

**Parties to the main proceedings**

*Applicant:* Skatteverket

*Defendant:* Memira Holding AB

**Questions referred**

1. Must account be taken, in the assessment of whether a loss in a subsidiary in another Member State is definitive within the meaning given in, inter alia, the case of *A*, and the parent company may thus deduct the loss on the basis of Article 49 TFEU, of the fact that, under the rules of the subsidiary's State, there are restrictions on the possibility for parties other than the party itself which made the loss to deduct the loss?
2. If a restriction such as that referred to in question 1 must be taken into consideration, must account then be taken of whether, in the case in question, there actually is another party in the subsidiary's State which could have deducted the losses if that were permitted there?

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**Request for a preliminary ruling from the Högsta förvaltningsdomstolen (Sweden) lodged on  
24 October 2017 — Skatteverket v Holmen AB**

(Case C-608/17)

(2018/C 005/32)

*Language of the case:* Swedish

**Referring court**

Högsta förvaltningsdomstolen

**Parties to the main proceedings**

*Applicant:* Skatteverket

*Defendant:* Holmen AB

**Questions referred**

1. In order for a parent company in one Member State to have the right — which follows from, inter alia, the case of *Marks & Spencer* — on the basis of Article 49 TFEU to deduct definitive losses in a subsidiary in another Member State, is it necessary that the subsidiary be directly owned by the parent company?
  2. Is that part of a loss which, as a result of the rules in the subsidiary's State, it has not been possible set off against profits which were made there in a particular year, but instead could be carried over so that they could potentially be deducted in a future year, also to be regarded as definitive?
  3. In the assessment of whether a loss is definitive, must account be taken of the fact that, under the rules in the subsidiary's State, the possibility for parties other than the party making the loss itself to deduct the loss is restricted?
  4. If account is to be taken of a restriction such as that referred to in question 3, must regard be had to the extent to which the restriction has in fact led to it not being possible to set off any part of the losses against profits made by another party?
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