

2013 No. 463

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

INHERITANCE TAX

The Tax Law Rewrite Acts (Amendment) Order 2013

<i>Made</i>	- - - -	<i>4th March 2013</i>
<i>Laid before the House of Commons</i>		<i>5th March 2013</i>
<i>Coming into force</i>	- -	<i>1st April 2013</i>

The Treasury make the following Order in exercise of the powers conferred by sections 1178 and 1179 of the Corporation Tax Act 2010(a) and by section 375 of the Taxation (International and Other Provisions) Act 2010(b).

Citation, commencement and effect

- 1.—(1) This Order may be cited as the Tax Law Rewrite Acts (Amendment) Order 2013.
- (2) This Order comes into force on 1st April 2013.
- (3) The amendments made by articles 11 and 12 have effect for accounting periods beginning on or after that date.

Inheritance Tax Act 1984

2.—(1) In the definition of “local authority” in section 272 of the Inheritance Tax Act 1984(c) (general interpretation), for “section 842A of the Taxes Act 1988(d)” substitute “section 1130 of the Corporation Tax Act 2010”.

(2) In consequence of the amendment made by paragraph (1), omit paragraph 4 of Schedule 18 to the Finance Act 1990(e).

(a) 2010 c. 4.
(b) 2010 c. 8.
(c) 1984 c. 51. The reference to the Taxes Act 1988 in the definition of “local authority” was substituted by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1) and then amended by paragraph 4 of Schedule 18 to the Finance Act 1990 (c. 29).
(d) 1988 c. 1. Section 842A was inserted by section 127(1) of the Finance Act 1990 and repealed by Part 1 of Schedule 3 to the Corporation Tax Act 2010.
(e) 1990 c. 29.

Local Government Finance Act 1988

3. In section 45A(3)(a) of the Local Government Finance Act 1988(a) (unoccupied hereditaments: zero-rating), for “Schedule 18 to the Finance Act 2002(b)” substitute “Chapter 9 of Part 13 of the Corporation Tax Act 2010”.

Taxation of the Chargeable Gains Act 1992

4. The Taxation of Chargeable Gains Act 1992(c) is amended as follows.

5. In section 140C(5) (transfer or division of non-UK business) for “section 815A of the Taxes Act” substitute “section 122 of TIOPA 2010 (tax treated as chargeable in respect of gains on transfer of non-UK business)”.

6. In section 140F(4) (merger: assets outside UK tax charge) for “section 815A of the Taxes Act (transfer of a non-UK trade)” substitute “section 122 of TIOPA 2010 (tax treated as chargeable in respect of gains on transfer of non-UK business)”.

Finance Act 1994

7.—(1) Section 227B of the Finance Act 1994(d) (transfer of underwriting business without change of ownership) is amended as follows.

(2) In subsection (2)—

- (a) for “Section 343 of the Taxes Act 1988 (company reconstructions without a change of ownership)” substitute “Chapter 1 of Part 22 of the Corporation Tax Act 2010 (transfers of trade without a change of ownership)”,
- (b) in paragraph (a), for “the trade mentioned in that section” substitute “the transferred trade referred to in that Chapter(e)”, and
- (c) in paragraph (c), for “subsections (8) to (10) and (12)” substitute “sections 951 and 952”.

Income Tax (Trading and Other Income) Act 2005

8. In section 415(5) of the Income Tax (Trading and Other Income) Act 2005(f) (charge to tax under Chapter 6), for “as if they were in section 419 of ICTA” substitute “as they have for the purposes of section 455 of CTA 2010”.

Corporation Tax Act 2010

9. The Corporation Tax Act 2010 is amended as follows.

10. In section 144(2) (condition 1: claimant company owned by consortium), for “total profits” (in both places) substitute “available total profits”(g).

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- (a) 1988 c. 41. Section 45A was inserted into the Local Government Finance Act 1988 by section 1(2) of the Rating (Empty Properties) Act 2007 (c. 9).
 - (b) 2002 c. 23. Schedule 18 was repealed by Part 1 of Schedule 3 to the Corporation Tax Act 2010.
 - (c) 1992 c. 12.
 - (d) 1994 c. 9. Section 227B was inserted into the Finance Act 1994 by section 43(1) of the Finance Act 2007 (c. 3).
 - (e) Section 940B of the Corporation Tax Act 2010, in Chapter 1 of Part 22 of that Act, defines “the transferred trade”. That section was renumbered by paragraph 3(1)(b) of Schedule 5 to the Finance Act 2011 (c. 11).
 - (f) 2005 c. 5.
 - (g) “Available total profits” is defined in section 140(7) of the Corporation Tax Act 2010 as total profits after the deductions mentioned in section 137(4)(b) of that Act.

11. In section 148 (conditions 1 and 2: surrendering company in group of companies), for subsections (3) and (4) substitute—

“(3) In the case of the claim (“the current claim”) the surrendering company’s surrenderable amounts^(a) for the surrender period are to be treated as reduced (but not below nil) by the group’s potential relief^(b).”

12. In section 149 (conditions 1 and 3: claimant company in group of companies), for subsections (3) and (4) substitute—

“(3) In the case of the claim (“the current claim”) the claimant company’s available total profits of the claim period are to be treated as reduced (but not below nil) by the group’s potential relief^(c).”

Desmond Swayne

Mark Lancaster

4th March 2013

Two of the Lords Commissioners of Her Majesty’s Treasury

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- (a) “Surrenderable amounts” is defined in section 99(7) of the Corporation Tax Act 2010 as the losses or other amounts eligible for surrender under Chapter 2 of Part 5 of that Act, and in section 113(5) as the losses or other amounts eligible for surrender under Chapter 3 of Part 5, which deals with surrenders made by non-UK resident companies resident or trading in the European Economic Area.
- (b) For the purposes of section 148 “the group’s potential relief” is defined in subsection (5) as the maximum amount of group relief that could be given if every claim that could be made based on the group condition in respect of the surrenderable amounts was in fact made (and for this purpose it is to be assumed that the maximum possible claim is made in each case). Group relief is the relief from corporation tax provided for in Part 5 of the Corporation Tax Act 2010, which (a) allows a company to surrender losses and other amounts, and (b) enables, in certain cases involving groups or consortiums of companies, other companies to claim corporation tax relief for the losses and other amounts that are surrendered.
- (c) For the purposes of section 149 “the group’s potential relief” is defined in subsection (5) as the maximum amount of group relief that could be claimed by the claimant company for the claim period on claims based on the group condition.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order exercises the powers conferred by the Corporation Tax Act 2010 (c. 4) (“CTA 2010”) and the Taxation (International and Other Provisions) Act 2010 (c. 8) (“TIOPA 2010”) to make consequential amendments and undo unintended changes resulting from the work of the Tax Law Re-write project.

Articles 2 to 8 make consequential amendments to update references to provisions which were rewritten in CTA 2010 or TIOPA 2010. The Acts affected are the Inheritance Tax Act 1984 (c. 51) and the Finance Act 1990 (c. 29) (article 2), the Local Government Finance Act 1988 (c. 41) (article 3), the Taxation of Chargeable Gains Act 1992 (c. 12) (articles 5 and 6), the Finance Act 1994 (c. 9) (article 7), and the Income Tax (Trading and Other Income) Act 2005 (c. 5) (article 8).

Article 10 aligns the wording used to refer to available total profits in sections 144 of CTA 2010 with that used in section 140 of that Act and in section 149(3) (as substituted by article 12 of this Order).

Article 11 amends section 148 of CTA 2010 and article 12 amends section 149 of CTA 2010 to undo unintended changes to the operation of group relief from corporation tax. The changes concern limitations on what is known as consortium relief. Article 11 amends section 148 to restore the intended interaction between two restrictions on the amount eligible for surrender by a company in certain circumstances, one imposed by section 148 and the other by section 143 of CTA 2010 (known as the ownership restriction). The result is that the restriction in section 148 is applied before the restriction in section 143.

Article 12 amends section 149 to undo an unintended change to the operation of two limitations on the available total profits of a company against which relief can be claimed so that the limit imposed by section 149 is applied to reduce the available total profits before that amount is further reduced by section 144 of CTA 2010.

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

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