend on ordinary shares | | | |
| (a) Shareholder A 150 Type III shares at 8% (fixed dividend) | \$150x8% | \$ 12 | |
| (b) Shareholder C 50 Type III shares at 8% (fixed dividend) | \$ 50x8% | \$ 4 | \$16 |
| Residual Profits distributed to equity holders based on the ratio agreed* amongst the equity holders: | | | \$60 |
| (a) Shareholder A (600 + 150)/1500@ x \$60 (note 1) | | \$30 | |
| (b) Shareholder B 200/1500 x \$60 (note 2) | | \$ 8 | |
| (c) Shareholder C 50/1500 x \$60 (note 3) | | \$ 2 | |
| (d) Non-commercial loan creditor (Loan 2) (note 4) | | | |
| 500/1500 x \$60 | | \$20 | |

*For this example, it is assumed that the agreed ratio is the ratio determined using the value of the ordinary shares and the value of the non-commercial loans.

Note 1: Shareholder A Share value = \$600+\$150
= \$ 750 (Type I and III shares)
Note 2: Shareholder B Share value = \$ 200 (Type I shares)
Note 3: Shareholder C Share value = \$ 50 (Type III shares)
Note 4: Creditor (Loan 2) Loan Value = \$ 500
(non-commercial loan) \$1,500@

(a) Residual Profits

Company A's percentage entitlement to the residual profits of Company X
= \$30/\$60 = 50%

(b) Residual Assets

If Company X has negative residual assets, notional residual assets of \$100 will be used for computing Company A's beneficial entitlement to the residual assets²⁷. In this example, it is assumed that Company A's agreed percentage entitlement to the notional residual assets of \$100 is based on the same proportion as its percentage

²⁷ If residual assets of Company X amount to \$1,200 (i.e. a positive residual asset) and if it has been agreed that the non-commercial loan creditors are entitled to distribution of residual assets in priority to ordinary shareholders, \$500 is returned to non-commercial loan creditors, with the remaining amount i.e. \$700 (\$1,200-\$500) being returned to ordinary shareholders based on their percentage shareholdings. The entitlement of Company A to residual assets = \$750/\$1,000 x \$700 = \$525. The percentage entitlement of Company A to residual assets = \$525/\$1,200 i.e. 43.8%. Therefore, Company A also fails to satisfy the assets test.

entitlement to the residual profits of Company X. Therefore, Company A fails to satisfy the profits/assets test of being entitled to at least 75% of the residual profits and assets of Company X available for distribution to equity holders of Company X.

Example 2

Assuming that all the facts remain the same as example 1, but Company A (instead of Company Z) is now the party to Loan 2.

(a) Residual Profits

The percentage entitlement of A to residual profits of Company X will be $[\$30 + \$20(\text{return on non-commercial loan})]/\$60 = \underline{83.3\%}$

(b) Residual Assets

The percentage entitlement of A to residual assets²⁸ of Company X will be $[\$750(\text{value of ordinary shares}) + \$500(\text{value of non-commercial loan})]/\$1500 = \underline{83.3\%}$

Company A would now satisfy the profits/assets test of being entitled to at least 75% of the residual profits/assets of Company X available for distribution to equity holders of Company X.

Example 3

Assume Company X has no profits and negative residual assets for the YA 2007. Notional residual profit of \$100 and notional residual assets of \$100 are used.

| | |
|--|--------------|
| Residual Profit available for distribution to equity holders i.e. after deduction of (a) fixed dividends and (b) fixed return on loans i.e. \$20-Loan 1 and \$15-Loan 2 | \$100 |
| Residual Profits distributed to equity holders based on the ratio agreed* amongst the equity holders: | \$100 |
| (a) Shareholder A $(600 + 150)/1500 \times \100 | \$50 |
| (b) Shareholder B $200/1500 \times \$100$ | \$13.30 |
| (c) Shareholder C $50/1500 \times \$100$ | \$ 3.30 |
| (d) Non-commercial loan creditor (Loan 2) $500/1500 \times \$100$ | \$33.40 |

*For this example, it is assumed that the agreed ratio is the ratio determined using the value of the ordinary shares and the value of the non-commercial loans.

²⁸ If residual assets of Company X amount to \$1,200 (i.e. a positive residual asset) and if it has been agreed that the non-commercial loan creditors are entitled to distribution of residual assets in priority to ordinary shareholders, \$500 is returned to non-commercial loan creditors, with the remaining amount i.e. \$700 (\$1,200-\$500) being returned to ordinary shareholders based on their percentage shareholdings. The entitlement of Company A to residual assets = $(\$750/\$1,000 \times \$700) + \$500 = \$1,025$. The percentage entitlement of Company A to residual assets = $\$1,025/\$1,200$ i.e. 85.4%. Company A's percentage entitlement to residual profits = $(\$30+\$20)/\$60 = 83.3\%$. Therefore, Company A would satisfy the profits/assets test.

(a) Residual Profits

Company A's percentage entitlement to the residual profits/assets of Company X
= $\$50/\$100 = \underline{50\%}$

(b) Residual Assets

In this example, it is assumed that Company A's agreed percentage entitlement to the notional residual assets of \$100 is based on the same proportion as its percentage entitlement to the residual profits of Company X.

The percentage entitlement of A to residual assets of Company X will be
 $\$750/\$1500 = \underline{50\%}$

Therefore, Company A fails to satisfy the profits/assets test of being entitled to at least 75% of the residual profits/assets of Company X available for distribution to equity holders of Company X.

Example 4

Assuming that all the facts remain the same as example 3, but Company A (instead of Company Z) is now the party to Loan 2.

(a) Residual Profits

Company A's percentage entitlement to the residual profits/assets of Company X
= $[\$50 + \$33.40(\text{return on non-commercial loan})]/\$100 = \underline{83.4\%}$

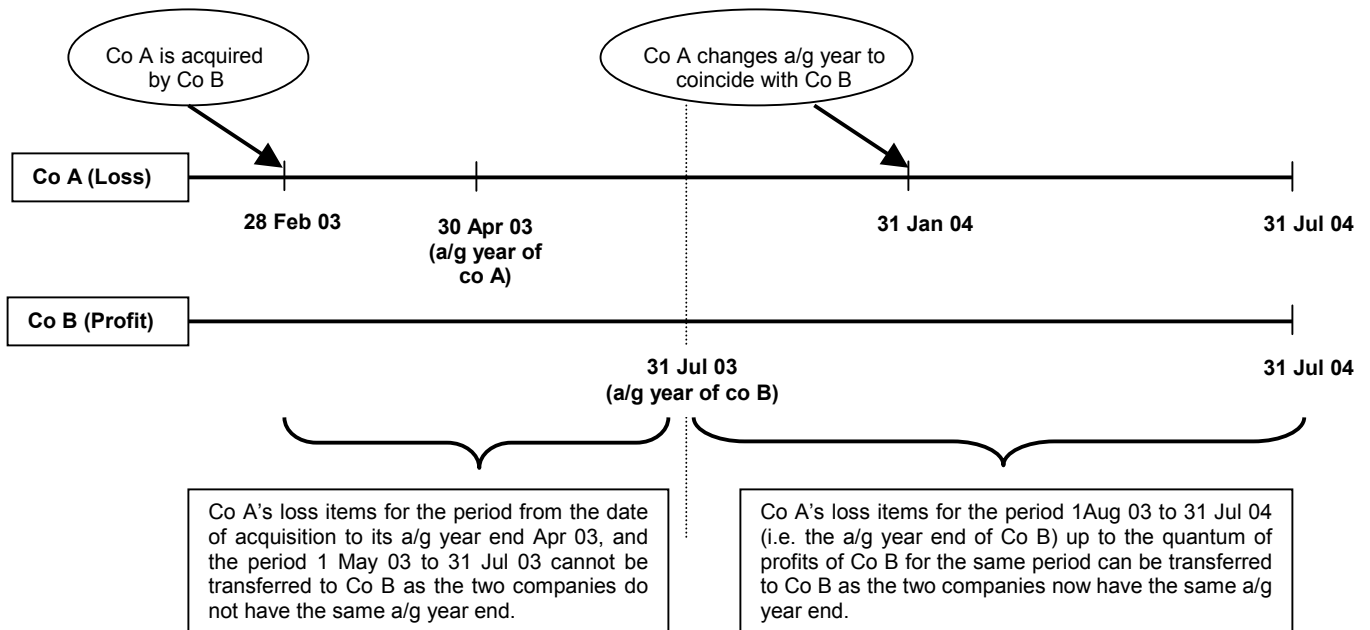
(b) Residual Assets

The percentage entitlement of A to residual assets of Company X will be
 $[\$750(\text{value of ordinary shares}) + \$500(\text{value of non-commercial loan})]/\1500
= $\underline{83.3\%}$

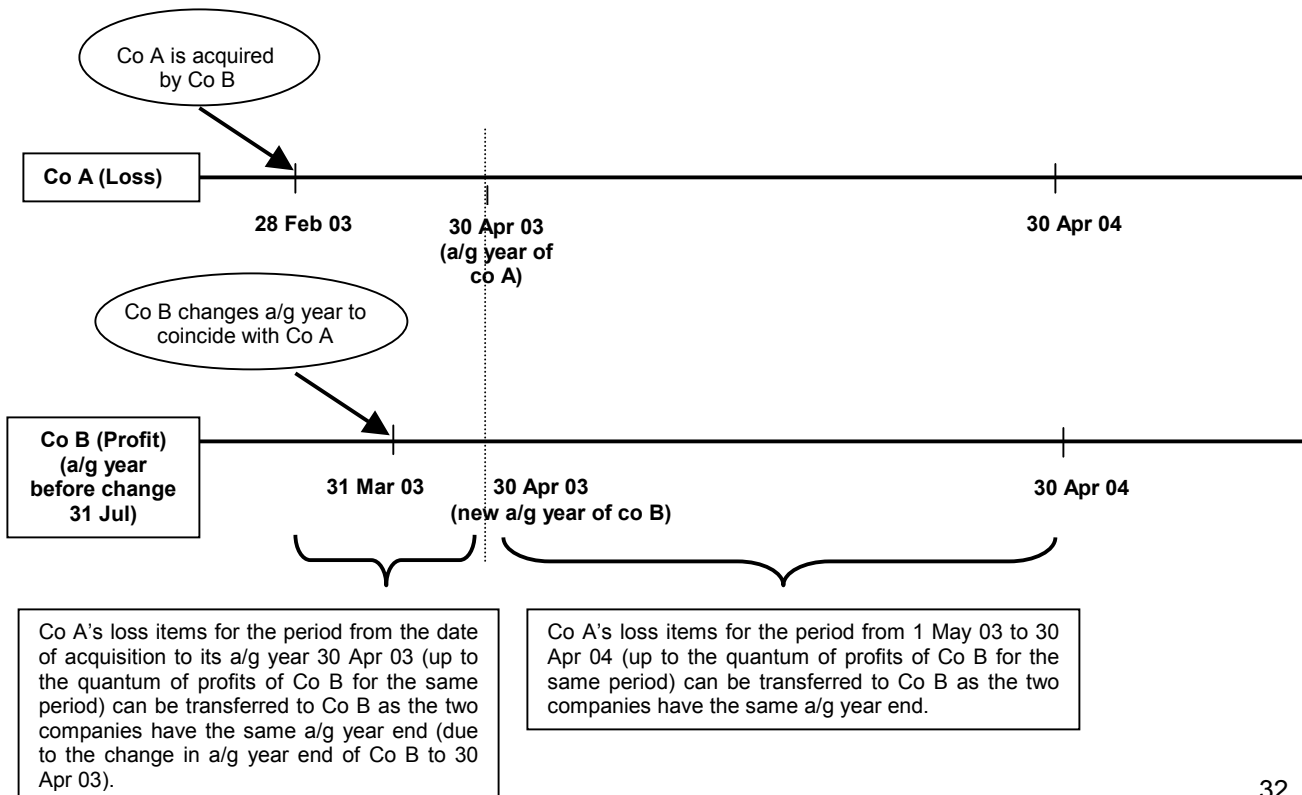
Company A would now satisfy the profits/assets test of being entitled to at least 75% of the residual profits/assets of Company X available for distribution to equity holders of Company X.

ILLUSTRATION OF REQUIREMENT FOR GROUP COMPANIES TO HAVE SAME ACCOUNTING YEAR END

Example 1

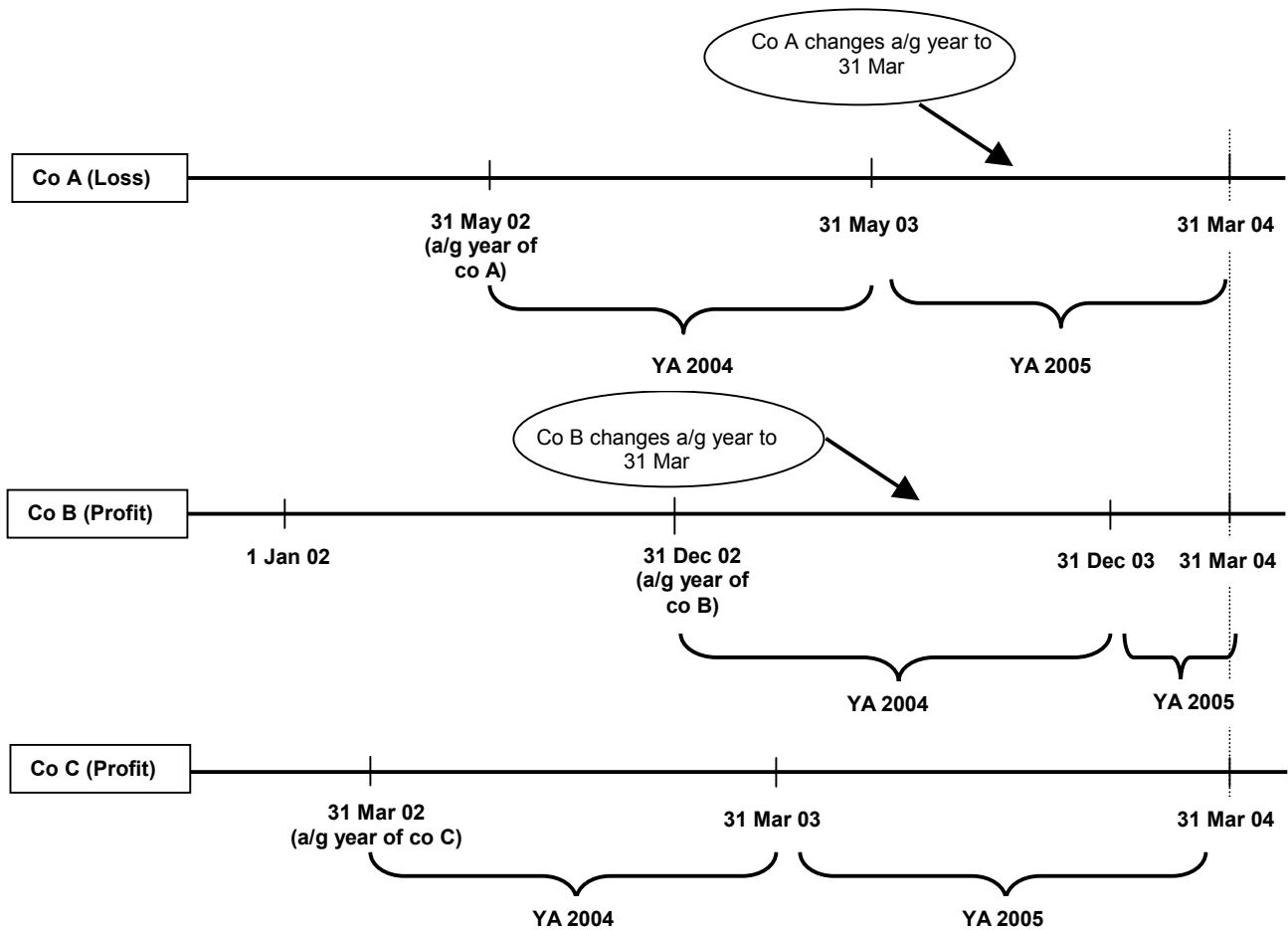


Example 2



Example 3

Companies A, B and C are members of the same group since 1.1.2002 and they satisfy all conditions to be members of the same group for periods stated below. Company A has indicated that it will transfer loss items in priority to Company B first, followed by Company C.



(a) Transfer of Loss Items between Company A and Company B for YA 2004

Loss items of Company A cannot be transferred to Company B because they have different accounting year end for YA 2004.

(b) Transfer of Loss Items between Company A and Company C for YA 2004

Loss items of Company A cannot be transferred to Company C because they have different accounting year end for YA 2004.

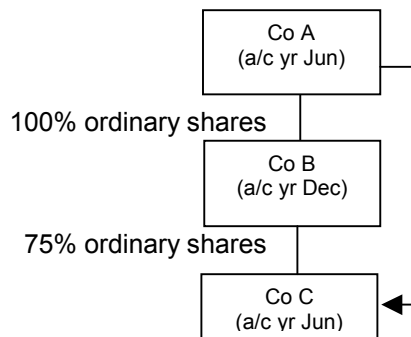
(c) Transfer of Loss Items between Company A and Company B for YA 2005

| | Company A | Company B |
|--|---|-----------------------------------|
| Basis period | 1.6.03 to 31.3.04 i.e. 304 days | 1.1.04 to 31.3.04 i.e. 90 days |
| Continuous period ending on the last day of the basis period for YA 2005 during which company A was in the same group as company B | 1.6.03 to 31.3.04 i.e. 304 days | 1.1.04 to 31.3.04 i.e. 90 days |
| Common continuous period for Company A and B (see paragraph 20 for further details) | shorter of the two continuous periods i.e. 90 days | |
| Available quantum of loss item of Company A (see paragraph 41 for further details) | 90/304 x loss item | - |
| Available assessable income of Company B (see paragraph 41 for further details) | - | 90/90 x assessable income of Co B |
| Quantum of loss item of Company A allowed to be transferred to Company B | Limited to available assessable income of Company B | |

(d) Transfer of Loss Items between Company A and Company C for YA 2005

| | Company A | Company C |
|--|--|-------------------------------------|
| Basis period | 1.6.03 to 31.3.04 i.e. 304 days | 1.4.03 to 31.3.04 i.e. 365 days |
| Continuous period ending on the last day of the basis period for YA 2005 during which company A was in the same group as company C | 1.6.03 to 31.3.04 i.e. 304 days | 1.4.03 to 31.3.04 i.e. 365 days |
| Common continuous period for Company A and C | shorter of the two continuous periods i.e. 304 days | |
| Available quantum of loss item of Company A (see paragraphs 43 to 45 for further details) | (304/304 x loss item) less amount of loss item transferred to Co B | - |
| Available assessable income of Company C | - | 304/365 x assessable income of Co C |
| Quantum of loss item of Company A allowed to be transferred to Company C | Limited to available assessable income of Company C | |

Example 4



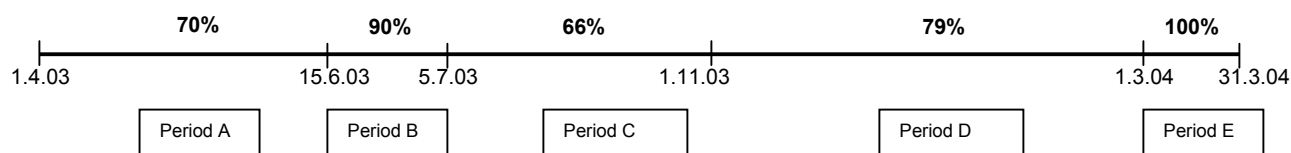
In this example, Company A is the transferor company and Company C is the claimant company. Company A and Company C must therefore have the same accounting year end.

For the purpose of determining Company A's indirect ordinary shareholding in Company C (through Company B) as at any date within any basis period of Companies A and C (e.g. 1 Jul 02 to 30 Jun 03 for YA 2004), Company A's ordinary shareholding in Company B, and in turn, Company B's ordinary shareholding in Company C as at the respective dates will be considered, even though Company B has a different accounting year end from Companies A and C.

APPLICATION OF ORDINARY SHAREHOLDING TEST

Example 1

Relevant holding company's (Company A) levels of ordinary shareholding in Company B (with loss items) for the accounting year end Mar 04 are as follows (both companies have the same accounting year end):

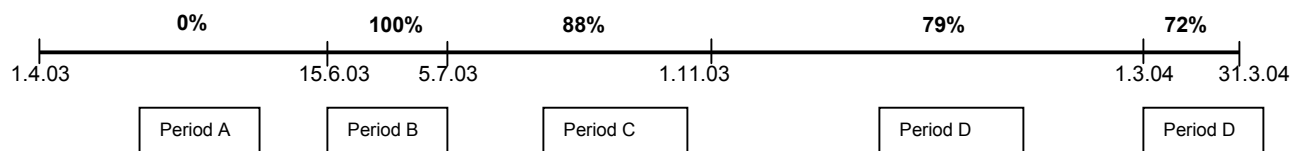


The ordinary shareholding level of the relevant holding company (i.e. Company A) on the last day of the basis period for YA 2005 is at or above 75%. However, the ordinary shareholding level of Company A is not maintained at or above 75% throughout the basis period for the YA. Thus, Company B is allowed to transfer to Company A the amount of loss items* (generally determined on a pro-rated basis) applicable to the continuous period ending on 31.3.04 within which Company A's ordinary shareholding level is maintained at or above 75% (i.e. periods D and E).

*limited to the assessable income of Company A applicable to the same continuous period, if this is lower.

Example 2

Relevant holding company (Company C) acquires ordinary shares in Company D (with loss items) on 15.6.03 and its level of ordinary shareholding in Company D for the accounting year end Mar 04 are as follows (both companies have the same accounting year end):



Since the ordinary shareholding level of the relevant holding company (i.e. Company C) on the last day of the basis period for YA 2005 is below 75%, Company D is not allowed to transfer any loss item to Company C notwithstanding that there were periods during the basis period for which the ordinary shareholding level of Company C was maintained at or above 75% (i.e. periods B, C and D).

ILLUSTRATIONS OF HOW LOSS ITEMS ARE TRANSFERRED UNDER THE GROUP RELIEF SYSTEM

Example 1

Tax computation of company A (transferor with accounting year end 30 June) for YA 2003:

| NORMAL INCOME (TAXED AT 22%) | | CONCESSIONARY INCOME (TAXED AT 10%) | |
|--|---------------------------|---|------------------|
| | \$ | | \$ |
| Interest | | Adjusted profit/(loss) | 520,000 |
| Rental income | 20,000 | Less: | |
| Royalty income | 50,000 | Unabsorbed capital allowance b/f | (10,000) |
| | 10,000 | Current year capital allowance | (6,000) |
| | <u>80,000</u> | | <u>504,000</u> |
| Less: | | Less: | |
| Unabsorbed capital allowance b/f | (50,000) | Donation made in y/e 31.12.2002 - \$10,000* | (20,000) |
| Current year capital allowance | <u>(100,000)</u> | | <u>484,000</u> |
| | (70,000) | | |
| Section 37B set off | 70,000 | Section 37B set off | |
| Unabsorbed capital allowance c/f | <u>0</u> | (a) 70,000 x 22/10 | (154,000) |
| | | (b) 150,000 x 22/10 | <u>(330,000)</u> |
| Adjusted profit/(loss) | (60,000) | CI | Nil |
| Add unabsorbed loss b/f | <u>(120,000)</u> | | |
| | (180,000) | | |
| Section 37B set off | 150,000 | | |
| Current year unabsorbed loss | <u>(30,000)</u> | | |
| Less: Amt transferred to claimant | (X) 30,000 | | |
| | <u>0</u> | | |
| Unabsorbed loss c/f | 0 | | |
| | | | |
| Donation made in y/e 31.12.2002 - \$4,000* | 8,000 | | |
| Less: Amt transferred to claimant | (Y) <u>(5,000)</u> | | |
| Unabsorbed donation c/f | 3,000 | | |
| | | | |
| Investment allowance for YA 2003 c/f | <u>30,000</u> | | |
| | | | |
| Chargeable Income (CI) | Nil | | |

* Donation made qualifies for double tax deduction under S37(3) of ITA and is apportioned using basis of allocating common expenses

Example 1 (continued)

Tax computation of company B (claimant with accounting year end 30 June) for YA 2003:

| NORMAL INCOME (TAXED AT 22%) | | | CONCESSIONARY INCOME (TAXED AT 10%) | | |
|---------------------------------------|----------|-------------------|-------------------------------------|----|------------------|
| | \$ | \$ | | \$ | \$ |
| Adjusted profit/(loss) | | 630,000 | Adjusted profit/(loss) | | 500,000 |
| Less: | | | Less: | | |
| Unabsorbed capital allowance b/f | (10,000) | | Unabsorbed capital allowance b/f | | (480,000) |
| Current year capital allowance | (40,000) | (50,000) | Current year capital allowance | | (880,000) |
| | | <u>580,000</u> | | | <u>(860,000)</u> |
| Less: | | | Section 37B set off | | 860,000 |
| Unabsorbed loss b/f | | (100,000) | CI | | Nil |
| | | <u>480,000</u> | | | |
| Singapore franked dividend | | 20,000 | Donation made in year ended | | (20,000) |
| Rental income | | 35,000 | 31.12.2002 - \$10,000* | | |
| | | <u>535,000</u> | Section 37B set off | | 20,000 |
| Less: Donation made in y/e | | | | | <u>Nil</u> |
| 31.12.2002 - \$10,000* | | (20,000) | | | |
| | | <u>515,000</u> | | | |
| Section 37B set off (860,000 x 10/22) | | (390,909) | | | |
| Section 37B set off (20,000 x 10/22) | | (9,091) | | | |
| | | <u>115,000</u> | | | |
| Less: Investment allowance | | (80,000) | | | |
| | | <u>35,000</u> | | | |
| Less: | | | | | |
| Loss transferred from transferor | (X) | (30,000) | | | |
| Donation transferred from transferor | (Y) | (5,000) | | | |
| CI | | <u>Nil</u> | | | |
| Tax at 22% | | 0.00 | | | |
| Less Tax at source (20,000 x 22%) | | (4,400.00) | | | |
| Tax repayable | | <u>(4,400.00)</u> | | | |

* Donation made qualifies for double tax deduction under S37(3) of ITA and is apportioned using basis of allocating common expenses

Example 2

Tax computation of company C (transferor with accounting year end 30 Apr) for YA 2003:

| NORMAL INCOME (TAXED AT 22%) | | CONCESSIONARY INCOME (TAXED AT 10%) | | |
|--|------------------|-------------------------------------|--|------------------|
| | \$ | \$ | | |
| Interest | | 20,000 | Adjusted profit/(loss) | 504,000 |
| Rental income | | 50,000 | Less: | |
| Royalty income | | 10,000 | Unabsorbed capital allowance b/f | (10,000) |
| | | <u>80,000</u> | Current year capital allowance | <u>(6,000)</u> |
| Less: | | | | 488,000 |
| Unabsorbed capital allowance b/f | (50,000) | | Less: | |
| Current year capital allowance | <u>(100,000)</u> | (150,000) | Donation made in y/e 31.12.2002 - \$2,000* | <u>(4,000)</u> |
| | | (70,000) | | 484,000 |
| Section 37B set off | | <u>70,000</u> | | |
| Unabsorbed capital allowance c/f | | <u>0</u> | Section 37B set off | |
| | | | (a) 70,000 x 22/10 | (154,000) |
| Adjusted profit/(loss) | | (60,000) | (b) 150,000 x 22/10 | <u>(330,000)</u> |
| Add unabsorbed loss b/f | | <u>(120,000)</u> | CI | <u>(484,000)</u> |
| | | (180,000) | | Nil |
| Section 37B set off | | <u>150,000</u> | | |
| Current year unabsorbed loss | | (30,000) | | |
| Less: Amt transferred to claimant | (X) | <u>30,000</u> | | |
| Unabsorbed loss c/f | | <u>0</u> | | |
| | | | | |
| Donation made in y/e 31.12.2002 - \$4,000* | | 8,000 | | |
| Less: Amt transferred to claimant | (Y) | <u>(8,000)</u> | | |
| Unabsorbed donation c/f | | <u>0</u> | | |
| | | | | |
| Investment allowance for YA 2003 c/f | | <u>30,000</u> | | |
| CI | | <u><u>Nil</u></u> | | |

* Donation made qualifies for double tax deduction under S37(3) of ITA and is apportioned using basis of allocating common expenses

Example 2 (continued)

Tax computation of company D (claimant with accounting year end 30 Apr) for YA 2003:

| NORMAL INCOME (TAXED AT 22%) | | CONCESSIONARY INCOME (TAXED AT 10%) | |
|---|----------|-------------------------------------|------------|
| | \$ | \$ | \$ |
| Adjusted profit/(loss) | | 830,000 | 505,000 |
| Less: | | | (480,000) |
| Unabsorbed capital allowance b/f | (10,000) | | (900,000) |
| Current year capital allowance | (40,000) | (50,000) | (875,000) |
| | | 780,000 | 875,000 |
| Less: | | | Nil |
| Unabsorbed loss b/f | | (100,000) | |
| | | 680,000 | |
| Singapore franked dividend | | 20,000 | |
| Rental income | | 35,000 | |
| | | 735,000 | |
| Less: Donation made in y/e 31.12.2002 - \$10,000* | | (20,000) | (5,000) |
| | | 715,000 | 5,000 |
| Section 37B set off (880,000 x 10/22) | | (400,000) | Nil |
| | | 315,000 | |
| Less: Investment allowance | | (80,000) | |
| | | 235,000 | |
| Less: | | | |
| Loss transferred from transferor | (X) | (30,000) | |
| Donation transferred from transferor | (Y) | (8,000) | |
| CI before deducting exempt amount | | 197,000 | |
| Less exempt amount (See note) | | 52,500 | |
| CI | | 144,500 | |
| Tax at 22% | | 31,790.00 | |
| Less Tax at source (20,000 x 22%) | | 4,400.00 | |
| Tax repayable | | 27,390.00 | |
| * Donation made qualifies for double tax deduction under S37(3) of ITA and is apportioned using basis of allocating common expenses | | | |

| CONCESSIONARY INCOME (TAXED AT 10%) | |
|--|------------|
| | \$ |
| Adjusted profit/(loss) | 505,000 |
| Unabsorbed capital allowance b/f | (480,000) |
| Current year capital allowance | (900,000) |
| | (875,000) |
| Section 37B set off | 875,000 |
| CI | Nil |
| Donation made in year ended 31.12.2002 - \$2,500* | (5,000) |
| Section 37B set off | 5,000 |
| | Nil |

Note – Computation of exempt amount for normal CI, excluding Singapore dividend, amounting to \$191,640 (see below), limited to \$100,000.

| | |
|--|-----------------|
| On the first \$10,000, 75% of the income | \$ 7,500 |
| On the next \$90,000, 50% of the income | <u>\$45,000</u> |
| Total exempt amount | <u>\$52,500</u> |

The amount of \$191,640 is computed as follows:

| | |
|------------------------------------|------------------|
| (a) Gross dividend | \$20,000 |
| (b) Donation | \$ 20,000 |
| Investment allowance | \$ 80,000 |
| Section 37B loss set off | \$400,000 |
| Loss & donation from transferor Co | <u>\$ 38,000</u> |
| Total | <u>\$538,000</u> |

(c) Amount in (b) attributable to Singapore dividend
= 20,000/(680,000+20,000+35,000) x 538,000 = \$14,640

(d) Singapore dividend net of amount in (c)
= \$20,000 - \$14,640 = \$5,360

(e) Normal CI excluding net Singapore dividend
= \$197,000 - \$5,360 = \$191,640

Example 3

Tax computation of company E (transferor with accounting year end 31 Dec, acquired by Co F on 1 Jul) for YA 2003:

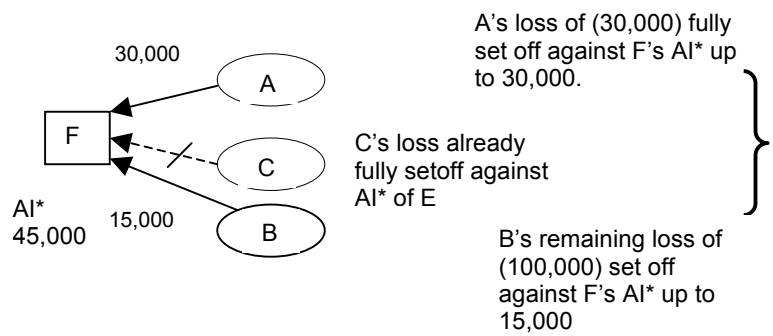
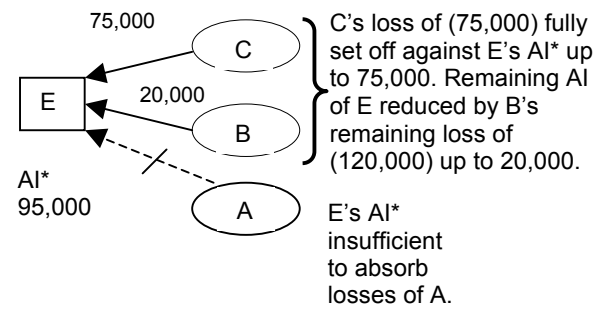
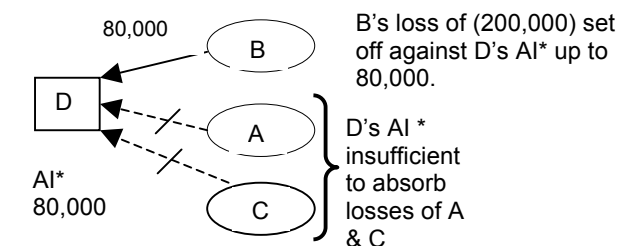
| NORMAL INCOME (TAXED AT 22%) | | CONCESSIONARY INCOME (TAXED AT 10%) | | |
|--|------------------|-------------------------------------|--|------------------|
| | \$ | \$ | \$ | |
| Interest | | 20,000 | Adjusted profit/(loss) | 520,000 |
| Rental income | | 50,000 | Less: | |
| Royalty income | | 10,000 | Unabsorbed capital allowance b/f | (10,000) |
| | | <u>80,000</u> | Current year capital allowance | <u>(6,000)</u> |
| Less: | | | | 504,000 |
| Unabsorbed capital allowance b/f | (50,000) | | Less: Donation made in y/e | |
| Current year capital allowance | <u>(100,000)</u> | (150,000) | 31.12.2002 - \$10,000(#) | <u>(20,000)</u> |
| | | (70,000) | | 484,000 |
| Section 37B set off | | 70,000 | Section 37B set off | |
| Unabsorbed capital allowance c/f | | <u>0</u> | (a) 70,000 x 22/10 | (154,000) |
| | | | (b) 150,000 x 22/10 | <u>(330,000)</u> |
| Adjusted profit/(loss) | | (60,000) | CI | Nil |
| Add unabsorbed loss b/f | | <u>(120,000)</u> | <p>* Since Co E and Co F are members of the same group only from 1st July 2002, Co E is only allowed to transfer to Co F the lower of :</p> <p>(a) the amount of loss item of Co E, attributable to the period from 1st July 2002 to 31st December 2002 [computed on a pro-rated basis – i.e. 6/12 x (30,000+8,000)]; or</p> <p>(b) the amount of assessable income of Co F (after deducting investment allowance) attributable to the period from 1st July 2002 to 31st December 2002 [computed on a pro-rated basis – i.e. 6/12 x 35,000].</p> <p>Since (b) is lower and applying the prescribed order of transfer, the full amount of losses will be transferred and the amount of donation to be transferred is limited to \$2,500.</p> | |
| | | (180,000) | | |
| Section 37B set off | | 150,000 | | |
| Current year unabsorbed loss | | (30,000) | | |
| Less: Amt transferred to claimant* | (X) | 15,000 | | |
| Unabsorbed loss c/f | | <u>(15,000)</u> | | |
| Donation made in y/e 31.12.2002 - \$4,000(#) | | 8,000 | | |
| Less: Amt transferred to claimant* | (Y) | (2,500) | | |
| Unabsorbed donation c/f | | <u>5,500</u> | | |
| Investment allowance for YA 2003 c/f | | <u>30,000</u> | | |
| CI | | Nil | <p>(#)Donation made qualifies for double tax deduction under S37(3) of ITA and is apportioned using basis of allocating common expenses</p> | |

QUANTUM OF LOSS TRANSFER UNDER THE GROUP RELIEF SYSTEM

Companies A – F are all members of the same group.

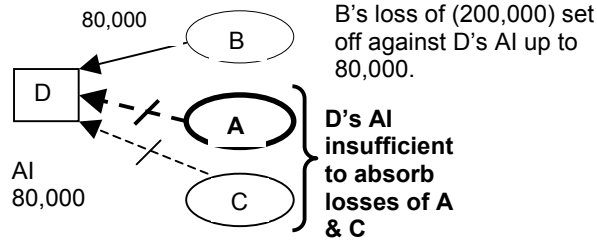
| | Company A | Company B | Company C | Company D | Company E | Company F |
|---|-----------|-----------|-----------|-----------|-----------|-----------|
| Unabsorbed current year trade loss | (30,000) | (200,000) | (75,000) | | | |
| Assessable Income | | | | 80,000 | 95,000 | 45,000 |
| Priority of companies specified in GR-A | D, E, F | D,E,F | E, F, D | | | |
| Priority of companies specified in GR-B | | | | B, A, C | C, B, A | A, C, B |

OVERALL POSITION OF COMPANIES A – F:

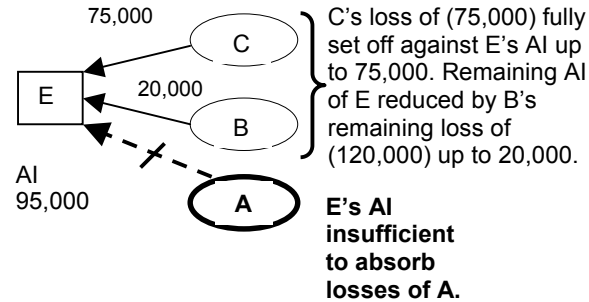


*AI= Assessable Income

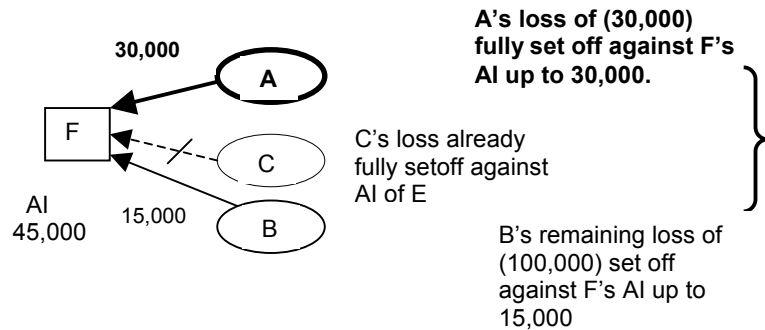
TRANSFER OF COMPANY A's LOSS ITEMS



1) Company D
Both A and B have specified D as the first company to which their losses are to be transferred. However, D has indicated that it would absorb losses from B first. AI of D has to be reduced by B's losses first before any remaining AI of D can be reduced by A's losses.



2) Company E
Similarly, both A and B have specified E as the second company to which their losses are to be transferred. However, AI of E is to be reduced by C's losses first, followed by B, before any remaining AI of E can be reduced by A's losses.

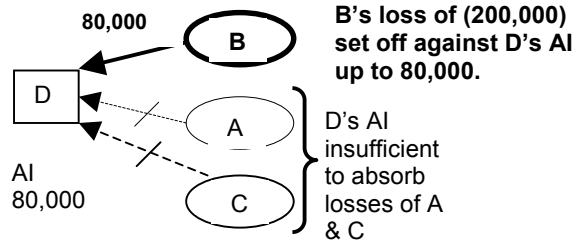


3) Company F
A has priority for loss setoff against F's AI.

The order of setoff of A's losses is as follows:

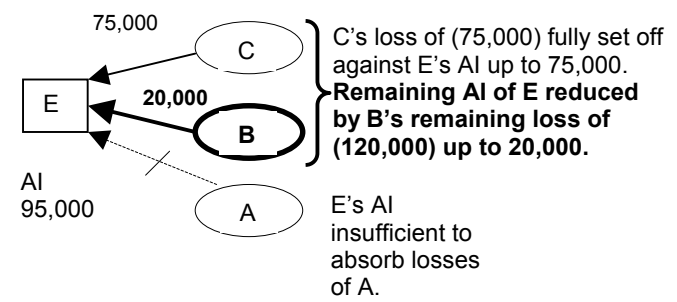
| Company A's losses | Transferred to D, E, F in order of priority: | Has D/E/F opted to receive losses from another company in priority to A? | Transferor company from which losses are received in priority to A's losses | Was AI of D/E/F reduced in priority by losses of other transferor company | AI of Company D/E/F available to be reduced by losses of A | AI of D/E/F remaining after reduction of losses of other transferor company or A |
|------------------------------|--|--|---|---|--|--|
| (30,000) | | | | | | |
| Setoff against D - NIL | Company D – 80,000 | Yes | Company B | Yes | - | NIL |
| Setoff against E - NIL | Company E – 95,000 | Yes | Company C & B | Yes | - | NIL |
| Setoff against F – 30,000 | Company F – 45,000 | No | - | No | 45,000 | 15,000 |
| Net losses of A - NIL | | | | | | |

TRANSFER OF COMPANY B'S LOSS ITEMS

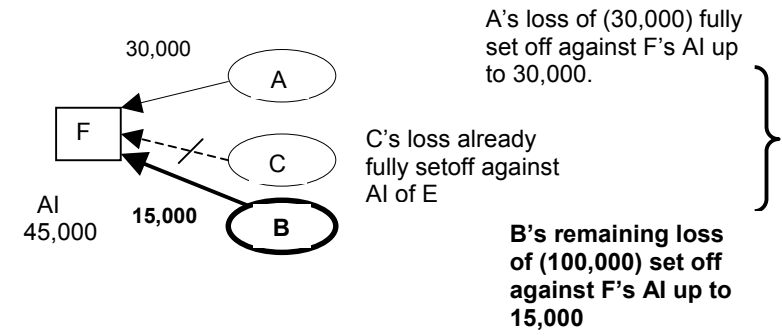


1) Company D
Both A and B have specified D as the first company to which their losses are to be transferred. D has indicated that it would absorb losses from B first. Therefore, B has priority for loss setoff against D's AI.

2) Company E
Similarly, both A and B have specified E as the second company to which their losses are to be transferred. However, AI of E has to be reduced by C's losses first before any remaining AI of E can be reduced by B's losses.



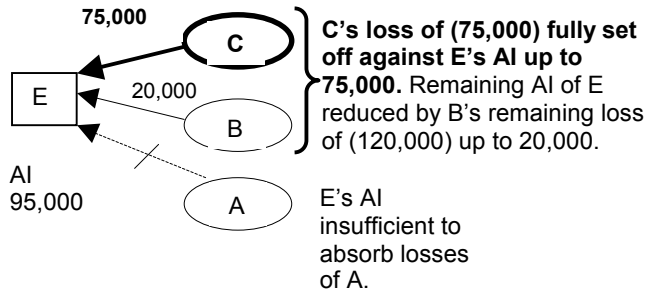
3) Company F
F's AI must be reduced by A and C's losses first before any remaining AI of F can be reduced by B's losses.



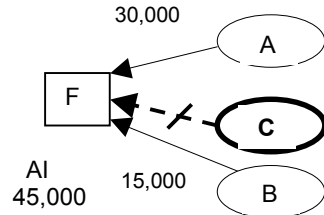
The order of setoff of B's losses is as follows:

| Company B's losses | Transferred to: | Has D/E/F opted to receive losses from another company in priority to B? | Transferor company from which losses are received in priority to B's losses | Was AI of D/E/F reduced in priority by losses of other transferor company? | AI of Company D/E/F available to be reduced by losses of B | AI of D/E/F remaining after reduction of losses of other transferor company or B |
|-----------------------------------|--------------------|--|---|--|--|--|
| (200,000) | | | | | | |
| Setoff against D – 80,000 | Company D – 80,000 | No | - | No | 80,000 | NIL |
| Setoff against E – 20,000 | Company E – 95,000 | Yes | C | Yes | 20,000 | NIL |
| Setoff against F – 15,000 | Company F – 45,000 | Yes | Company A & C | Yes | 15,000 | NIL |
| Net losses of B – (85,000) | | | | | | |

TRANSFER OF COMPANY C'S LOSS ITEMS



1) Company E
C has priority for loss setoff against E's AI.

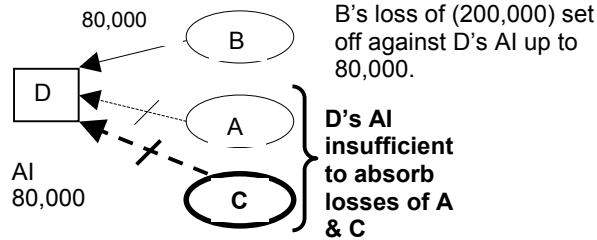


A's loss of (30,000) fully set off against F's AI up to 30,000.

C's loss already fully setoff against AI of E

B's remaining loss of (100,000) set off against F's AI up to 15,000

2) Company F
F's AI must be reduced by A's losses first before any remaining AI of F can be reduced by C's losses.



2) Company D
D's AI must be reduced by B and A's losses first before any remaining AI of D can be reduced by C's losses.

The order of setoff of C's losses is as follows:

| Company C's losses | Transferred to: | Has D/E/F opted to receive losses from another company in priority to C? | Transferor company from which losses are received in priority to C's losses | Was AI of D/E/F reduced in priority by losses of other transferor company? | AI of Company D/E/F available to be reduced by losses of C | AI of D/E/F remaining after reduction of losses of other transferor company or C |
|------------------------------|--------------------|--|---|--|--|--|
| (75,000) | | | | | | |
| Setoff against E - 75,000 | Company E – 95,000 | No | - | No | 95,000 | 20,000 |
| Setoff against F – NIL | Company F – 45,000 | Yes | Company A | Yes | 15,000 | 15,000 |
| Setoff against D – NIL | Company D – 80,000 | Yes | Company B & A | Yes | - | NIL |
| Net losses of C – NIL | | | | | | |

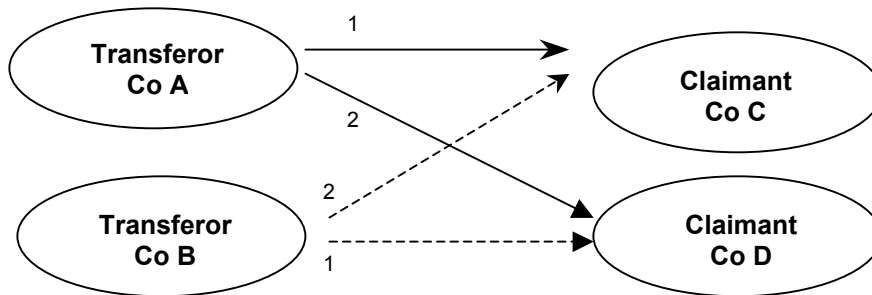
**Please refer to the separate excel file containing
Annexes 6A and 6B**

***(see e-Tax Guide 2002/BC/6 dated 23 October 2002 under
“Annexes 6A & 6B – Group Relief Form”)***

ANNEX 6C

ORDER OF PRIORITY SPECIFIED BY A TRANSFEROR COMPANY AND CLAIMANT COMPANY

| | Order of Priority Specified in Form GR-A or GR-B | |
|-----------------|--|---|
| Transferor Co A | C | D |
| Transferor Co B | D | C |
| Claimant Co C | B | A |
| Claimant Co D | A | B |



In the example above, A has indicated C as the first claimant company to which its loss items will be transferred, followed by D.

Based on the order of priority indicated by C, it must receive loss items from B first, and prior to it receiving loss items from B, it cannot receive loss items from A. On the other hand, B is to transfer loss items to D first, before it can transfer loss items to C. However, D will not receive loss items from B before it receives loss items from A.

It is therefore not possible for A to transfer loss items to C first, and still satisfy the order of priority indicated by C.

Under such circumstances, the order of priority specified by A and B (the transferor companies) will take precedence over the order of priority specified by C and D (the claimant companies). Therefore,

- (a) A will transfer loss items to C first, before D; and
- (b) B will transfer loss items to D first, before C.