

EXPLANATORY MEMORANDUM TO
THE CORPORATION TAX (SIMPLIFIED ARRANGEMENTS FOR GROUP RELIEF) (AMENDMENT) REGULATIONS 2018

2018 No. 9

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Corporation Tax (Simplified Arrangements for Group Relief) Regulations 1999 (S.I. 1999/2975).
- 2.2 This instrument provides that companies in a group may enter into simplified arrangements with HMRC to claim and surrender group relief for carried-forward losses.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The Finance (No. 2) Act 2017 introduced legislation at Part 5A of the Corporation Tax Act 2010 ("CTA 2010") that allows companies to surrender carried-forward losses between group companies. This relief is referred to as 'group relief for carried-forward losses'.
- 4.2 The ability under Part 5 of the Corporation Tax Act 2010 to surrender losses between group companies in the period in which the losses arise has existed for several years. This is known as group relief.
- 4.3 S.I. 1999/2975 enables groups to enter into simplified arrangements with HMRC in order to submit claims and surrenders of group relief. This instrument provides that companies can also enter into simplified arrangements in respect of claims and surrenders of group relief for carried-forward losses.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The rules at Part 5 of CTA 2010 concern group relief and allow companies to surrender corporation tax losses to other companies in their group. Losses can only be surrendered in the year in which they arise.
- 7.2 S.I. 1999/2975 allows companies to enter into simplified arrangements with HMRC in respect of surrenders and claims of such losses. A group can apply to HMRC to permit a nominated company to become authorised to make claims and surrenders of group relief on behalf of the other group companies in the group.
- 7.3 The new rules at Part 5A of CTA 2010 (introduced by Finance (No. 2) Act 2017) concern group relief for carried-forward losses. They allow companies to surrender carried-forward corporation tax losses to other companies in their group. This means the loss can no longer only be surrendered to other group companies in the year in which it arises.
- 7.4 This instrument amends S.I. 1999/2975 such that the simplified arrangements which it provides for can also be entered into with HMRC in respect of surrenders and claims of group relief for carried-forward losses. It enables a group of companies to nominate a particular member of the group to make claims and surrenders of group relief for carried-forward losses on behalf of other group companies in the same way that they currently can in respect of claims and surrenders of group relief.
- 7.5 Where a company has already made an application to use simplified arrangements for group relief, it will have to make a further application should it wish to enter into simplified arrangements for group relief for carried-forward losses after the amendments made by this instrument have come into force.

8. Consultation outcome

- 8.1 The Regulations were published in draft on HMRC's website for 4 weeks beginning 16 October 2017. There were no comments.

9. Guidance

- 9.1 Guidance will be published in the Corporation Tax Manual in due course.

10. Impact

- 10.1 The impact on businesses is to offer them an opportunity to reduce their administrative burdens. There is no impact on charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 A Tax Information and Impact note covering this instrument will be published on the gov.uk website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 11.3 The basis for the final decision on what action to take to assist small businesses was that, although the amendments made by the instrument apply to all businesses, they serve to reduce administrative burdens such that specific action in relation to small businesses was not required.

12. Monitoring & review

- 12.1 The effectiveness of the process set out in the legislation will be subject to internal review by HMRC at regular intervals.

13. Contact

- 13.1 Eva Upali at HMRC Telephone: 03000 542 465 or email: eva.upali@hmrc.gsi.gov.uk can answer any queries regarding the instrument.