

# CORPORATION TAX ACT 2010

---

## EXPLANATORY NOTES

### INTRODUCTION

#### **Part 5: Group relief**

#### *Chapter 5: Subsidiaries, groups and consortiums*

#### **Overview**

592. This Chapter sets out the rules for determining the relationships between companies for the purpose of group relief.

#### *Section 150: Overview of Chapter*

593. This section introduces the Chapter. It is new.

#### *Section 151: Meaning of “75% subsidiary” and “90% subsidiary”*

594. This section explains what is meant by “75% subsidiary” and “90% subsidiary”. It is based on section 413 of ICTA.

595. *Subsection (1)* imports the definitions in Chapter 3 of Part 24 of this Act.

596. *Subsection (2)* includes the share capital of a registered industrial or provident society in “ordinary share capital”.

597. *Subsection (3)* excludes shares held as circulating capital by a company that deals in shares.

598. The section simplifies the rule in section 413(5) of ICTA by not dealing separately with indirect share holdings. If any of the companies in the ownership chain holds the relevant shares as circulating capital the chain is broken for the purposes of this section.

599. *Subsection (4)* introduces the additional tests for a company to be treated as a 75% subsidiary of another. They are that “equity holders” in the subsidiary must be beneficially entitled to:

- at least 75% of the subsidiary’s profits; and
- at least 75% of the subsidiary’s assets in a winding up.

600. The test for a “90% subsidiary” is in similar terms.

601. The detail of the rules about equity holders is set out in Chapter 6 of this Part of the Act.

#### *Section 152: Groups of companies*

602. This section sets out the conditions for companies to be treated as members of the same group. It is based on section 413 of ICTA.

603. In regulation 17 of the [Taxation of Securitisation Companies Regulations 2006 \(SI 2006/3296\)](#) there is a rule that a securitisation company (defined in regulation 4) is not to be treated as a member of a group or consortium. And regulation 8 of the [Taxation of Insurance Securitisation Companies Regulations 2007 \(SI 2007/3402\)](#) has a similar rule about insurance securitisation companies (defined in regulation 4). The regulations continue to apply for the purposes of this Part of this Act as they apply for the purposes of Chapter 4 of Part 10 of ICTA.
604. Similar regulations relating to property securitisation companies have been published in draft for consultation.

***Section 153: Companies owned by consortiums and members of consortiums***

605. This section sets out the conditions for a company to be “owned by a consortium”. It is based on sections 402 and 413 of ICTA.
606. *Subsection (1)* sets out the two basic conditions.
607. *Subsection (3)* extends the relief that is available to consortiums. The extension involves trading companies in the same group as a holding company owned by a consortium. The corresponding extension to companies in the same group as a consortium member is in section 133(1) and (2).
608. “Holding company” is defined in section 185(2).

***Section 154: Arrangements for transfer of member of group of companies etc***

609. This section counteracts arrangements designed to obtain group relief. It is based on section 410 of ICTA.
610. It is possible to arrange for a loss-making company in a group to become temporarily a member of a second group while the economic reality is that it remains a member of the first group. The section operates as soon as arrangements are made for the ownership of the company to change.
611. *Subsection (1)* applies the section potentially to any case involving two companies in a group.
612. *Subsection (2)* denies group relief (by treating the companies as not members of the same group) if “arrangements” are in place.
613. *Subsection (3)* sets out the three “effects” which bring arrangements within the section. They all involve a change in the control of one of the companies or of a trade that it carries on.

***Section 155: Arrangements for transfer of company owned by consortium etc***

614. This section counteracts arrangements designed to obtain consortium relief. It is based on section 410 of ICTA.
615. It is possible to arrange for a loss-making company to become temporarily:
- a member of a consortium; or
  - owned by a consortium
- while the economic reality is that it is neither of these things. The section operates as soon as arrangements are made for the ownership of the company to change.
616. *Subsection (1)* applies the section potentially to any case involving a trading company and a consortium.
617. *Subsection (2)* denies group relief (by treating the trading company as not owned by a consortium) if “arrangements” are in place.

*These notes refer to the Corporation Tax Act 2010  
(c.4) which received Royal Assent on 3 March 2010*

- 618. *Subsection (3)* sets out the four “effects” which bring arrangements within the section. They all involve a change in the control of the trading company or of a trade that it carries on.
- 619. *Subsection (5)* extends the operation of the section to cases where the trading company is owned indirectly by a consortium.

***Section 156: Sections 154 and 155: supplementary***

- 620. This section explains some of the terms used in the two previous sections. It is based on section 410 of ICTA.
- 621. The reference to Scottish Ministers in subsection (2)(b) reflects section 117 of the Scotland Act 1998.
- 622. The definitions of “connected persons” and “control” applied by section 410(5) of ICTA are not rewritten in this section. There are Act-wide definitions in section 1176.