



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)^{M1}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)^{M2}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

Status: Point in time view as at 06/05/2005. This version of this provision has been superseded.

Changes to legislation: Income and Corporation Taxes Act 1988, Section 402 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(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”.

[^{F1}(3A) Group relief is not available unless the following condition is satisfied in the case of both the surrendering company and the claimant company.

(3B) The condition is that the company is resident in the United Kingdom or is a non-resident company carrying on a trade in the United Kingdom through a [^{F2}permanent establishment].]

(4) A consortium claim shall not be made ^{F3} . . . 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) ^{M3}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.

Textual Amendments

F1 S. 402(3A)(3B) inserted (with effect in accordance with [Sch. 27 para. 6\(1\)\(4\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 27 para. 1](#)

F2 Words in s. 402(3B) substituted (with effect in accordance with [s. 153\(4\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 153\(1\)\(a\)](#)

F3 Words in s. 402(4) repealed (retrospectively) by [Finance Act 2000 \(c. 17\)](#), [s. 100\(3\)\(a\)\(5\)](#), [Sch. 40 Pt. 2\(11\)](#), Note 2

Modifications etc. (not altering text)

C1 S. 402(1)(2)(5)(6) applied (with modifications) (31.3.2001 with effect in accordance with reg. 1(2) of the affecting Regulations) by [The Double Taxation Relief \(Surrender of Relievable Tax Within a Group\) Regulations 2001 \(S.I. 2001/1163\)](#), [reg. 10](#)

C2 S. 402(3) restricted (27.7.1999) by [Commonwealth Development Corporation Act 1999 \(c. 20\)](#), [Sch. 3 paras. 1, 5\(2\)](#)

C3 S. 402(3) restricted (with effect in accordance with [s. 69\(1\)](#) of the restricting Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 20 para. 22](#) (with [Sch. 20 para. 26](#))

Marginal Citations

M1 Source—1970 s.258(1)

Status: Point in time view as at 06/05/2005. This version of this provision has been superseded.

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M2 Source—1970 s.258(2); 1981 s.40(2); 1985 Sch.9 5, 6

M3 Source—1970 s.258(3), (4)

Status:

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Changes to legislation:

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