

## SCHEDULES

### SCHEDULE 7

Section 41.

#### RESTRICTIONS ON GROUP RELIEF

##### *Introductory*

- 1 Chapter IV of Part X of the Taxes Act 1988 (group relief) shall be amended in accordance with paragraphs 2 to 7 below.

##### *New limits*

- 2 The following sections shall be inserted after section 403—

#### **“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;
  - (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

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- 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;

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- (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.
- (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—
  - (a) if the claim is a group claim, whenever the claimant company and the surrendering company are both members of the same group; and

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- (b) if the claim is a consortium claim, whenever the conditions specified in section 402(3) for the making of that claim are satisfied in the case of the claimant company and the surrendering company.

#### **403B Apportionments under section 403A**

- (1) Subject to subsection (2) below, where an apportionment falls to be made under section 403A for the purpose of determining how much of an amount for any period (“the first period”) is attributable to any other period (“the second period”) which comprises the whole or a part of the first period—
  - (a) the whole of that amount shall be attributed to the second period if the first and second periods begin and end at the same times; and
  - (b) in any other case, the apportionment shall be made on a time basis according to how much of the first period coincides with the second period.
- (2) Where the circumstances of a particular case are such that the making on the time basis mentioned in subsection (1)(b) above of some or all of the apportionments to be made in that case would work in a manner that would be unjust or unreasonable in relation to any person, those apportionments shall be made instead (to the extent only that is necessary in order to avoid injustice and unreasonableness) in such other manner as may be just and reasonable.

#### **403C Special rules for consortium cases**

- (1) Where—
  - (a) in the case of a consortium claim, the surrendering company is a member of the consortium, and
  - (b) the amount produced by multiplying the surrenderable amount for the overlapping period by the relevant fraction is less than the smaller of the amounts given by subsection (1)(a) and (b) of section 403A,the amount which, on that claim, may be set off against the total profits of the claimant company for the claim period shall not exceed the amount produced by that multiplication.
- (2) Where—
  - (a) in the case of a consortium claim, the claimant company is a member of the consortium, and
  - (b) the amount produced by multiplying the claimant company’s total profits for the overlapping period by the relevant fraction is less than the smaller of the amounts given by subsection (1)(a) and (b) of section 403A,the amount which, on that claim, may be set off against the total profits of the claimant company for the claim period shall not exceed the amount produced by that multiplication.
- (3) For the purposes of this section the relevant fraction is the fraction equivalent to—
  - (a) in a case falling within subsection (1) above, the surrendering company’s member’s share in the consortium in the accounting

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period of that company which is or includes the overlapping period;  
and

- (b) in a case falling within subsection (2) above, the claimant company's member's share in the consortium in the accounting period of that company which is or includes the overlapping period.

- (4) Expressions used in this section and in section 403A have the same meanings in this section as in that section."

#### *Consequential amendments*

3 Subsection (9) of section 403 (fraction limiting relief in the case of consortium claims) shall cease to have effect.

4 In section 405(4) (claims relating to losses of members of both groups and consortia), for the words from "a fraction" to "403(9)(b)" there shall be substituted "which an amount may by virtue of that claim be set off by way of group relief".

5 (1) In section 406 (consortium claims by or in relation to group members and consortium companies), in each of subsections (2) and (6) (which refer to the fraction in section 403(9))—

- (a) for "appropriate under section 403(9)" there shall be substituted "the relevant fraction for the purposes of section 403C"; and  
(b) for "that which would be appropriate" there shall be substituted "it would be".

(2) For subsection (3) of that section there shall be substituted the following subsection—

"(3) Sections 403A to 403C shall have effect in relation to a consortium claim made by a group member by virtue of subsection (2) above as if any time when the claimant company was not a member of the group—

- (a) were not comprised in the period which is the overlapping period in the case of that claim; and  
(b) were to be treated instead as if it constituted a part of the claim period which did not coincide with any part of the accounting period of the surrendering company to which the claim relates."

(3) For subsection (7) of that section there shall be substituted the following subsection—

"(7) Sections 403A to 403C shall have effect in relation to a consortium claim made by a consortium company by virtue of subsection (5) above as if any time when the surrendering company was not a member of the group—

- (a) were not comprised in the period which is the overlapping period in the case of that claim; and  
(b) were to be treated instead as if it constituted a part of the claim period that did not coincide with any part of the accounting period of the surrendering company to which the claim relates."

(4) In subsection (8) of that section, for the words from "that fraction" to "409(3)(b)" there shall be substituted "the maximum amount of relief available to the claimant company".

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- 6 Sections 408, 409 and 411(2) to (9) (which limit group relief where the accounting periods of the claimant company and the surrendering company do not coincide and where companies join and leave groups and make other provision for excluding double relief) shall cease to have effect.
- 7 In section 413 (interpretation), after subsection (2) there shall be inserted the following subsection—
- “(2A) For the purposes of group relief an accounting period of the claimant company which falls wholly or partly within an accounting period of the surrendering company shall be taken to correspond to that accounting period of the surrendering company.”
- 8 In section 179(4) of the Taxation of Chargeable Gains Act 1992 (which specifies when a gain or loss on de-grouping is deemed to accrue), for the words after paragraph (b) there shall be substituted—
- “and sections 403A and 403B of the Taxes Act (limits on group relief) shall have effect accordingly as if the actual circumstances were as they are treated as having been.”

#### *Commencement*

- 9 (1) This Schedule has effect, subject to sub-paragraphs (2) to (4) below, in relation to any claim for group relief if—
- (a) the accounting period of the claimant company for which relief is claimed, or
  - (b) the accounting period of the surrendering company to which that claim relates,
- is an accounting period ending on or after 2nd July 1997.
- (2) This Schedule does not apply in relation to any claim for group relief for which the overlapping period for the purposes of section 403A of the Taxes Act 1988 would be a period falling entirely before 2nd July 1997.
- (3) Where in the case of any claim for group relief the overlapping period begins before but ends on or after 2nd July 1997, the maximum amount which in the claimant’s case is allowable on that claim by way of group relief shall (instead of being determined in accordance with this Schedule) be the amount determined by—
- (a) taking the maximum amount that would have been allowable on that claim if this Schedule had not been enacted; and
  - (b) reducing that amount by the amount (if any) of the relief withdrawn in respect of the part of the claimant company’s accounting period beginning with 2nd July 1997.
- (4) For the purposes of sub-paragraph (3) above the relief withdrawn in respect of the part of the claimant company’s accounting period beginning with 2nd July 1997 is the amount (if any) by which the amount specified in paragraph (a) below exceeds the amount specified in paragraph (b) below, that is to say—
- (a) the maximum amount which would have been allowable by way of group relief on the claimant company’s claim if this Schedule had not been enacted but it were assumed that the qualifying conditions were not satisfied in relation to that claim at any time before 2nd July 1997; and

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- (b) the maximum amount which would be allowable by way of group relief on that claim if that were assumed but relief fell to be given in accordance with Chapter IV of Part X of the Taxes Act 1988 as amended by this Schedule.
- (5) For the purposes of sub-paragraph (4) above an assumption in relation to any claim that the qualifying conditions were not satisfied at a particular time is an assumption that, at that time, the claimant company and the surrendering company—
- (a) were not both members of the same group; and
  - (b) did not satisfy in relation to each other the conditions specified in section 402(3) of the Taxes Act 1988 for the making of a consortium claim.