



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### [<sup>F1</sup>PART 5A

#### GROUP RELIEF FOR CARRIED-FORWARD LOSSES

#### CHAPTER 3

#### CLAIMS FOR GROUP RELIEF FOR CARRIED-FORWARD LOSSES

#### *[<sup>F1</sup>Claiming group relief for carried-forward losses*

#### Textual Amendments

- F1** Pt. 5A inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 23](#)

#### **188CB Claims in relation to all the surrenderable amounts**

- (1) This section applies in relation to the surrendering company's surrenderable amounts for the surrender period under Chapter 2.
- (2) If the requirements in subsection (3) are met, a company (“the claimant company”) may make a claim for group relief for carried-forward losses for an accounting period (“the claim period”) in relation to the surrenderable amounts.
- (3) The requirements are as follows—
  - Requirement 1* The surrendering company consents to the claim.
  - Requirement 2* There is a period (“the overlapping period”) that is common to the claim period and the surrender period.
  - Requirement 3* At a time during the overlapping period—
    - (a) the group condition is met (see section 188CE)

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*Changes to legislation: There are currently no known outstanding effects for the Corporation Tax Act 2010, Cross Heading: Claiming group relief for carried-forward losses. (See end of Document for details)*

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- (b) consortium condition 1 is met (see section 188CF), or
  - (c) consortium condition 2 is met (see section 188CG).
- (4) A claim under this section may relate to the whole of the surrenderable amounts or to part of them only.
- (5) This section is subject to section 188CD (claim not allowed by company with unused carried-forward losses of its own).

**Modifications etc. (not altering text)**

- C1** S. 188CB(3) applied (with effect in accordance with [Sch. 4 para. 190](#) of the amending Act) by [1998 c. 36, Sch. 18 para. 70\(1\)](#) (as substituted) by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 4 para. 114\(2\)](#)

**188CC Claims in relation to the surrenderable amounts that are attributable to a specified accounting period**

- (1) This section applies in relation to the surrendering company's surrenderable amounts for the surrender period under Chapter 2.
- (2) If the requirements in subsection (3) are met, a company (“the claimant company”) may make a claim for group relief for carried-forward losses for an accounting period (“the claim period”) in relation to the surrenderable amounts that are attributable to an accounting period of the surrendering company specified in the claim (“the specified loss-making period”).
- (3) The requirements are as follows—
- Requirement 1* The surrendering company consents to the claim.
  - Requirement 2* There is a period (“the overlapping period”) that is common to the claim period and the surrender period.
  - Requirement 3* Consortium condition 3 (see section 188CH) or consortium condition 4 (see section 188CI) is met throughout a period which—
    - (a) begins before or during the specified loss-making period, and
    - (b) ends during or after the overlapping period.
- (4) A claim under this section may relate to the whole of the surrenderable amounts attributable to the specified loss-making period or to part of them only.
- (5) This section is subject to section 188CD (claim not allowed by company with unused carried-forward losses of its own)

**Modifications etc. (not altering text)**

- C2** S. 188CC(3) applied (with effect in accordance with [Sch. 4 para. 190](#) of the amending Act) by [1998 c. 36, Sch. 18 para. 70\(1\)](#) (as substituted) by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 4 para. 114\(2\)](#)

**188CD Claim not allowed by company with unused carried-forward losses of its own**

A company may not make a claim for group relief for carried-forward losses for an accounting period if—

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- (a) any amount carried forward to that period under any provision mentioned in section 188BB(1), or any amount which is carried forward to that period and falls within section 124B(1)(b) of FA 2012, is not deducted in full from the total profits of the company for that period at Step 2 of section 4(2),
- (b) the company makes a claim under section 458(1) of CTA 2009 for any amount of a deficit to be excepted from being set off against profits of that period,
- (c) the company makes a claim under section 45(4A) that the profits of a trade of that period are not to be reduced or are not to be reduced by more than a specified amount, or
- (d) the company makes a claim under section 45B(5) for relief not to be given in that period for an amount of a loss or for a specified part of an amount of a loss.

### 188CE The group condition

- (1) The group condition is met if the surrendering company and the claimant company—
  - (a) are members of the same group of companies, and
  - (b) are both UK related.
- (2) For the meaning of “UK related” in subsection (1)(b) and in sections 188CF to 188CI, see section 188CJ.

### 188CF Consortium condition 1

- (1) Consortium condition 1 is met if—
  - (a) the claimant company is a trading company or a holding company,
  - (b) the claimant company is owned by a consortium,
  - (c) the surrendering company is a member of the consortium, and
  - (d) both companies are UK related.
- (2) But consortium condition 1 is not met if a profit on a sale within subsection (3) by the surrendering company would be a trading receipt of the surrendering company.
- (3) A sale is within this subsection if it is a sale of—
  - (a) the share capital the surrendering company owns in the claimant company, or
  - (b) if the claimant company is owned by the consortium as a result of section 153(3) (consortiums involving holding companies), the share capital the surrendering company owns in the holding company in question.

### 188CG Consortium condition 2

- (1) Consortium condition 2 is met if—
  - (a) the claimant company is a trading company or a holding company,
  - (b) the claimant company is owned by a consortium,
  - (c) the surrendering company is not a member of the consortium,
  - (d) the surrendering company is a member of the same group of companies as a third company (“the link company”),
  - (e) the link company is a member of the consortium,
  - (f) the surrendering company and the claimant company are both UK related.
- (2) But consortium condition 2 is not met if a profit on a sale within subsection (3) by the link company would be a trading receipt of that company.

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- (3) A sale is within this subsection if it is a sale of—
- (a) the share capital the link company owns in the claimant company, or
  - (b) if the claimant company is owned by the consortium as a result of section 153(3) (consortiums involving holding companies), the share capital the link company owns in the holding company in question.

### **188CH Consortium condition 3**

- (1) Consortium condition 3 is met if—
- (a) the surrendering company is a trading company or a holding company,
  - (b) the surrendering company is owned by a consortium,
  - (c) the claimant company is a member of the consortium, and
  - (d) both companies are UK related.
- (2) But consortium condition 3 is not met if a profit on a sale within subsection (3) by the claimant company would be a trading receipt of the claimant company.
- (3) A sale is within this subsection if it is a sale of—
- (a) the share capital the claimant company owns in the surrendering company, or
  - (b) if the surrendering company is owned by the consortium as a result of section 153(3) (consortiums involving holding companies), the share capital the claimant company owns in the holding company in question.

### **188CI Consortium condition 4**

- (1) Consortium condition 4 is met if—
- (a) the surrendering company is a trading company or a holding company,
  - (b) the surrendering company is owned by a consortium,
  - (c) the claimant company is not a member of the consortium,
  - (d) the claimant company is a member of the same group of companies as a third company (“the link company”),
  - (e) the link company is a member of the consortium, and
  - (f) the claimant company and the surrendering company are both UK related.
- (2) But consortium condition 4 is not met if a profit on a sale within subsection (3) by the link company would be a trading receipt of that company.
- (3) A sale is within this subsection if it is a sale of—
- (a) the share capital the link company owns in the surrendering company, or
  - (b) if the surrendering company is owned by the consortium as a result of section 153(3) (consortiums involving holding companies), the share capital the link company owns in the holding company in question.

### **188CJ Meaning of “UK related” company**

For the purpose of sections 188CE to 188CI a company is UK related if—

- (a) it is a UK resident company, or
- (b) it is a non-UK resident company [<sup>F2</sup>within the charge to corporation tax].]

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**Changes to legislation:** There are currently no known outstanding effects for the Corporation Tax Act 2010, Cross Heading: Claiming group relief for carried-forward losses. (See end of Document for details)

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### Textual Amendments

- F2** Words in s. 188CJ(b) substituted (with effect in accordance with s. 24(3) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 24\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Corporation Tax Act 2010, Cross  
Heading: Claiming group relief for carried-forward losses.