



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART X

LOSS RELIEF AND GROUP RELIEF

CHAPTER IV

GROUP RELIEF

402 Surrender of relief between members of groups and consortia

(1) Subject to and in accordance with this Chapter and section 492(8), relief for trading losses and other amounts eligible for relief from corporation tax may, in the cases set out in subsections (2) and (3) below, be surrendered by a company (“the surrendering company”) and, on the making of a claim by another company (“the claimant company”) may be allowed to the claimant company by way of a relief from corporation tax called “group relief”.

(2) Group relief shall be available in a case where the surrendering company and the claimant company are both members of the same group.

A claim made by virtue of this subsection is referred to as a “group claim”.

(3) Group relief shall also be available in the case of a surrendering company and a claimant company either where one of them is a member of a consortium and the other is—

(a) a trading company which is owned by the consortium and which is not a 75 per cent. subsidiary of any company; or

(b) a trading company—

(i) which is a 90 per cent. subsidiary of a holding company which is owned by the consortium; and

(ii) which is not a 75 per cent. subsidiary of a company other than the holding company; or

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(c) a holding company which is owned by the consortium and which is not a 75 per cent. subsidiary of any company;
 or, in accordance with section 406, where one of them is a member of a group of companies and the other is owned by a consortium and another company is a member of both the group and the consortium.

A claim made by virtue of this subsection is referred to as “a consortium claim”.

- (4) A consortium claim shall not be made if the share in the consortium of the member in the relevant accounting period of the surrendering company (or, where that company is a trading company falling within subsection (3)(b) above, its holding company) is nil or if a profit on a sale of the share capital of the other company or its holding company which the member owns would be treated as a trading receipt of that member.
- (5) Subject to the provisions 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.
- (6) 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 “a 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.

403 Losses etc. which may be surrendered by way of group relief

- (1) Subject to the provisions of this Chapter, if in any accounting period the surrendering company has incurred a loss, computed as for the purposes of section 393(2), 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.
- (2) Subsection (1) above shall not apply to so much of a loss as is excluded from subsection (2) of section 393 by subsection (5) of that section or by section 397.
- (3) Subject to the provisions of this Chapter, if for any accounting period any capital allowances fall to be made to the surrendering company which—
- (a) are to be given by discharge or repayment of tax, and
 - (b) are to be available primarily against a specified class of income,
- so much of the amount of those 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.
- (4) Subject to the provisions of this Chapter, if for any accounting period the surrendering company (being an investment company) may under subsection (1) of section 75 deduct as expenses of management any amount disbursed for that accounting period, so much of that amount (exclusive of any amount deductible only by virtue of

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subsection (3) of that section) 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.

- (5) The surrendering company's profits of the period shall be determined for the purposes of subsection (4) above without any deduction under section 75 and without regard to any deduction falling to be made in respect of losses or allowances of any other period.
- (6) References in subsections (4) and (5) above to section 75 do not include references to that section as applied by section 76 to companies carrying on life assurance business.
- (7) Subject to the provisions of this Chapter and section 494(4), 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 the purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period.
- (8) The surrendering company's profits of the period shall be determined for the purposes of subsection (7) 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 section 75(3).
- (9) In applying any of the preceding subsections in the case of a consortium claim—
 - (a) where the claimant company is 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 (3), (4) or (7) above, as the case may be, may be set off under the subsection in question;
 - (b) where the surrendering company is a member of a consortium that loss or excess shall not be set off under the subsection in question against more than a fraction of the total profits of the claimant company;

and that fraction shall be equal to that member's share in the consortium in the accounting period referred to in section 402(4), subject to any further reduction under section 408(2) and subject also to sections 405(4) and 406(2) and (6).

- (10) Where a company owned by a consortium—
 - (a) has in any relevant accounting period incurred such a loss as is referred to in subsection (1) above, and
 - (b) has profits (of whatever description) of that accounting period against which that loss could be set off under section 393(2),the amount of that loss which is available to any member of the consortium on a consortium claim shall be determined on the assumption that the company owned by the consortium has made a claim under section 393(2) requiring the loss to be so set off.
- (11) Where the company referred to in subsection (10) above is a group/consortium company, the amount of the loss shall be determined under that subsection before any reduction is made under section 405(1) to (3).

404 Limitation of group relief in relation to certain dual resident companies

- (1) Notwithstanding any other provision of this Chapter, no loss or other amount shall be available for set off by way of group relief in accordance with section 403 if, in the material accounting period of the company which would otherwise be the surrendering

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company, that company is for the purposes of this section a dual resident investing company.

- (2) In this section “the material accounting period” means, according to the kind of group relief which would be appropriate, the accounting period—
- (a) in which the loss is incurred; or
 - (b) for which the capital allowances fall to be made; or
 - (c) for which the expenses of management are disbursed; or
 - (d) for which the amount is paid by way of charges on income;
- but subsection (1) above does not have effect unless the material accounting period begins on or after 1st April 1987.
- (3) In Schedule 17—
- (a) Part I has effect where an accounting period of a company in which it is a dual resident investing company begins before and ends on or after 1st April 1987 and references in subsections (1) and (2) above to the material accounting period shall be construed accordingly; and
 - (b) Part II has effect with respect to the time at which certain interest and other payments are to be treated as paid.
- (4) A company is for the purposes of this section a dual resident company in any accounting period in which—
- (a) it is resident in the United Kingdom; and
 - (b) it is also within a charge to tax under the laws of a territory outside the United Kingdom—
 - (i) because it derives its status as a company from those laws; or
 - (ii) because its place of management is in that territory; or
 - (iii) because under those laws it is for any other reason regarded as resident in that territory for the purposes of that charge.
- (5) In any accounting period throughout which it is not a trading company, a dual resident company is for the purposes of this section an investing company.
- (6) In any accounting period of a dual resident company in which it is a trading company, the company is nevertheless for the purposes of this section an investing company if—
- (a) in that period it carries on a trade of such a description that its main function or one of its main functions consists of all or any of the following, namely—
 - (i) acquiring and holding, directly or indirectly, shares, securities or investments of any other description, including interests in companies (resident outside, as well as in, the United Kingdom) with which the dual resident company is connected, within the terms of section 839;
 - (ii) making payments which, by virtue of any enactment, are charges on income for the purposes of corporation tax;
 - (iii) making payments (of interest or other sums) which are similar to those referred to in sub-paragraph (ii) above but which are deductible in computing the profits of the company for the purposes of corporation tax;
 - (iv) obtaining funds (by borrowing or in any other manner whatsoever) for the purpose of, or otherwise in connection with, any of the activities referred to in sub-paragraphs (i) to (iii) above; or

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- (b) it does not fall within paragraph (a) above, but in that accounting period it carries on all or any of the activities referred to in sub-paragraphs (i) to (iv) of that paragraph and does so—
 - (i) to an extent which does not appear to be justified by any trade which it does carry on; or
 - (ii) for a purpose which does not appear to be appropriate to any such trade; or
- (c) in that period—
 - (i) the amount paid by the company by way of charges on income exceeds its profits of the period, determined as mentioned in section 403(8); and
 - (ii) those charges include an amount which falls to be treated as a charge on income by virtue of section 78(2) or paragraph 5(2) of Schedule 4; and
 - (iii) the paying of those charges by the company is its main activity or one of its main activities.

405 Claims relating to losses etc. of members of both group and consortium

- (1) For the purposes of a consortium claim in respect of the loss or other amount of any relevant accounting period of a group/consortium company, that loss or other amount shall be treated as reduced (or, as the case may be, extinguished) by first deducting therefrom the potential relief attributable to group claims.
- (2) Subject to subsection (3) below, in relation to the loss or other amount of a relevant accounting period of a group/consortium company, the potential relief attributable to group claims is the aggregate amount of group relief that would be claimed if every company which, as a member of the same group of companies as the group/consortium company, could make a group claim in respect of that loss or other amount made such a claim for an amount which, when set against the claimant company's total profits for its corresponding accounting period, would equal those profits.
- (3) Where for any accounting period another member of the group of companies of which the group/consortium company is a member has a loss or other amount available for relief and one or more group claims is or are in fact made in respect of that loss or other amount, account shall be taken of the relief so claimed before determining (in relation to the loss or other amount of the group/consortium company) the potential relief attributable to group claims under subsection (2) above.
- (4) In any case where—
 - (a) a consortium claim is made by a group/consortium company in respect of a loss or other amount of an accounting period of a member of the consortium, and
 - (b) the corresponding accounting period of the group/consortium company is a relevant accounting period,the total profits of the corresponding accounting period of the group/consortium company against a fraction of which that loss or other amount may be set off (in accordance with section 403(9)(b)) shall be treated as reduced (or as the case may be extinguished) by deducting therefrom the potential relief available to the group/consortium company by way of group claims.

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- (5) Subject to subsection (6) below, in relation to a relevant accounting period of a group/consortium company, the potential relief available to the company by way of group claims is the maximum amount of group relief that could be claimed by the company for that accounting period on group claims relating to the losses or other amounts available for relief of other members of the group of companies of which the group/consortium company is a member.
- (6) Where another member of the group of companies of which the group/consortium company is a member in fact makes one or more group claims in respect of losses or other amounts of other members of the group, account shall be taken of the relief already claimed by that company in determining the potential relief available to the group/consortium company by way of group claims under subsection (5) above.

406 Claims relating to losses etc. of consortium company or group member

- (1) In this section—
 - (a) “link company” means a company which is a member of a consortium and is also a member of a group of companies; and
 - (b) “consortium company”, in relation to a link company, means a company owned by the consortium of which the link company is a member; and
 - (c) “group member”, in relation to a link company, means a company which is a member of the group of which the link company is also a member but is not itself a member of the consortium of which the link company is a member.
- (2) Subject to subsections (3) and (4) below, where the link company could (disregarding any deficiency of profits) make a consortium claim in respect of the loss or other amount eligible for relief of a relevant accounting period of a consortium company, a group member may make any consortium claim which could be made by the link company; and the fraction which is appropriate under section 403(9) where a group member is the claimant company shall be the same as that which would be appropriate if the link company were the claimant company.
- (3) A group member may not, by virtue of subsection (2) above, make a consortium claim in respect of the loss or other amount of any accounting period of a consortium company unless the claimant company was a member of the group concerned throughout the whole of the accounting period or, as the case may be, each accounting period of the link company which, if that company were making the claim, would be a corresponding accounting period in relation to that accounting period of the consortium company.
- (4) The maximum amount of relief which, in the aggregate, may be claimed by group members and the link company by consortium claims relating to the loss or other amount of a relevant accounting period of a consortium company shall not exceed the relief which could have been claimed by the link company (disregarding any deficiency of profits) if subsections (2) and (3) above had not been enacted.
- (5) Subject to subsections (6) to (8) below, where a group member has for a relevant accounting period a loss or other amount available for relief, a consortium company may make any claim in respect of that loss or other amount which it could make if the group member were a member of the consortium at all times when the link company was such a member, but not at any other time.

- (6) The fraction which is appropriate under section 403(9) in relation to a consortium claim made by virtue of subsection (5) above shall be the same as that which would be appropriate if the link company were the surrendering company, except that the accounting period in respect of which the member's share in the consortium is to be ascertained shall be that of the group member which is in fact the surrendering company.
- (7) A consortium company may not, by virtue of subsection (5) above, make a consortium claim in respect of the loss or other amount of any accounting period of a group member unless the group member was a member of the group in question throughout the whole of that accounting period.
- (8) For any accounting period of a consortium company ("the claimant company's accounting period") the maximum amount of relief which, in the aggregate, may be claimed by that company by consortium claims relating to the losses or other amounts of accounting periods of the link company and group members shall not exceed that fraction of the total profits of the claimant company's accounting period which would be brought into account under section 403(9)(b) on a consortium claim in respect of which—
 - (a) the link company was the surrendering company; and
 - (b) the link company's accounting period was the same as the claimant company's accounting period.

407 Relationship between group relief and 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—
 - (a) before reduction by any relief derived from a subsequent accounting period, but
 - (b) as reduced by any other relief from tax (including relief in respect of charges on income under section 338(1)) determined on the assumption that the company makes all relevant claims under section 393(2) of this Act and section 74(3) of the 1968 Act (set-off of capital allowances against total profits).
- (2) For the purposes of this section "relief derived from a subsequent accounting period" means—
 - (a) relief under section 393(2) or 394 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 1968 Act in respect of capital allowances falling to be made for an accounting period after the accounting period the profits of which are being computed.
- (3) 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.

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408 Corresponding accounting periods

- (1) For the purposes of group relief an 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—

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

(if that fraction is less than unity); and

- (b) the total profits of the claimant company for the corresponding accounting period shall be reduced by applying the fraction—

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

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

409 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—
 - (a) 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
 - (b) the losses or other amounts of the true accounting period are apportioned to the component accounting periods; and
 - (c) the amount of total profits for the true accounting period of the company against which group relief may be allowed in accordance with section 407(1) is also apportioned to the component accounting periods;

and an apportionment under this subsection shall be on a time basis according to the respective lengths of the component accounting periods except that, if it appears that that method would work unreasonably or unjustly, such other method shall be used as appears just and reasonable.

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- (3) Where the one company is the surrendering company and the other company is the claimant company—
- (a) references in section 403 to accounting periods, to profits, and to losses, allowances, expenses of management or charges on income of the surrendering company shall be construed in accordance with subsection (2) above;
 - (b) references in subsection (1) above and section 408 to accounting periods 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 that section also be members of the same group in any corresponding accounting period of the claimant company);
 - (c) references in section 408 to profits, and amounts to be set off against the profits, shall be so construed (so that an amount apportioned under subsection (2) above to a component accounting period may fall to be reduced under subsection (2) of that section).
- (4) Subsections (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 except that, in a case where—
- (a) the surrendering company is owned by a consortium and two or more members of the consortium claim relief in respect of losses or other amounts of the surrendering company, or
 - (b) the claimant company is owned by a consortium and claims relief in respect of losses or other amounts of two or more members of the consortium,
- the basis of apportionment which is adopted under subsection (2) above in relation to the losses or other amounts or, as the case may be, the total profits of the true accounting period of the company owned by the consortium shall be the same on each of the claims.
- (5) In subsection (6) below—
- “the primary claim” means a consortium claim made in respect of the loss or other amount of a relevant accounting period of a company owned by a consortium;
 - “the principal surrendering company” means that company; and
 - “the principal accounting period” means that accounting period.
- (6) In any case where—
- (a) the company making the primary claim or, if that claim is made by virtue of section 406(2), the company which is the link company for the purposes of that subsection was not a member of the consortium throughout the whole of the principal accounting period; and
 - (b) on or after the date on which the primary claim is made, a consortium claim is made which—
 - (i) is in respect of the loss or other amount of an accounting period of a surrendering company (being a company owned by the consortium referred to in paragraph (a) above, other than the principal surrendering company); and
 - (ii) is made by the company making the primary claim or, in a case where it or the primary claim is made by virtue of section 406(2), is made by

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any member of the group in question other than the company making the primary claim;

and the accounting period to which the claim relates falls, in whole or in part, within the principal accounting period; and

- (c) at any time during the principal accounting period the surrendering company is a member of the same group of companies as the principal surrendering company;

no relief shall be allowed on the primary claim, or, as the case may be, any relief which was so allowed shall be withdrawn.

(7) In any case where—

- (a) a company (“the principal claimant company”) owned by a consortium makes a consortium claim (“the principal claim”) in respect of the loss or other amount of an accounting period of a member of the consortium or, if the principal claim is made by virtue of section 406(5), of a company which, in relation to that member of the consortium, is a group member, within the meaning of that section; and

- (b) the member of the consortium concerned (whether as the surrendering company or the link company, within the meaning of section 406) was not a member of the consortium throughout the whole of that accounting period; and

- (c) on or after the date on which the principal claim is made, a consortium claim is made—

- (i) by a company, other than the principal claimant company, which is owned by the consortium and which is a member of the same group of companies as the principal claimant company; and

- (ii) which relates to the loss or other amount of an accounting period of the consortium member referred to in paragraph (b) above or of a company which in relation to that consortium member is a group member, within the meaning of section 406;

and that accounting period falls, in whole or in part, in the accounting period referred to in paragraph (a) above;

no relief shall be allowed on the principal claim or, as the case may be, any relief which was so allowed shall be withdrawn.

- (8) Where any relief which has been allowed is withdrawn by virtue of subsection (6) or (7) above, all such adjustments shall be made, whether by way of assessment or otherwise, as may be necessary in consequence of that withdrawal.

410 Arrangements for transfer of company to another group or consortium

- (1) If, apart from this section, two companies (“the first company” and (“the second company”)) would be treated as members of the same group of companies and—

- (a) in an accounting period one of the two companies has trading losses or other amounts eligible for relief from corporation tax which it would, apart from this section, be entitled to surrender by way of group relief; and

- (b) arrangements are in existence by virtue of which, at some time during or after the expiry of that accounting period—

- (i) the first company or any successor of it could cease to be a member of the same group of companies as the second company and could

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become a member of the same group of companies as a third company; or

- (ii) any person has or could obtain, or any persons together have or could obtain, control of the first company but not of the second; or
- (iii) a third company could begin to carry on the whole or any part of a trade which, at any time in that accounting period, is carried on by the first company and could do so either as a successor of the first company or as a successor of another company which is not a third company but which, at some time during or after the expiry of that accounting period, has begun to carry on the whole or any part of that trade;

then, for the purposes of this Chapter, the first company shall be treated as not being a member of the same group of companies as the second company.

- (2) If a trading company is owned by a consortium or is a 90 per cent. subsidiary of a holding company which is owned by a consortium and—

- (a) in any accounting period the trading company or a member of the consortium has trading losses or other amounts eligible for relief from corporation tax which it would, apart from this section, be entitled to surrender by way of group relief; and
- (b) arrangements are in existence by virtue of which—
 - (i) the trading company or any successor of it could, at some time during or after the expiry of that accounting period, become a 75 per cent. subsidiary of a third company; or
 - (ii) any person who owns, or any persons who together own, less than 50 per cent. of the ordinary share capital of the trading company has or together have, or could at some time during or after the expiry of that accounting period obtain, control of the trading company; or
 - (iii) any person, other than a holding company of which the trading company is a 90 per cent. subsidiary, either alone or together with connected persons, holds or could obtain, or controls or could control the exercise of not less than 75 per cent. of the votes which may be cast on a poll taken at a general meeting of that trading company in that accounting period or in any subsequent accounting period; or
 - (iv) a third company could begin to carry on, at some time during or after the expiry of that accounting period, the whole or any part of a trade which, at any time in that accounting period, is carried on by the trading company and could do so either as a successor of the trading company or as a successor of another company which is not a third company but which, at some time during or after the expiry of that accounting period, has begun to carry on the whole or any part of that trade;

then, for the purposes of this Chapter, the trading company shall be treated as though it did not (as the surrendering company or the claimant company) fall within section 402(3).

- (3) In any case where a trading company is a 90 per cent. subsidiary of a holding company which is owned by a consortium, any reference in subsection (2) above to the trading company, other than a reference in paragraph (b)(iv), shall be construed as including a reference to the holding company.

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- (4) In this section “third company” means a company which, apart from any provision made by or under any such arrangements as are specified in paragraph (b) of either subsection (1) or subsection (2) above, is not a member of the same group of companies as the first company or, as the case may be, the trading company or the holding company to which subsection (2) above applies.
- (5) In subsections (1) and (2) above—
“arrangements” means arrangements of any kind whether in writing or not;
“connected persons” shall be construed in accordance with section 839; and
“control” has the meaning assigned by section 840.
- (6) For the purposes of subsections (1) and (2) above a company is the successor of another if it carries on a trade which, in whole or in part, the other company has ceased to carry on and the circumstances are such that—
(a) section 343 applies in relation to the two companies as the predecessor and the successor within the meaning of that section; or
(b) the two companies are connected with each other within the meaning of section 839.
- (7) Where by virtue of any enactment a Minister of the Crown or Northern Ireland department has power to give directions to a statutory body as to the disposal of assets belonging to, or to a subsidiary of, that body, the existence of that power shall not be regarded as constituting or as having at any time constituted an arrangement within the meaning of this section.

411 Exclusion of double allowances

- (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) Subject to subsections (4) and (5) below, if claims for group relief relating to the same accounting period of the same surrendering company are made by two or more claimant companies which themselves are members of a group of companies, and—
(a) all the claims so made are admissible only by virtue of subsection (2) and (3) of section 409, 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).

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- (4) If companies which are members of different groups make claims falling within subsection (3) above, that subsection shall apply separately in relation to the companies in each group.
- (5) For the purposes of subsection (3) above, there shall be left out of account a claim made by a company if—
 - (a) the claimant company joins or leaves a group of companies at the same time as the surrendering company; and
 - (b) both before and after that time either the claimant company is a 75 per cent. subsidiary of the surrendering company or the surrendering company is a 75 per cent. subsidiary of the claimant company or both companies are 75 per cent. subsidiaries of another company.
- (6) Subject to subsection (7) below, if claims as respects two or more surrendering companies which themselves are members of a group of companies are made by a claimant 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 409, 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).
- (7) If claims falling within subsection (6) above are made as respects surrendering companies which are members of different groups, that subsection shall apply separately in relation to claims as respects the surrendering companies in each group.
- (8) For the purposes of subsection (6) above there shall be left out of account a claim made as respects a surrendering company if—
 - (a) the surrendering company joins or leaves the group of companies concerned at the same time as the claimant company; and
 - (b) both before and after that time either the surrendering company is a 75 per cent. subsidiary of the claimant company or the claimant company is a 75 per cent. subsidiary of the surrendering company or both companies are 75 per cent. subsidiaries of another company.
- (9) References in subsections (3) to (6) above to claims for group relief do not include references to consortium claims.
- (10) Without prejudice to the provisions of section 87(3) of the 1968 Act, 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.

412 Claims and adjustments

- (1) A claim for group relief—

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- (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,
 - (c) must be made within two years from the end of the surrendering company's accounting period to which the claim relates.
- (2) A consortium claim shall require the consent of each 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 Management Act and to 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.

413 Interpretation of Chapter IV

- (1) The following provisions of this section have effect for the interpretation of this Chapter.
- (2) In this Chapter—
- “claimant company” has the meaning given by section 402(1);
 - “consortium claim” means a claim for group relief made by virtue of section 402(3);
 - “group claim” means a claim for group relief made by virtue of section 402(2);
 - “group/consortium company” means a company which is both a member of a group of companies and a company owned by a consortium;
 - “group relief” has the meaning given by section 402(1);
 - “relevant accounting period” means an accounting period beginning after 31st July 1985; and
 - “surrendering company” has the meaning given by section 402(1).
- (3) For the purposes 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; and
 - (c) “trading company” means a company the business of which consists wholly or mainly in the carrying on of a trade or trades.
- (4) In applying for the purposes of this Chapter the definition of “75 per cent. subsidiary” in section 838, any share capital of a registered industrial and provident society shall be treated as ordinary share capital.

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- (5) References in this Chapter to a company apply only to bodies corporate resident in the United Kingdom; and in determining for the purposes 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 a 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.
- (6) References to a company being owned by a consortium shall be construed in accordance with paragraph (a) below except for the purposes of the definition of “group/consortium company” in subsection (2) above and of sections 403(10), 406(1) (b) and 409(5), (6) and (7), and for those purposes shall be construed in accordance with paragraph (b) below—
- (a) a company is owned by a consortium if three-quarters or more of the ordinary share capital of the company is beneficially owned between them by companies of which none beneficially owns less than one-twentieth of that capital;
 - (b) a company is owned by a consortium if—
 - (i) it is either such a trading company as is referred to in paragraph (a) or (b) of subsection (3) of section 402 or such a holding company as is referred to in paragraph (c) of that subsection, and
 - (ii) three-quarters or more of the ordinary share capital of the company or, in the case of a company within section 402(3)(b), of its holding company is beneficially owned between them by companies of which none beneficially owns less than one-twentieth of that capital;and the companies which so own three-quarters or more of that ordinary share capital are in this Chapter called the members of the consortium.
- (7) Notwithstanding that at any time a company (“the subsidiary company”) is a 75 per cent. subsidiary or a 90 per cent. subsidiary of another company (“the parent company”) it shall not be treated at that time as such a subsidiary for the purposes of this Chapter unless, additionally at that time—
- (a) the parent company is beneficially entitled to not less than 75 per cent. or, as the case may be, 90 per cent. of any profits available for distribution to equity holders of the subsidiary company; and
 - (b) the parent company would be beneficially entitled to not less than 75 per cent. or, as the case may be, 90 per cent. of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.
- (8) Subject to subsection (9) below, for the purposes of this Chapter, a member’s share in a consortium, in relation to an accounting period of the surrendering company, shall be whichever is the lowest in that period of the following percentages, namely—
- (a) the percentage of the ordinary share capital of the surrendering or claimant company which is beneficially owned by that member;
 - (b) the percentage to which that member is beneficially entitled of any profits available for distribution to equity holders of the surrendering or claimant company; and

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- (c) the percentage to which that member would be beneficially entitled of any assets of the surrendering or claimant company available for distribution to its equity holders on a winding-up;
and if any of those percentages have fluctuated in that accounting period, the average percentage over the period shall be taken for the purposes of this subsection.
- (9) In any case where the surrendering or claimant company is a subsidiary of a holding company which is owned by a consortium, for references in subsection (8) above to the surrendering or claimant company there shall be substituted references to the holding company.
- (10) Schedule 18 shall have effect for supplementing this section.