



Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 7A

BANKING COMPANIES]

[^{F2}CHAPTER 4

SURCHARGE ON BANKING COMPANIES

[^{F2}The surcharge allowance

Textual Amendments

- F2** Pt. 7A Ch. 4 inserted (with effect in accordance with Sch. 3 Pt. 3 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 3 para. 1](#)

269DE Surcharge allowance for banking company in a group containing other banking companies

- (1) This section makes provision as to the surcharge allowance of a banking company for a chargeable accounting period where, at any time in the period—
 - (a) the banking company is a member of a group, and
 - (b) one or more other banking companies are members of that group.
- (2) The banking company's surcharge allowance for the chargeable accounting period is so much of its available surcharge allowance for the period as it specifies in its company tax return as its surcharge allowance for the period.
- (3) The banking company's “available surcharge allowance” for the chargeable accounting period is the sum of—
 - (a) any amounts of group surcharge allowance allocated to the company for the period in accordance with sections 269DF to 269DI, and

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- (b) the appropriate amount of non-group surcharge allowance of the company for the period,
 up to a limit of [^{F3}£100,000,000].
- (4) The “appropriate amount of non-group surcharge allowance” of the company, for the chargeable accounting period, is—
^{F4}

$$\left[\frac{\text{DNG} \times \text{DAC}}{\text{DAC}} \times \text{£100,000,000} \right]$$
 where—
 “DNG” is the number of days in the period on which the company is not a member of a group that has another member that is a banking company;
 “DAC” is the total number of days in the period.
- (5) If the chargeable accounting period is less than 12 months—
 (a) the appropriate amount of non-group surcharge allowance, and
 (b) the limit in subsection (3),
 are proportionally reduced.
- (6) The sum of—
 (a) any amount specified under subsection (2) for the chargeable accounting period, and
 (b) any amount that is specified under section 371BI(2) of TIOPA 2010 (calculation of CFC charge on banking companies) for the period,
 may not exceed the available surcharge allowance for the period.
- (7) Section 269DK contains provision about what happens if the requirement in subsection (6) is not met.

Textual Amendments

- F3** Sum in [S. 269DE\(3\)](#) substituted (1.4.2023 for accounting periods beginning on or after that date) by [Finance Act 2022 \(c. 3\), s. 6\(2\)\(a\)\(3\)](#)
- F4** [S. 269DE\(4\)](#): in the formula the sum “£100,000,000” is substituted for “£25,000,000” (1.4.2023 for accounting periods beginning on or after that date) by [Finance Act 2022 \(c. 3\), s. 6\(2\)\(a\)\(3\)](#)

269DF Group surcharge allowance and the nominated company

- (1) This section applies where—
 (a) two or more members of a group are banking companies, and
 (b) all the banking companies that are members of the group together nominate (the “group allowance nomination”) one of their number (the “nominated company”) for the purposes of this Chapter.
- (2) The “group surcharge allowance” for the group is [^{F5}£100,000,000] for each accounting period of the nominated company throughout which the group allowance nomination has effect.

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- (3) If the group allowance nomination takes effect, or ceases to have effect, part of the way through an accounting period of the nominated company, the “group surcharge allowance” for the group for that period is—

^{F6}

$$\frac{\text{DN}}{\text{DAC}} \times \text{£ } 100,000,000$$

where—

“DN” is the number of days in the accounting period on which a group allowance nomination that nominates the nominated company in relation to the group has effect, and

“DAC” is the total number of days in the accounting period.

- (4) If an accounting period of the nominated company is less than 12 months, the group surcharge allowance for that period is proportionally reduced.
- (5) A group allowance nomination must state the date on which it is to take effect (which may be earlier than the date the nomination is made).
- (6) A group allowance nomination is of no effect unless it is signed by the appropriate person on behalf of each company that is, when the nomination is made, a member of the group and a banking company.
- (7) A group allowance nomination ceases to have effect—
- (a) immediately before the date on which a new group allowance nomination in respect of the group takes effect,
 - (b) upon the appropriate person in relation to a banking company that is a member of the group notifying an officer of Revenue and Customs, in writing, that the group allowance nomination is revoked, or
 - (c) upon the nominated company ceasing to be a banking company or ceasing to be a member of the group.
- (8) The Commissioners for Her Majesty's Revenue and Customs may by regulations make further provision about a group allowance nomination or any notification under this section including, in particular, provision—
- (a) about the form and manner in which a nomination or notification may be made,
 - (b) about how a nomination may be revoked and the form and manner of such revocation,
 - (c) requiring a person to notify HMRC of the making or revocation of a nomination,
 - (d) requiring a person to give information to HMRC in connection with the making or revocation of a nomination or the giving of a notification,
 - (e) imposing time limits in relation to making or revoking a nomination or giving a notification, and
 - (f) providing that a nomination or its revocation, or a notification, is of no effect, or ceases to have effect, if time limits or other requirements under the regulations are not met.
- (9) In this Chapter “the appropriate person”, in relation to a company, means—

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- (a) the proper officer of the company, or
 - (b) such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purposes of this Chapter.
- (10) Subsections (3) and (4) of section 108 of TMA 1970 (responsibility of company officers: meaning of “proper officer”) apply for the purposes of subsection (9) as they apply for the purposes of that section.

Textual Amendments

- F5** Sum in [S. 269DF\(2\)](#) substituted (1.4.2023 for accounting periods beginning on or after that date) by [Finance Act 2022 \(c. 3\), s. 6\(2\)\(b\)\(3\)](#)
- F6** [S. 269DF\(3\)](#): in the formula the sum “£100,000,000” is substituted for “£25,000,000” (1.4.2023 for accounting periods beginning on or after that date) by [Finance Act 2022 \(c. 3\), s. 6\(2\)\(b\)\(3\)](#)

269DG Group allowance allocation statement: submission

- (1) A company must submit a group allowance allocation statement to HMRC for each of its accounting periods in which it is the nominated company in relation to a group.
 This is subject to subsections (2) and (3).
- (2) If a company ceases to be the nominated company in relation to a group before it submits a group allowance allocation statement to HMRC for an accounting period—
 - (a) that company may not submit the statement, and
 - (b) the company that is for the time being the nominated company in relation to the group must do so.
- (3) But if a new group allowance nomination in respect of the group takes effect on a date before it is made, that does not affect the validity of the submission of any group allowance allocation statement submitted before the date the new nomination is made.
- (4) A group allowance allocation statement under this section must be received by HMRC within 12 months of the end of the accounting period, of the nominated company, to which it relates.
- (5) A group allowance allocation statement under this section may be submitted at a later time if an officer of Revenue and Customs allows it.
- (6) A group allowance allocation statement under this section must comply with the requirements of section 269DI.

269DH Group allowance allocation statement: submission of revised statement

- (1) This section applies if a group allowance allocation statement has been submitted under section 269DG, or this section, in respect of an accounting period of a company that is, or was, a nominated company (“the nominee's accounting period”).
- (2) A revised group allowance allocation statement in respect of the nominee's accounting period may be submitted to HMRC by the company that is for the time being the nominated company in relation to the group.

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- (3) But if a new group allowance nomination in respect of the group takes effect on a date before it is made, that does not affect the validity of the submission of any revised group allowance allocation statement submitted before the date the new nomination is made.
- (4) A revised group allowance allocation statement may be submitted on or before whichever is the latest of the following dates—
 - (a) the last day of the period of 36 months after the end of the nominee's accounting period;
 - (b) if notice of enquiry (within the meaning of Schedule 18 to FA 1998) is given into a relevant company tax return, 30 days after the enquiry is completed;
 - (c) if, after such an enquiry, an officer of Revenue and Customs amends the return under paragraph 34(2) of that Schedule, 30 days after the notice of amendment is issued;
 - (d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.
- (5) A revised group allowance allocation statement may be submitted at a later time if an officer of Revenue and Customs allows it.
- (6) In this section “relevant company tax return” means a company tax return of a banking company for a chargeable accounting period for which an amount of group surcharge allowance was, or could have been, allocated by a previous group allowance allocation statement in respect of the nominee's accounting period.
- (7) The references in subsection (4) to an enquiry into a relevant company tax return do not include an enquiry resulting from an amendment of such a return where—
 - (a) the scope of the enquiry is limited as mentioned in paragraph 25(2) of Schedule 18 to FA 1998 (enquiry into amendments when time limit for enquiry into return as originally submitted is passed), and
 - (b) the amendment relates only to the allocation of group surcharge allowance for the nominee's accounting period.
- (8) A group allowance allocation statement under this section must comply with the requirements of section 269DI.

269DI Group allowance allocation statement: requirements and effect

- (1) This section applies in relation to a group allowance allocation statement submitted under section 269DG or 269DH.
- (2) The statement must be signed by the appropriate person in relation to the company giving the statement.
- (3) The statement must—
 - (a) identify the group to which it relates,
 - (b) specify the accounting period, of the company that is or was the nominated company, to which the statement relates (“the nominee's accounting period”),
 - (c) specify the days in the nominee's accounting period on which that company was the nominated company in relation to the group or state that that company was the nominated company throughout the period,
 - (d) state the group surcharge allowance the group has for the nominee's accounting period,

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- (e) list one or more of the banking companies that were members of the group in the nominee's accounting period (“listed banking companies”),
 - (f) allocate amounts of the group surcharge allowance to the listed banking companies, and
 - (g) for each amount of group surcharge allowance allocated to a listed banking company, specify the chargeable accounting period of the listed banking company for which it is allocated.
- (4) An amount of group surcharge allowance allocated to a listed banking company must be allocated to that company for a chargeable accounting period that falls wholly or partly in the nominee's accounting period.
- (5) The maximum amount of group surcharge allowance that may be allocated, by the group allowance allocation statement, to a listed banking company for a chargeable accounting period of that company is—

$$\frac{DAP}{DNAP} \times GSA$$

where—

“DAP” is the number of days in the chargeable accounting period that are in the nominee's accounting period;

“DNAP” is the number of days in the nominee's accounting period;

“GSA” is the group surcharge allowance of the group for the nominee's accounting period.

- (6) The sum of the amounts allocated to listed banking companies by the group allowance allocation statement may not exceed the group surcharge allowance for the nominee's accounting period.
- (7) If a group allowance allocation statement is submitted that does not comply with subsection (5) or (6), the company that is, for the time being, the nominated company in relation to the group must submit a revised group allowance allocation statement that does comply with those subsections within 30 days of the date on which the group allowance allocation statement that did not comply was submitted.
- (8) If a group allowance allocation statement—
- (a) complies with those subsections when it is submitted, but
 - (b) subsequently ceases to comply with either of them,
- the company that is, for the time being, the nominated company in relation to the group must submit a revised group allowance allocation statement that does comply with those subsections within 30 days of the date on which the group allowance allocation statement ceased to comply with one of those subsections.
- (9) If a company fails to comply with subsection (7) or (8), an officer of Revenue and Customs may by written notice to the company amend the group allowance allocation statement as the officer thinks fit for the purpose of making it comply with subsections (5) and (6).
- (10) An officer of Revenue and Customs who issues a notice under subsection (9) to a company must, at the same time, send a copy of the notice to each of the listed banking companies.

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- (11) The time limits otherwise applicable to the amendment of a company tax return do not apply to any such amendment to the extent that it is made in consequence of a group allowance allocation statement being submitted in accordance with section 269DG or 269DH.
- (12) The Commissioners for Her Majesty's Revenue and Customs may by regulations make further provision about a group allowance allocation statement including, in particular, provision—
- (a) about the form of a statement and the manner in which it is to be submitted,
 - (b) requiring a person to give information to HMRC in connection with a statement,
 - (c) as to the circumstances in which a statement that is not received by the time specified in section 269DG(4) or 269DH(4) is to be treated as if it were so received, and
 - (d) as to circumstances in which a statement that does not comply with the requirements of this section is to be treated as if it did comply.

269DJ Surcharge allowance for company not in a group containing other banking companies

- (1) This section makes provision as to the surcharge allowance of a banking company for a chargeable accounting period where section 269DE (surcharge allowance for banking company in a group containing other banking companies) does not apply.
- (2) The banking company's surcharge allowance for the chargeable accounting period is so much of its available surcharge allowance for the period as it specifies in its company tax return as its surcharge allowance for that period.
- (3) The banking company's "available surcharge allowance" for the chargeable accounting period is [^{F7}£100,000,000.]
- (4) If the chargeable accounting period is less than 12 months, the banking company's available surcharge allowance for the period is proportionally reduced.
- (5) The sum of—
- (a) any amount specified under subsection (2) for the chargeable accounting period, and
 - (b) any amount that is specified under section 371BI(2) of TIOPA 2010 (calculation of CFC charge on banking companies) for the period,
- may not exceed the available surcharge allowance for the period.
- (6) Section 269DK contains provision about what happens if the requirement in subsection (5) is not met.

Textual Amendments

F7 Sum in [S. 269DJ\(3\)](#) substituted (1.4.2023 for accounting periods beginning on or after that date) by [Finance Act 2022 \(c. 3\)](#), [s. 6\(2\)\(c\)\(3\)](#)

269DK Excessive specifications of available surcharge allowance

- (1) This section applies if—

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- (a) a banking company's company tax return for a chargeable accounting period—
 - (i) specifies an amount under section 269DE(2) or 269DJ(2) as its surcharge allowance for the period, or
 - (ii) specifies an amount under section 371BI(2) of TIOPA 2010 (calculation of CFC charge on banking companies) for the period, and
 - (b) the requirement in section 269DE(6) or (as the case may be) 269DJ(5) is not met.
- (2) The company must, so far as it may do so, amend the company tax return so that the requirement is met.
- (3) If an officer of Revenue and Customs considers that, as a consequence of the requirement not being met, an insufficient sum has been charged on the company under section 269DA, or at step 5 in section 371BC(1) of TIOPA 2010, for the chargeable accounting period, the officer may make an assessment to tax in the amount which in the officer's opinion ought to be charged.
- (4) The power in subsection (3) is without prejudice to the power to make a discovery assessment under paragraph 41(1) of Schedule 18 to FA 1998.
- (5) If an assessment under subsection (3) is made because a company fails, or is unable, to amend its company tax return in accordance with subsection (2) in consequence of the amount of group surcharge allowance allocated to it for an accounting period being altered, the assessment is not out of time if it is made within 12 months of the date on which the alteration took place.]

Changes to legislation:

There are currently no known outstanding effects for the Corporation Tax Act 2010, Cross
Heading: The surcharge allowance.