



# Finance Act 1990

## 1990 CHAPTER 29

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER II

#### MANAGEMENT

##### *Corporation tax determinations*

#### **96 Consequential group relief adjustments**

- (1) This section applies where—
  - (a) a determination of an amount for an accounting period of a company (“the surrendering company”) is made under section 41A of the Taxes Management Act 1970, and
  - (b) immediately after the determination, or a direction relating to it under section 41B of that Act, becomes final, the amount of relief of any description which the surrendering company consents to surrender by way of group relief for the period (“the surrendered amount”) exceeds the amount which, in relation to relief of that description, is the relevant amount for the period.
- (2) For the purposes of subsection (1) above, the amount which is, at any time, the relevant amount in relation to relief of any description for an accounting period of a company is—
  - (a) the amount of relief of that description available to the company for surrender by way of group relief for the period, less
  - (b) so much, if any, of that amount as represents relief given in an assessment on the surrendering company which has become final and conclusive.
- (3) The surrendering company shall make whatever adjustment of the surrendered amount is necessary in consequence of the determination or direction (“the necessary

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*Status: This is the original version (as it was originally enacted).*

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- adjustment”) by reducing or withdrawing consent to surrender before the end of 30 days from the date on which the determination or direction becomes final.
- (4) If the surrendering company fails to make the necessary adjustment within the period mentioned in subsection (3) above, it shall be made—
- (a) except where paragraph (b) below applies, in such manner as may be specified by the inspector by notice in writing to the surrendering company and to the company or, if more than one, each company whose claim for group relief is affected by the adjustment, or
  - (b) where the surrendering company gives notice in writing to the inspector within the relevant period, in such manner as may be specified in the notice given by the surrendering company.
- (5) For the purposes of subsection (4)(b) above the relevant period is the period of 30 days beginning with the day on which notice under subsection (4)(a) above is given to the surrendering company.
- (6) The power to make an assessment under section 412(3) of the Taxes Act 1988 (power to assess where inspector discovers that group relief which has been given is or has become excessive) shall also be exercisable where group relief which has been given becomes excessive in consequence of the making of the necessary adjustment.
- (7) Subsection (8) below applies where any tax to which a company (“the chargeable company”) becomes liable in consequence of the making of the necessary adjustment has been assessed on the company and is unpaid at the end of 6 months from the date on which the assessment becomes final and conclusive (“the relevant date”).
- (8) Any other company which has obtained group relief by virtue of a surrender by the surrendering company for the accounting period to which the necessary adjustment relates may, within 2 years from the relevant date, be assessed and charged (in the name of the chargeable company) to an amount not exceeding the lesser of—
- (a) the amount of the unpaid tax, and
  - (b) the amount of tax which the other company saves by virtue of the surrender.
- (9) A company paying an amount of tax under subsection (8) above shall be entitled to recover from the chargeable company a sum equal to that amount together with any interest on that amount which it has paid under section 87A of the Taxes Management Act 1970.
- (10) An assessment by virtue of subsection (6) above shall not be out of time if made within one year from the date on which the determination or direction giving rise to the making of the necessary adjustment becomes final.
- (11) In subsection (1)(b) above, the reference to the amount of relief of any description which the surrendering company consents to surrender by way of group relief for the period includes a reference to the amount of relief of that description which the surrendering company consents to surrender for any assumed accounting period under section 409 of the Taxes Act 1988 (companies joining or leaving group or consortium) which is comprised in the period.
- (12) In section 87A of the Taxes Management Act 1970 (interest on overdue corporation tax etc.) in subsection (3) after the words “1970” there shall be inserted the words “, section 96(8) of the Finance Act 1990”.