Corporation Tax Act 2010

2010 CHAPTER 4

[F1PART 5A

GROUP RELIEF FOR CARRIED-FORWARD LOSSES

CHAPTER 5

LIMITATIONS ON RELIEF: CLAIMS UNDER SECTION 188CC

[F1Further limitations on amount of relief that apply in particular cases

Textual Amendments

F1 Pt. 5A inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 23**

188EI Condition 4: companies in link company's group

(1) Where—

(a) the claimant company makes a claim under section 188CC, and

(b) the claim is based on consortium condition 4

the amount of relief to be given on the claim is limited by subsections (2) and (3).

(2) There is a limit on the amount of group relief for carried-forward losses that can be given, in total, on relevant consortium claims made by the link company and group companies.

(3) That limit is the maximum amount of group relief for carried-forward losses that could be given to the link company on relevant consortium claims—

(a) assuming that no relevant consortium claims were made by group companies based on consortium condition 4,

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(b) assuming that the link company was UK related, and

(c) ignoring any lack of profits of the link company from which deductions could be made as mentioned in section 188CK(1).

(4) In this section—

"consortium claim" means a claim made under section 188CC for group relief for carried-forward losses,

"group company" means a company that is a member of the same group of companies as the link company (other than the link company),

"relevant consortium claim" means a consortium claim in relation to which the surrendering company, the surrender period and the specified loss-making period are the same as is the case for the claim mentioned in subsection (1), and

"UK related", in relation to a company, has the meaning given by section 188CJ.

188EJ Condition 3 or 4: surrendering company not controlled by claimant company etc

(1) This section applies if—

(a) the claimant company makes a claim under section 188CC for group relief for carried-forward losses,

(b) the claim is based on consortium condition 3, and

(c) during any part of the overlapping period, arrangements within subsection (3) are in place which enable a person to prevent the claimant company, either alone or together with one or more other companies that are members of the consortium, from controlling the surrendering company.

(2) This section also applies if—

(a) the claimant company makes a claim under section 188CC for group relief for carried-forward losses,

(b) the claim is based on consortium condition 4, and

(c) during any part of the overlapping period, arrangements within subsection (3) are in place which enable a person to prevent the link company, either alone or together with one or more other companies that are members of the consortium, from controlling the surrendering company.

(3) Arrangements are within this subsection if—

(a) the company, either alone or together with one or more other companies that are members of the consortium, would control the surrendering company, but for the existence of the arrangements, and

(b) the arrangements form part of a scheme the main purpose, or one of the main purposes, of which is to enable the claimant company to obtain a tax advantage under this Chapter.

(4) The relief to be given on the claim is to be determined as if the surrenderable amount for the overlapping period were 50% of what it would be but for this section (see section 188EC(2) to determine the surrenderable amount for the overlapping period).

(5) In this section "the overlapping period" is to be read in accordance with section 188EH.

(6) Section 1139 ("tax advantage") applies for the purposes of this section.

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188EK Condition 3 or 4: surrendering company in group of companies

(1) This section applies if—

(a) the claimant company makes a claim under section 188CC for group relief for carried-forward losses, and

(b) the surrendering company is a member of a group of companies.

(2) The surrendering company's surrenderable amounts for the surrender period that are attributable to the specified loss-making period are to be treated as reduced (but not below nil) by the relevant amount.

(3) To determine the relevant amount—

Step 1 Calculate the group's potential relief.

Step 2 Multiply the amount arrived at under step 1 by the fraction set out in subsection (6).

(4) The group's potential relief is the maximum amount of group relief for carried-forward losses that could be given if every claim that could be made based on the group condition in respect of the surrenderable amounts for the surrender period was in fact made (and for this purpose it is to be assumed that the maximum possible claim is made in each case).

(5) Before determining the maximum amount of potential group relief for carried-forward losses under subsection (4), take account of any claim made before the current claim that—

(a) is a claim for group relief for carried-forward losses based on the group condition, and

(b) is in relation to losses or other amounts surrendered by a member of the same group of companies as the surrendering company (other than the surrendering company itself).

(6) The fraction mentioned in step 2 in subsection (3) is—

$$AB$$

where—

A is the sum of the surrendering company's surrenderable amounts for the surrender period that are attributable to the specified loss-making period, and

B is the sum of all the surrendering company's surrenderable amounts for the surrender period.**]**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 357CHA omitted by 2024 c. 3 Sch. 2 para. 14(7)
- s. 658(1)(d)(e) inserted by 2010 c. 13 Sch. 6 para. 31 (This amendment not applied to legislation.gov.uk. Sch. 6 para. 31 omitted (retrospective to 6.4.2010) by virtue of Finance Act 2012 (c. 14), s. 52(2) (3))