

SCHEDULES

SCHEDULE 1

Section 10

RELIEFS

PART 1

CARRY BACK OR FORWARD OF QUALIFYING LEVY LOSSES

Carry back of qualifying levy losses to earlier qualifying accounting periods

- 1 (1) This paragraph applies if—
- (a) in a qualifying accounting period, a company carrying on a ring fence trade makes a qualifying levy loss in the period (“the loss-making period”), and
 - (b) the company was carrying on the trade in an earlier qualifying accounting period.
- (2) The company may make a claim for relief for the loss under this paragraph.
- (3) If the company makes a claim, the relief is given by deducting the loss from the company’s qualifying levy profits of previous qualifying accounting periods so far as they fall (wholly or partly) within the period of 12 months ending immediately before the loss-making period begins.
- (4) The amount of a deduction to be made under sub-paragraph (3) for any accounting period is the amount of the loss so far as it cannot be deducted under that sub-paragraph for a subsequent accounting period.
- (5) The company’s claim must be made—
- (a) within the period of two years after the end of the loss-making period, or
 - (b) within such further period as an officer of Revenue and Customs may allow.
- (6) If, for an accounting period, deductions under sub-paragraph (3) are to be made for qualifying levy losses of different accounting periods, the deductions are to be made in the order in which the losses were made (starting with the earliest loss).

Commencement Information

II Sch. 1 para. 1 in force at Royal Assent

- 2 (1) This paragraph applies if an accounting period falls partly within the period of 12 months mentioned in paragraph 1(3).
- (2) The amount of the deduction for the loss for the accounting period is not to exceed an amount equal to the overlapping proportion of the company’s qualifying levy profits of that period.

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- (3) The overlapping proportion is the same as the proportion that the part of the accounting period falling within the period of 12 months bears to the whole of the accounting period.

Commencement Information

I2 Sch. 1 para. 2 in force at Royal Assent

- 3 (1) Relief under paragraph 1 is not available for a loss made in a ring fence trade unless for the loss-making period, the trade is carried on—
- (a) on a commercial basis, and
 - (b) with a view to the making of a profit in the trade or so as to afford a reasonable expectation of making such a profit.
- (2) If during the loss-making period there is a change in the way in which the trade is carried on, it is treated as having been carried on throughout that period in the way in which it is being carried on by the end of that period.

Commencement Information

I3 Sch. 1 para. 3 in force at Royal Assent

- 4 (1) This paragraph applies if—
- (a) a company ceases to carry on a ring fence trade in a qualifying accounting period, and
 - (b) the company has made a terminal qualifying levy loss in the trade.
- (2) Paragraphs 1(3) and 2(1) and (3) have effect in relation to the terminal qualifying levy loss as if the references to 12 months were references to 3 years.
- (3) The following are terminal qualifying levy losses made in the trade—
- (a) the whole of any qualifying levy loss made by the company in the trade in a qualifying accounting period that begins during the final 12 months, and
 - (b) the overlapping proportion of any qualifying levy loss made by the company in the trade in a qualifying accounting period that ends, but does not begin, during the final 12 months.
- (4) The overlapping proportion is the same as the proportion that the part of the accounting period falling within the final 12 months bears to the whole of the accounting period.
- (5) “The final 12 months” means the period of 12 months ending when the company ceases to carry on the trade.
- (6) This paragraph does not apply if—
- (a) on the company ceasing to carry on the trade, any of the activities of the trade begin to be carried on by a person who is not (or by persons any or all of whom are not) chargeable to the levy, and
 - (b) the company’s ceasing to carry on the trade arises directly or indirectly in connection with, or otherwise in consequence of, arrangements the main purpose, or one of the main purposes, of which is to secure that the preceding

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provisions of this paragraph apply in relation to a loss by reason of the cessation.

- (7) For this purpose “arrangements” includes any transaction, series of transactions, scheme or arrangement, whether or not legally enforceable.

Commencement Information

I4 Sch. 1 para. 4 in force at Royal Assent

Commencement Information

I1 Sch. 1 para. 1 in force at Royal Assent
I2 Sch. 1 para. 2 in force at Royal Assent
I3 Sch. 1 para. 3 in force at Royal Assent
I4 Sch. 1 para. 4 in force at Royal Assent

Carry forward of qualifying levy losses to subsequent qualifying accounting period

- 5 (1) This paragraph applies if in a qualifying accounting period a company carrying on a ring fence trade makes a qualifying levy loss in the period.
- (2) Relief for the loss is given to the company under this paragraph.
- (3) The relief is given for that part of the loss (“the unrelieved loss”) for which no relief is given under any other provision of this Schedule.
- (4) For the purposes of the levy—
- the unrelieved loss is carried forward to subsequent qualifying accounting periods (so long as the company continues to carry on the ring fence trade), and
 - the qualifying levy profits of the ring fence trade of any such period are reduced by the unrelieved loss so far as that loss is not used under this paragraph to reduce profits of an earlier period.

Commencement Information

I5 Sch. 1 para. 5 in force at Royal Assent

PART 2

GROUP RELIEF FOR QUALIFYING LEVY LOSSES

Introduction

- 6 (1) This Part of this Schedule—
- allows a company (“the surrendering company”) to surrender a qualifying levy loss it has for a qualifying accounting period to another company (“the claimant company”) that is part of the same group, and
 - enables the claimant company to claim relief from the levy for that loss.

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- (2) The relief mentioned in sub-paragraph (1) is referred to in this Schedule as “levy group relief”.

Commencement Information

I6 Sch. 1 para. 6 in force at Royal Assent

- 7 In this Part of this Schedule, in relation to a qualifying levy loss that a company has for an accounting period—

“surrender period” means a qualifying accounting period for which the surrendering company has the loss, and

“surrenderable amounts” means a qualifying levy loss so far as eligible for surrender under this Part of this Schedule.

Commencement Information

I7 Sch. 1 para. 7 in force at Royal Assent

Commencement Information

I6 Sch. 1 para. 6 in force at Royal Assent

I7 Sch. 1 para. 7 in force at Royal Assent

Surrender of company’s losses for an accounting period

- 8 If—
- (a) a surrendering company has a qualifying levy loss for a surrender period, and
 - (b) the company is part of a group,
- the surrendering company may surrender the loss.

Commencement Information

I8 Sch. 1 para. 8 in force at Royal Assent

Claims for levy group relief

- 9 (1) This paragraph applies in relation to the surrendering company’s surrenderable amounts for the surrender period under paragraph 8.
- (2) The claimant company may make a claim for levy group relief for a qualifying accounting period (“the claim period”) in relation to those amounts (in whole or in part) if—
- (a) the surrendering company consents to the claim,
 - (b) there is a period (“the overlapping period”) that is common to the claim period and the surrender period, and
 - (c) at a time during the overlapping period the surrendering company and the claimant company are part of the same group.

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- (3) More than one company may make a claim for levy group relief in relation to any surrenderable amounts (but the giving of that relief in relation to any claim is subject to the provisions of this Part of this Schedule).
- (4) Paragraph 70(3) and (4) of Schedule 18 to FA 1998 apply for the purposes of any consent given under this paragraph.

Commencement Information

I9 Sch. 1 para. 9 in force at Royal Assent

Giving of levy group relief

- 10 (1) If a claimant company makes a claim under paragraph 9, the relief is to be given by way of deduction from the company's qualifying levy profits for the claim period.
- (2) The amount of the deduction is—
- an amount equal to the surrendering company's surrenderable amounts for the surrender period, or
 - if the claim is in relation to only part of those amounts, an amount equal to that part.
- (3) The deduction under this paragraph is to be made after any relief under paragraph 1.

Commencement Information

I10 Sch. 1 para. 10 in force at Royal Assent

Limitation on amount of levy group relief to be given

- 11 (1) Paragraph 10(2) is subject to the limitation in sections 138 to 142 of CTA 2010 (general limitation on amount of group relief to be given) as if those sections applied to levy group relief as they apply to group relief under Part 5 of that Act.
- (2) For the purposes of sub-paragraph (1)—
- section 138 of CTA 2010 (limitation on amount of group relief applying to all claims) has effect as if in paragraph (b) for the words “total profits” there were substituted “qualifying levy profits”,
 - section 140 of CTA 2010 (unrelieved part of claimant company's available total profits) has effect as if—
 - in subsections (1) to (4) (and in the heading), for the words “total profits” (in each place) there were substituted “qualifying levy profits”,
 - for subsection (7) there were substituted—

“(7) In this section references to the claimant company's “available qualifying levy profits” are references to its qualifying levy profits (within the meaning of the Energy (Oil and Gas) Profits Levy Act 2022) after the deduction of any relief given under paragraph 1 of Schedule 1 to that Act.”, and

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- (iii) subsection (8) were omitted, and
- (c) section 142 of CTA 2010 (meaning of the “overlapping period”) has effect as if—
 - (i) in subsection (1) for the words in parenthesis there were substituted “(see paragraph 9(2)(b) of Schedule 1 to the Energy (Oil and Gas) Profits Levy Act 2022)”, and
 - (ii) in subsection (3), for the words from “group relief condition is the” to the end there were substituted “requirement in paragraph 9(2)(c) of Schedule 1 to the Energy (Oil and Gas) Profits Levy Act 2022”.

Commencement Information

II1 Sch. 1 para. 11 in force at Royal Assent

Arrangements for transfer of companies

- 12 Sections 154 and 155A to 156 of CTA 2010 (arrangements for transfer of member of group of companies etc) apply for the purposes of this Part of this Schedule as they apply for the purposes of Part 5 of that Act but as if the references in sections 155A(1) and 155B(1) to “or 155(3)” were omitted.

Commencement Information

II2 Sch. 1 para. 12 in force at Royal Assent

Payments for relief

- 13 (1) This paragraph applies if—
- (a) a surrendering company and a claimant company have an agreement between them in relation to qualifying levy losses of the surrendering company (“the agreed loss amounts”),
 - (b) relief under this Part of this Schedule is given to the claimant company in relation to the agreed loss amounts, and
 - (c) as a result of the agreement the claimant company makes a payment to the surrendering company that does not exceed the total amount of the agreed loss amounts.
- (2) The payment is not to be taken into account in calculating the qualifying levy profits or loss of either company under section 1.

Commencement Information

II3 Sch. 1 para. 13 in force at Royal Assent

- 14 An amount which is, as a result of paragraph 13, not to be taken account in calculating qualifying levy profits or loss under section 1—
- (a) is also not to be taken into account in calculating profits or loss for corporation tax purposes, and
 - (b) is not to be regarded for those purposes as a distribution.

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Commencement Information

I14 Sch. 1 para. 14 in force at Royal Assent

Commencement Information

I13 Sch. 1 para. 13 in force at Royal Assent

I14 Sch. 1 para. 14 in force at Royal Assent

Meaning of “company” and “group”

15 In this Part of this Schedule “company” means any body corporate.

Commencement Information

I15 Sch. 1 para. 15 in force at Royal Assent

16 For the purposes of this Part of this Schedule, two companies are part of the same group if—

- (a) one is the 75% subsidiary of the other, or
- (b) both are 75% subsidiaries of a third company.

Commencement Information

I16 Sch. 1 para. 16 in force at Royal Assent

Commencement Information

I15 Sch. 1 para. 15 in force at Royal Assent

I16 Sch. 1 para. 16 in force at Royal Assent

PART 3

GENERAL PROVISION

Prohibition on claiming relief more than once for the same amount

17 Relief from the levy is not to be given more than once for the same amount, whether—

- (a) by giving levy group relief and by giving some other relief (for any accounting period) to the surrendering company, or
- (b) by giving levy group relief more than once.

Commencement Information

I17 Sch. 1 para. 17 in force at Royal Assent

Changes to legislation: There are currently no known outstanding effects for the Energy (Oil and Gas) Profits Levy Act 2022, SCHEDULE 1. (See end of Document for details)

Change in company ownership

- 18 Part 14 of CTA 2010 (change in company ownership) applies, with any necessary modifications, in relation to relief under any provision of this Schedule as it applies in relation to the corresponding relief from corporation tax.

Commencement Information

I18 Sch. 1 para. 18 in force at Royal Assent

Transfers of trade without a change of ownership

- 19 Chapter 1 of Part 22 of CTA 2010 applies, with any necessary modifications, in relation to relief under any provision of this Schedule as it applies in relation to the corresponding relief from corporation tax.

Commencement Information

I19 Sch. 1 para. 19 in force at Royal Assent

Counteracting tax advantage involving qualifying levy losses

- 20 (1) A levy advantage arising by reference to a qualifying levy loss that would (in the absence of this paragraph) arise directly or indirectly in connection with, or otherwise in consequence of, disqualifying arrangements is to be counteracted by the making of such adjustments as are just and reasonable.
- (2) For this purpose arrangements are “disqualifying” if—
- the main purpose, or one of the main purposes, of the arrangements is to obtain a levy advantage by reference to a qualifying levy loss, and
 - it is reasonable, taking account of all the relevant circumstances—
 - to conclude that the arrangements are, or include steps that are, contrived, abnormal or lacking a genuine commercial purpose, or
 - to regard the arrangements as circumventing the intended limits of relief provided by this Schedule or as otherwise exploiting shortcomings in this Act.
- (3) Any adjustments required to be made under this paragraph (whether or not by an officer of Revenue and Customs) may be made by way of—
- an assessment,
 - the modification of an assessment,
 - amendment or disallowance of a claim,
- or otherwise.
- (4) For the purposes of this paragraph “a levy advantage” includes—
- relief or increased relief from the levy,
 - repayment or increased repayment of the levy,
 - avoidance or reduction of a charge to the levy or an assessment to the levy,
 - avoidance of a possible assessment to the levy,

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(e) deferral of a payment of the levy or advancement of a repayment of the levy, and

(f) avoidance of an obligation to deduct or account for the levy.

(5) In this paragraph “arrangements” includes any transaction, series of transactions, scheme or arrangement, whether or not legally enforceable.

Commencement Information

I20 Sch. 1 para. 20 in force at Royal Assent

Changes to legislation:

There are currently no known outstanding effects for the Energy (Oil and Gas) Profits Levy Act 2022, SCHEDULE 1.