



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XI

COMPANY TAXATION

CHAPTER I

MAIN PROVISIONS

Group relief

258 Group relief

- (1) Relief for trading losses and other amounts eligible for relief from corporation tax may in accordance with the following provisions of this Chapter be surrendered by a company (called " the surrendering company ") which is a member of a group of companies and, on the making of a claim by another company (called " the claimant company ") which is a member of the same group, may be allowed to the claimant company by way of a relief from corporation tax called " group relief".
- (2) Group relief shall also be available in accordance with the said provisions—
 - (a) where the surrendering company is a trading company which is owned by a consortium and which is not a 75 per cent. subsidiary of any company, and the claimant company is a member of the consortium, or
 - (b) where the surrendering company is a trading company—
 - (i) which is a 90 per cent. subsidiary of a holding company which is owned by a consortium, and
 - (ii) which is not a 75 per cent. subsidiary of a company other than the holding company,and the claimant company is a member of the consortium, or

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- (c) where the surrendering company is a holding company which is owned by a consortium and which is not a 75 per cent. subsidiary of any company, and the claimant company is a member of the consortium;

Provided that no claim may be made by a member of a consortium if a profit on a sale of the share capital of the surrendering or holding company which that member owns would be treated as a trading receipt of that member.

- (3) Subject to the following sections of this Chapter, two or more claimant companies may make claims relating to the same surrendering company, and to the same accounting period of that surrendering company.
- (4) A payment for group relief—
- (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and
 - (b) shall not for any of the purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income,
- and in this subsection "payment for group relief" means a payment made by the claimant company to the surrendering company in pursuance of an agreement between them as respects an amount surrendered by way of group relief, being a payment not exceeding that amount.
- (5) For the purpose of this section and the following sections of this Chapter—
- (a) two companies shall be deemed to be members of a group of companies if one is the 75 per cent. subsidiary of the other or both are 75 per cent. subsidiaries of a third company,
 - (b) "holding company" means a company the business of which consists wholly or mainly in the holding of shares or securities of companies which are its 90 per cent. subsidiaries, and which are trading companies,
 - (c) "trading company" means a company whose business consists wholly or mainly of the carrying on of a trade or trades.
- (6) In applying for the said purposes the definition of "75 per cent. subsidiary" in section 532 of this Act any share capital of a registered industrial and provident society shall be treated as ordinary share capital.
- (7) References in this and the following sections of this Chapter to a company apply only to bodies corporate resident in the United Kingdom; and in determining for the purposes of this and the following sections of this Chapter whether one company is a 75 per cent. subsidiary of another, the other company shall be treated as not being the owner—
- (a) of any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade, or
 - (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt, or
 - (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.
- (8) For the said purposes—
- (a) a company is owned by a consortium if all of the ordinary share capital of that company is directly and beneficially owned between them by five or fewer companies, and those companies are called the members of the consortium,

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- (b) a member's share in a consortium shall be the percentage of the ordinary share capital of the surrendering company, or as the case may be of the holding company through which the surrendering company is owned, which is beneficially owned by that member in the relevant accounting period of the surrendering company, and if that percentage has fluctuated in the accounting period, the average percentage over the period shall be taken.

259 Kinds of group relief

- (1) If in any accounting period the surrendering company has incurred a loss, computed as for the purposes of subsection (2) of section 177 of this Act, in carrying on a trade, the amount of the loss may be set off for the purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period:

Provided that this subsection shall not apply to so much of a loss as is excluded from the said subsection (2) by subsection (4) of the said section, or by section 180 of this Act (farming and market gardening).

- (2) If for any accounting period any capital allowances fall to be made to the surrendering company which are to be given by discharge or repayment of tax and are to be available primarily against a specified class of income, so much of the amount of those capital allowances (exclusive of any carried forward from an earlier period) as exceeds its income of the relevant class arising in that accounting period (before deduction of any losses of any other period or of any capital allowances) may be set off for purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period.
- (3) If for any accounting period the surrendering company (being an investment company) may under section 304(1) of this Act deduct any amount as expenses of management disbursed for that accounting period, so much of that amount (exclusive of any amount deductible only by virtue of subsection (2) of the said section 304) as exceeds the company's profits of that accounting period may be set off for purposes of corporation tax against the total profits of the claimant company (whether an investment company or not) for its corresponding accounting period.
- (4) The surrendering company's profits of the period shall be determined for the purposes of subsection (3) above without any deduction under the said section 304 and without regard to any deduction falling to be made in respect of losses or allowances of any other period.
- (5) References in subsections (3) and (4) above to the said section 304 do not include references to that section as applied by section 305 of this Act to companies carrying on life assurance business.
- (6) If in any accounting period the surrendering company has paid any amount by way of charges on income, so much of that amount as exceeds its profits of the period may be set off for purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period.
- (7) The surrendering company's profits of the period shall be determined for the purposes of subsection (6) above without regard to any deduction falling to be made in respect of losses or allowances of any other period, or to expenses of management deductible only by virtue of subsection (2) of section 304 of this Act.

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- (8) In applying any of the preceding subsections in the case of a claim made by a company as a member of a consortium only a fraction of the loss referred to in subsection (1) above, or of the excess referred to in subsection (2) or (3) or (6) above, as the case may be, may be set off under the subsection in question, and that fraction shall be equal to that member's share in the consortium, subject to any further reduction under section 261(2) below.

260 Relation of group relief to other relief

- (1) Group relief for an accounting period shall be allowed as a deduction against the claimant company's total profits for the period before reduction by any relief derived from a subsequent accounting period, but as reduced by any other relief from tax (including relief in respect of charges on income under section 248(1) above).
- (2) The said other relief shall be determined on the assumption that the company makes all relevant claims under section 177(2) of this Act and section 74(3) of the Capital Allowances Act 1968 (set-off of trading losses and capital allowances against total profits).
- (3) For the purposes of this section "relief derived from a subsequent accounting period" means—
- (a) relief under section 177(2) of this Act in respect of a loss incurred in an accounting period after the accounting period the profits of which are being computed, and
 - (b) relief under section 74(3) of the Capital Allowances Act 1968 in respect of capital allowances falling to be made for an accounting period after the accounting period the profits of which are being computed, and
 - (c) relief under section 87 of the Finance Act 1965 (transitional relief on cessation of trade etc.) where the company ceases to possess the source of income in question at a time after the end of the accounting period the profits of which are being computed, and
 - (d) relief under section 178 of this Act in respect of a loss incurred in an accounting period after the end of the accounting period the profits of which are being computed.
- (4) The reductions to be made in total profits of an accounting period against which any relief derived from a subsequent accounting period is to be set off shall include any group relief for that first-mentioned accounting period, and this subsection shall have effect notwithstanding that under section 87(3) of the Finance Act 1965 relief under that section is to be given in priority to any other relief.

261 Corresponding accounting periods

- (1) For the purposes of group relief any accounting period of the claimant company which falls wholly or partly within an accounting period of the surrendering company corresponds to that accounting period.
- (2) If an accounting period of the surrendering company and a corresponding accounting period of the claimant company do not coincide—
- (a) the amount which may be set off against the total profits of the claimant company for the corresponding accounting period shall be reduced by applying the fraction

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$$\frac{A}{B}$$

$$\frac{A}{B}$$

(if that fraction is less than unity), and

- (b) the said profits against which the amount mentioned in paragraph (a) above (as reduced where so required) may be set off shall be reduced by applying the fraction

$$\frac{A}{C}$$

$$\frac{A}{C}$$

(if that fraction is less than unity),

where

A is the length of the period common to the two accounting periods,

B is the length of the accounting period of the surrendering company, and

C is the length of the corresponding accounting period of the claimant company.

262 Companies joining or leaving group or consortium

- (1) Subject to the following provisions of this section, group relief shall be given if, and only if, the surrendering company and the claimant company are members of the same group, or fulfil the conditions for relief for a consortium, throughout the whole of the surrendering company's accounting period to which the claim relates, and throughout the whole of the corresponding accounting period of the claimant company
- (2) Where on any occasion two companies become or cease to be members of the same group, then for the purposes specified in subsection (3) below it shall be assumed as respects each company that on that occasion (unless a true accounting period of the company begins or ends then) an accounting period of the company ends, and a new one begins, the new accounting period to end with the end of the true accounting period (unless before then there is a further break under this subsection), and—
- (a) that the losses or other amounts of the true accounting period are apportioned to the component accounting periods on a time basis according to their lengths, and
- (b) that the amount of total profits for the true accounting period of the company against which group relief may be allowed in accordance with section 260(1) above is also so apportioned to the component accounting periods.
- (3) Where the one company is the surrendering company and the other company is the claimant company—
- (a) references to accounting periods, to profits, and to losses, allowances, expenses of management or charges on income of the surrendering company, in section 259 above shall be construed in accordance with subsection (2) above,
- (b) references to accounting periods in section 261 above and subsection (1) of this section shall be so construed (so that if the two companies are members of the same group in the surrendering company's accounting period, they must under section 261 above also be members of the same group in any corresponding accounting period of the claimant company),
- (c) references to profits, and amounts to be set off against the profits, in section 261 above shall be so construed (so that an amount apportioned under

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subsection (2) above to a component accounting period may fall to be reduced under section 261(2) above).

- (4) Subsection (2) and (3) above shall apply with the necessary modifications where a company begins or ceases to fulfil the conditions for relief for a consortium, either as a surrendering company or as a claimant company, as it applies where two companies become or cease to be members of the same group.

263 Exclusion of double allowances, etc.

- (1) Relief shall not be given more than once in respect of the same amount, whether by giving group relief and by giving some other relief (in any accounting period) to the surrendering company, or by giving group relief more than once.

- (2) In accordance with subsection (1) above, two or more claimant companies cannot, in respect of any one loss or other amount for which group relief may be given, and whatever their accounting periods corresponding to that of the surrendering company, obtain in all more relief than could be obtained by a single claimant company whose corresponding accounting period coincided with the accounting period of the surrendering company.

- (3) If claims for group relief are made by more than one claimant company which relate to the same accounting period of the same surrendering company, and—

- (a) all the claims so made are admissible only by virtue of subsections (2) and (3) of section 262 above, and
- (b) there is a part of the surrendering company's accounting period during which none of those claimant companies is a member of the same group as the surrendering company,

those claimant companies shall not obtain in all more relief than could be obtained by a single claimant company which was not a member of the same group as the surrendering company during that part of the surrendering company's accounting period (but was a member during the remainder of that accounting period).

- (4) If claims for group relief are made by a claimant company as respects more than one surrendering company for group relief to be set off against its total profits for any one accounting period, and—

- (a) all the claims so made are admissible only by virtue of subsections (2) and (3) of section 262 above, and
- (b) there is a part of the claimant company's accounting period during which none of the surrendering companies by reference to which the claims are made is a member of the same group as the claimant company,

the claimant company shall not obtain in all more relief to be set off against its profits for the accounting period than it could obtain on a claim as respects a single surrendering company (with unlimited losses and other amounts eligible for relief) which was not a member of the same group as the claimant company during that part of the claimant company's accounting period (but was a member during the remainder of that accounting period).

- (5) The provisions of this subsection have effect as respects a claim for group relief made by a company as a member of a consortium, in this subsection referred to as a "consortium claim"—

- (a) a consortium claim, and a claim other than a consortium claim, shall not both have effect as respects the loss or other amount of the same accounting

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period of the same surrendering company, unless each of the two claims is as respects a loss or other amount apportioned under section 262(2)(a) above to a component of that accounting period, and the two components do not overlap,

(b) in subsections (3) and (4) above consortium claims shall be disregarded, and paragraph (a) above shall take effect according to the order in which claims are made.

- (6) Without prejudice to the provisions of section 87(3) of the Capital Allowances Act 1968, any reference in Part I of that Act to an allowance made includes a reference to an allowance which would be made but for the granting of group relief, or but for that and but for an insufficiency of profits or other income against which to make it.

264 Claims and adjustments

- (1) A claim for group relief—
- (a) need not be for the full amount available,
 - (b) shall require the consent of the surrendering company notified to the inspector in such form as the Board may require, and
 - (c) must be made within two years from the end of the surrendering company's accounting period to which the claim relates.
- (2) A claim for group relief by a company as a member of a consortium shall require the consent of each other member of the consortium, notified to the inspector in such form as the Board may require, in addition to the consent of the surrendering company.
- (3) If the inspector discovers that any group relief which has been given is or has become excessive he may make an assessment to corporation tax under Case VI of Schedule D in the amount which ought in his opinion to be charged.
- (4) Subsection (3) above is without prejudice to the making of an assessment under section 29(3)(c) of the Taxes Management Act 1970, and to the making of all such other adjustments by way of discharge or repayment of tax or otherwise as may be required where a claimant company has obtained too much relief, or a surrendering company has forgone relief in respect of a corresponding amount.