



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART X

LOSS RELIEF AND GROUP RELIEF

CHAPTER IV

GROUP RELIEF

[^{F1}403A Limits on group relief.

- (1) The amount which, on a claim for group relief, may be set off against the total profits of the claimant company for an accounting period (“the claim period”), and accordingly the amount to which any consent required in respect of that claim may relate, shall not exceed whichever is the smaller of the following amounts—
 - (a) the unused part of the surrenderable amount for the overlapping period; and
 - (b) the unrelieved part of the claimant company’s total profits for the overlapping period.
- (2) For the purposes of any claim for group relief—
 - (a) the unused part of the surrenderable amount for the overlapping period is the surrenderable amount for that period reduced by the amount of any prior surrenders attributable to the overlapping period; and
 - (b) the unrelieved part of the claimant company’s total profits for the overlapping period is the amount of its total profits for that period reduced by the amount of any previously claimed group relief attributable to the overlapping period.
- (3) For the purposes of any claim for group relief—
 - (a) the surrenderable amount for the overlapping period is so much of the surrenderable amount for the accounting period of the surrendering company to which the claim relates as is attributable, on an apportionment in accordance with section 403B, to the overlapping period;

Status: Point in time view as at 03/01/2008. This version of this provision has been superseded.

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- (b) the surrenderable amount for an accounting period of the surrendering company is the total amount for that accounting period of the losses and other amounts which (disregarding this section and section 403C) are available in that company's case for set off by way of group relief; and
 - (c) the amount of the claimant company's total profits for the overlapping period is so much of its total profits for the claim period as is attributable, on an apportionment in accordance with section 403B, to the overlapping period.
- (4) In relation to any claim for group relief ("the relevant claim") the amount of the prior surrenders attributable to the period which is the overlapping period in the case of the relevant claim is equal to the aggregate amount (if any) produced by—
- (a) taking the amount of every claim for group relief (whether a group claim or a consortium claim) which—
 - (i) has been made before the relevant claim,
 - (ii) was made in respect of the whole or any part of the amount which, in relation to the relevant claim, is the surrenderable amount for the accounting period of the surrendering company to which the claim relates, and
 - (iii) has not been withdrawn;
 - (b) treating the amount of group relief which (having regard to the provisions of this section) is allowable under each such claim as an amount of relief for the period which is the overlapping period in the case of that claim;
 - (c) determining how much of each amount treated in accordance with paragraph (b) above as an amount of relief for a particular period is attributable, on an apportionment in accordance with section 403B, to the period (if any) which is common to both—
 - (i) that period; and
 - (ii) the period which is the overlapping period in the case of the relevant claim;
- and
- (d) aggregating all the amounts determined under paragraph (c) above in respect of the previously made claims.
- (5) In relation to any claim for group relief ("the relevant claim"), the amount of previously claimed group relief attributable to the period which is the overlapping period in the case of that claim is the aggregate amount produced by—
- (a) taking the amount of every claim for group relief (whether a group claim or a consortium claim) which—
 - (i) has been made before the relevant claim,
 - (ii) was a claim to set off an amount by way of group relief against the claimant company's total profits for the period which, in relation to the relevant claim, is the claim period, and
 - (iii) has not been withdrawn;
 - (b) treating the amount of group relief which (having regard to the provisions of this section) is allowable under each such claim as an amount of relief for the period which is the overlapping period in the case of that claim;
 - (c) determining how much of each amount treated in accordance with paragraph (b) above as an amount of relief for a particular period is attributable, on an apportionment in accordance with section 403B, to the period (if any) which is common to both—

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- (i) that period; and
 - (ii) the period which is the overlapping period in the case of the relevant claim;
 - and
 - (d) aggregating all the amounts determined under paragraph (c) above in respect of the previously made claims.
- (6) For the purposes of this section the amount of group relief allowable on any claim (“the finalised claim”) shall fall to be determined as at the time when that claim ceases to be capable of being withdrawn as if—
- (a) every claim that became incapable of being withdrawn before that time were a claim made before the finalised claim; and
 - (b) every claim that remains capable of being withdrawn at that time were a claim made after the finalised claim.
- (7) Subject to subsection (6) above and without prejudice to any power to withdraw and resubmit claims, where (but for this subsection) more than one claim for group relief would be taken for the purposes of subsections (4) and (5) above to have been made at the same time, those claims shall be deemed, instead, to have been made—
- (a) in such order as the company or companies making them may, by notice to any officer of the Board, elect or, as the case may be, jointly elect; and
 - (b) if there is no such election, in such order as an officer of the Board may direct.
- (8) In this section “the overlapping period”, in relation to a claim for group relief, means (subject to subsection (9) below and section 406(3) and (7)) the period which is common to both—
- (a) the claim period; and
 - (b) the accounting period of the surrendering company to which the claim relates.
- (9) For the purposes of this section any time in the period which, in relation to any claim for group relief, is common to both the accounting periods mentioned in subsection (8) above but which is a time when the qualifying conditions were not satisfied—
- (a) shall be treated as not comprised in the period which is the overlapping period in the case of that claim; and
 - (b) shall be treated instead, in relation to each of those accounting periods, as if it constituted a part of that accounting period which was not common to both periods.
- (10) For the purposes of subsection (9) above the qualifying conditions are satisfied in relation to any claim for group relief at the following times, that is to say—
- [^{F2}(a) if (or so far as) the claim is a group claim for the surrender of any loss or other amount other than a qualifying overseas loss, whenever the conditions in paragraphs (a) to (c) of section 402(2) are satisfied;
 - (ab) if (or so far as) the claim is a group claim for the surrender of a qualifying overseas loss, whenever the condition specified in section 402(2A) is satisfied; and]
 - (b) if the claim is a consortium claim, whenever the conditions specified in section 402(3) for the making of that claim [^{F3}and the condition specified in section 402(3B)] are satisfied in the case of the claimant company and the surrendering company.

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[For the purposes of subsection (10) above a “qualifying overseas loss” means a loss^{F4}(11) or other amount that is available for surrender by way of group relief in accordance with sections 403F and 403G and Schedule 18A (relief in respect of overseas losses of non-resident companies).]]

Textual Amendments

- F1** Ss. 403A-403C inserted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 7 para. 2**
- F2** S. 403A(10)(a)(ab) substituted for s. 403A(10)(a) (with effect in accordance with Sch. 1 para. 9 of the amending Act) by Finance Act 2006 (c. 25), **Sch. 1 para. 2(2)**
- F3** Words in s. 403A(10)(b) inserted (with effect in accordance with Sch. 27 para. 6(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 27 para. 3(b)** (with Sch. 27 para. 6(1))
- F4** S. 403A(11) inserted (with effect in accordance with Sch. 1 para. 9 of the amending Act) by Finance Act 2006 (c. 25), **Sch. 1 para. 2(3)**

Modifications etc. (not altering text)

- C1** S. 403A modified by Taxation of Chargeable Gains Act 1992 (c. 12), **s. 179(4)** (as amended (with effect in accordance with Sch. 7 para. 9 of the 1997 amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 7 para. 8**)

Status:

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