

TR 49

Facts

Two companies form part of the same group.

Company A is a domestic company holding a Category 1 (previously domestic, or Class A) banking licence and as such is taxable at the rate of 25 % on its taxable profits. The company has accumulated tax losses.

Company B is a domestic company holding a Category 1 (previously offshore, or Class B) banking licence and is taxable at the rate of 15 % on its taxable profits. It is also entitled to a deemed tax credit of 80% on its foreign sourced income. It has no tax loss.

With the coming into force of the new Banking Act 2004, as there is no distinction between the two class of licences, since replaced by a unique banking licence, the immediate holding company has taken the decision to merge the two companies into a single company, whereby Company A is the surviving company which will operate under a single business licence and report segment A and segment B income.

The merger will not involve a change of more than 50% of shareholdings of Company A.

Point of Issue

Whether it can be confirmed that

- a) the tax losses accumulated by Company A, the surviving company, can be carried forward against its future profits; and
- b) the transfer or sale price of plant or machinery will be deemed to be equal to their base value at the date of sale or transfer.

Ruling

On the basis of facts provided it is confirmed that

- a) the unrelieved tax losses of Company A will be available for carry forward against its future profits; and
- b) the transfer or sale price of plant and machinery of company B to company A will be deemed to be equal to their base value at the date of sale or transfer.