

## SCHEDULES

### SCHEDULE 18

#### COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

#### PART VIII

#### CLAIMS FOR GROUP RELIEF

##### *Introduction*

- 66 This Part of this Schedule applies to claims for relief under Chapter IV of Part X of the Taxes Act 1988 (group relief).

##### *Claim to be included in company tax return*

- 67 (1) A claim for group relief must be made by being included in the claimant company's company tax return for the accounting period for which the claim is made.  
(2) It may be included in the return originally made or by amendment.

##### *Content of claims*

- 68 (1) A claim for group relief must specify—  
(a) the amount of relief claimed, and  
(b) the name of the surrendering company.  
(2) The amount specified must be an amount which is quantified at the time the claim is made.

##### *Claims for more or less than the amount available for surrender*

- 69 (1) A claim for group relief may be made for less than the amount available for surrender at the time the claim is made.  
(2) A claim is ineffective if the amount claimed exceeds the amount available for surrender at the time the claim is made.  
(3) For these purposes the amount available for surrender at any time is calculated as follows.

##### *First step*

Determine the total amount available for surrender under section 403 of the Taxes Act 1988—

- (a) on the basis of the information in the company's company tax return,  
and

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- (b) disregarding any amendments whose effect is deferred under paragraph 31(3).

*Second step*

Then deduct the total of all amounts for which notices of consent have been given by the company and not withdrawn.

- (4) Where one or more claims are withdrawn on the same day as one or more claims are made, the withdrawals are given effect first.
- (5) Where more than one claim is made on the same day, and the claims together take the amount claimed over the limit of what is available for surrender, the Inland Revenue may determine which of the claims is to be ineffective.
- (6) The power under sub-paragraph (5) shall not be exercised to any greater extent than is necessary to bring the total amount claimed within the amount available for surrender.

*Consent to surrender*

- 70 (1) A claim for group relief requires the consent of the surrendering company.
- (2) A consortium claim also requires the consent of each member of the consortium.
- (3) The necessary consent or consents must be given—
- (a) by notice in writing,
  - (b) to the officer of the Board to whom the surrendering company makes its company tax returns,
  - (c) at or before the time the claim is made.
- Otherwise the claim is ineffective.
- (4) A claim for group relief is ineffective unless it is accompanied by a copy of the notice of consent to surrender given by the surrendering company.
- (5) A consortium claim is ineffective unless it is also accompanied by a copy of the notice of consent to surrender given by each member of the consortium.

*Notice of consent*

- 71 (1) Notice of consent by the surrendering company must contain all the following details—
- (a) the name of the surrendering company;
  - (b) the name of the company to which relief is being surrendered;
  - (c) the amount of relief being surrendered;
  - (d) the accounting period of the surrendering company to which the surrender relates;
  - (e) the tax district references of the surrendering company and the company to which relief is being surrendered.
- Otherwise the notice is ineffective.
- (2) Notice of consent may not be amended, but it may be withdrawn and replaced by another notice of consent.

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- (3) Notice of consent may be withdrawn by notice to the officer of the Board to whom the notice of consent was given.
- (4) Except where the consent is withdrawn under paragraph 75 (withdrawal in consequence of reduction of amount available for surrender), the notice of withdrawal must be accompanied by a notice signifying the consent of the claimant company to the withdrawal.  
  
Otherwise the notice is ineffective.
- (5) The claimant company must, so far as it may do so, amend its company tax return for the accounting period for which the claim was made so as to reflect the withdrawal of consent.

*Notice of consent requiring amendment of return*

- 72
- (1) Where notice of consent by the surrendering company is given after the company has made a company tax return for the period to which the surrender relates, the surrendering company must at the same time amend its return so as to reflect the notice of consent.
  - (2) Where notice of consent by the surrendering company relates to a loss in respect of which relief has been given under section 393(1) of the Taxes Act 1988 (carry forward of trading losses), the surrendering company must at the same time amend its company tax return for the period or, if more than one, each of the periods in which relief for that loss has been given under section 393(1) so as to reflect the new notice of consent.  
  
For this purpose relief under section 393(1) is treated as given for losses incurred in earlier accounting periods before losses incurred in later accounting periods.
  - (3) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made under sub-paragraph (1) or (2).
  - (4) If the surrendering company fails to comply with sub-paragraph (1) or (2), the notice of consent is ineffective.

*Withdrawal or amendment of claim*

- 73
- (1) A claim for group relief may be withdrawn by the claimant company only by amending its company tax return.
  - (2) A claim for group relief may not be amended, but must be withdrawn and replaced by another claim.

*Time limit for claims*

- 74
- (1) A claim for group relief may be made or withdrawn at any time up to whichever is the last of the following dates—
    - (a) the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made;
    - (b) if notice of enquiry is given into that return, 30 days after the enquiry is completed;

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- (c) if after such an enquiry the Inland Revenue amend the return under paragraph 34(2), 30 days after notice of the amendment is issued;
  - (d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.
- (2) A claim for group relief may be made or withdrawn at a later time if the Inland Revenue allow it.
- (3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes or withdraws a claim for group relief within the time allowed by or under this paragraph.
- (4) The references in sub-paragraph (1) to an enquiry into a company tax return do not include an enquiry restricted to a previous amendment making or withdrawing a claim for group relief.

An enquiry is so restricted if—

- (a) the scope of the enquiry is limited as mentioned in paragraph 25(2), and
- (b) the amendment giving rise to the enquiry consisted of the making or withdrawing of a claim for group relief.

*Reduction in amount available for surrender*

- 75 (1) This paragraph applies if, after the surrendering company has given one or more notices of consent to surrender, the amount available for relief is reduced to less than the amount stated in the notice, or the total of the amounts stated in the notices, as being surrendered.
- (2) The company must within 30 days withdraw the notice of consent, or as many of the notices as is necessary to bring the total amount surrendered within the new amount available for surrender, and may give one or more new notices of consent.
- (3) The company must give notice in writing of the withdrawal of consent, and send a copy of any new notice of consent—
- (a) to each of the companies affected, and
  - (b) to the Inland Revenue.
- (4) If the surrendering company fails to act in accordance with sub-paragraph (2), the Inland Revenue may by notice to the surrendering company give such directions as they think fit as to which notice or notices are to be ineffective or are to have effect in a lesser amount.

This power shall not be exercised to any greater extent than is necessary to secure that the total amount stated in the notice or notices is consistent with the amount available for surrender.

- (5) The Inland Revenue must at the same time send a copy of the notice to the claimant company, or each claimant company, affected by their action.
- (6) A claimant company which receives—
- (a) notice of the withdrawal of consent, or a copy of a new notice of consent, under sub-paragraph (3), or
  - (b) a copy of a notice containing directions by the Inland Revenue under sub-paragraph (4),

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must, so far as it may do so, amend its company tax return for the accounting period for which the claim is made so that it is consistent with the new position with regard to consent to surrender.

- (7) An appeal may be brought by the surrendering company against any directions given by the Inland Revenue under sub-paragraph (4).
- (8) Notice of appeal must be given—
  - (a) in writing,
  - (b) within 30 days after the notice containing the directions was issued,
  - (c) to the officer of the Board by whom the notice was given.

*Assessment to recover excessive group relief*

- 76 (1) If the Inland Revenue discover that any group relief which has been given is or has become excessive, they may make an assessment to tax in the amount which in their opinion ought to be charged.
- (2) This power is without prejudice to—
  - (a) the power to make a discovery assessment under paragraph 41(1);
  - (b) the making of all such 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.

*Joint amended returns*

- 77 (1) The Treasury may by regulations make provision for arrangements under which—
  - (a) a claim for group relief may be made without being accompanied by a copy of the notice of consent to surrender given by the surrendering company, and
  - (b) one company may be authorised to act on behalf of two or more companies in the same group in amending their company tax returns for the purpose of claiming or surrendering group relief or revising the amounts of group relief claimed or surrendered by them.
- (2) Regulations under this paragraph may add to, exclude or modify the operation of any provisions of this Part of this Schedule to such extent as the Treasury think necessary or expedient for the purpose of, or in connection with, such arrangements.
- (3) Provision may in particular be made—
  - (a) altering the conditions for making and withdrawing claims for group relief, and
  - (b) giving the Inland Revenue power to recover from the authorised company or another company in the group any amount which might be recovered from the claimant company by an assessment under paragraph 76.