

Tax Executives Urge Group Loss Relief for Canada

by Steve Suarez

Reprinted from *Tax Notes Int'l*, October 25, 2010, p. 231

COUNTRY DIGEST

Tax Executives Urge Group Loss Relief for Canada

The Tax Executives Institute in an October 6 letter has urged Canada's federal government to develop a system for group usage of losses and other tax attributes.¹

Canada's income tax system includes no formal provision for consolidated filing or systematic group loss usage whereby one member of a related corporate group can use losses or similar tax attributes of another member. While such intragroup use of losses is considered acceptable as a matter of tax policy, to achieve it, various transactions and reorganizations must be undertaken, such as intragroup sales of property or loans. (For a discussion of these transactions, see *Doc 2005-11065* or *2005 WTD 148-12*.) Those transactions are often costly to design and implement and may be restricted because of commercial or regulatory constraints on the activities of the group.

Previous attempts to introduce loss consolidation rules were unsuccessful for several reasons — in particular, resistance from provincial tax administrators. In its 2010 federal budget, the Department of Finance expressed a willingness to consider the implementation of a group relief system, saying the government “will

explore whether new rules for the taxation of corporate groups — such as the introduction of a formal system of loss transfers or consolidated reporting — could improve the functioning of the tax system.”² (For a discussion of this initiative, see *Tax Notes Int'l*, Mar. 22, 2010, p. 1021, *Doc 2010-4813*, or *2010 WTD 45-1*.) So far it appears there has been little progress on the initiative.

In the October 6 letter, TEI calls for the use of the 1985 Department of Finance discussion paper on intragroup loss transfers as the starting point for a new proposed system of group relief, with the goal that draft legislation be released by early 2011. TEI asks the government to bear in mind the following:

- while a harmonized federal-provincial loss transfer system is highly desirable (provincial income tax is computed similarly to federal income tax), provincial reluctance should not be allowed to prevent a federal-only regime from being put in place swiftly if necessary;
- the carryforward period for noncapital (operating) losses should be made unlimited, as is the case with capital losses; and
- the new regime should also include capital losses and tax credits. ◆

◆ *Steve Suarez, Osler, Hoskin & Harcourt LLP, Toronto*

¹The letter is available, as of October 18, at <http://www.tei.org/news/Pages/CANADA%E2%80%94TEIurgesadoptionofgroup-losstransfersysteminCanada.aspx>.

²The relevant portion of the federal budget documents is available at <http://www.budget.gc.ca/2010/plan/anx5-eng.html#other>.