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## SCHEDULES

### SCHEDULE 24 **U.K.**

#### PROVISIONS RELATING TO THE RAILWAYS ACT 1993

##### *Trading losses*

- 15 (1) Subject to the following provisions of this paragraph, where as a result of a relevant transfer, the predecessor falls to be regarded for the purposes of section 343 of the Taxes Act 1988 (company reconstructions without change of ownership) as ceasing to carry on a trade and the transferee falls to be regarded for the purposes of that section as beginning to carry on that trade—
- (a) the transferee shall not, by virtue of those matters, be entitled to any relief under section 393(1) (trading losses) of that Act to which it would, apart from this paragraph, have been entitled by virtue of section 343(3) of that Act; and
  - (b) after the coming into force of the relevant transfer, the loss in question shall continue to be regarded for the purposes of the Corporation Tax Acts as a loss incurred in the trade for the time being carried on by the predecessor to the same extent as it would have been so regarded apart from the relevant transfer (and shall be eligible for relief accordingly).
- (2) The following provisions of this paragraph apply in any case where—
- (a) a restructuring scheme makes express provision for the transfer from the predecessor to the transferee of the right to obtain tax relief in respect of such an amount of the predecessor's unrelieved trading losses or unrelieved transferred losses as may be specified in, or determined in accordance with, the scheme; and
  - (b) after the relevant date the transferee carries on, or begins to carry on, any trade (whether or not the trade, or a part of the trade, carried on by the predecessor);
- and any reference in this paragraph to a transferred loss is a reference to the amount mentioned in paragraph (a) above.
- (3) The transferee shall be entitled to relief under section 393(1) of the Taxes Act 1988 for the transferred loss, as for a loss sustained by the transferee in carrying on its trade, but the transferred loss may only be set off against trading income of the transferee which arises in an accounting period throughout which the transferee is a public sector railway company.
- (4) Where the transferee ceases to be a public sector railway company, it shall be assumed for the purposes of giving relief by virtue of sub-paragraph (3) above that—
- (a) on the occasion of the cessation (unless a true accounting period of the transferee ends then) an accounting period of the transferee ends and a new one begins, the new accounting period to end with the end of the true accounting period; and

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- (b) the amount of the trading income for the true accounting period of the transferee against which the relief may be allowed is apportioned to the component accounting periods;
- and any apportionment under this sub-paragraph shall be on a time basis according to the respective lengths of the component accounting periods except that, if it appears that that method would work unreasonably or unjustly, such other method shall be used as appears just and reasonable.
- (5) Relief by virtue of sub-paragraph (3) above in respect of a transferred loss shall be given against the trading income of any accounting period of the transferee before relief is given against that income in respect of losses incurred by the transferee after the relevant date.
- (6) As from the relevant date—
- (a) the amount of the predecessor's unrelieved transferred losses (if any) shall be regarded for the purposes of this paragraph as reduced by an amount equal to the transferred loss; and
- (b) if the transferred loss exceeds the amount of the predecessor's unrelieved transferred losses before the reduction under paragraph (a) above, or if there are no such losses, the predecessor's unrelieved trading losses shall be regarded for the purposes of the Corporation Tax Acts as reduced by the amount of that excess or, as the case may be, by an amount equal to the transferred loss.
- (7) Without prejudice to the generality of sub-paragraphs (1) and (3) above, if the conditions in subsection (1) of section 343 of the Taxes Act 1988 become satisfied at any time on or after the relevant date in relation to any trade (or, where subsection (8) of that section applies, any part of a trade which falls to be treated for the purposes of that section as a separate trade), the company which is the successor, within the meaning of that section, shall not become entitled to relief by virtue of subsection (3) of that section in respect of any amount for which the company which is the predecessor, within the meaning of that section, would have been entitled to relief by virtue of sub-paragraph (3) above had it continued to carry on the trade (or the part of the trade which falls to be treated as a separate trade).
- (8) Subject to sub-paragraph (9) below, the provisions of a restructuring scheme providing for the determination of the amount which is to be that of any transferred loss may include provision—
- (a) for such a determination to be made by the Secretary of State in such manner as may be described in the scheme;
- (b) for any amount determined to be calculated by reference to such factors, or to the opinion of such person, as may be so described; and
- (c) for a determination under those provisions to be capable of being modified, on one or more occasions, in such manner and in such circumstances as may be so described.
- (9) The consent of the Treasury shall be required for the making or modification of a determination of any such amount as is mentioned in sub-paragraph (8) above; and the consent of the transferee shall also be required for any such modification after the coming into force of the relevant transfer.
- (10) Where there is a determination, or a modification of a determination, for any purposes of this paragraph, all necessary adjustments shall be made by making assessments

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or by repayment or discharge of tax, and shall be so made notwithstanding any limitation on the time within which assessments may be made.

(11) For the purposes of this paragraph, a transferee is at any time a “public sector railway company” if, and only if, it is at that time—

- (a) the Board;
- (b) a wholly owned subsidiary of the Board;
- [<sup>F1</sup>(ba) a wholly owned subsidiary of the Strategic Rail Authority;]
- (c) a publicly owned railway company; or
- (d) a company wholly owned by the Crown.

(12) In this paragraph—

“the relevant date” means the date on which the transfer mentioned in sub-paragraph (2)(a) above takes effect;

“trading income” has the same meaning as it has in section 393 of the Taxes Act 1988;

“unrelieved trading losses” means any losses—

- (a) which were incurred by the predecessor in carrying on a trade in accounting periods ending before the relevant date, or
- (b) for which the predecessor has, by virtue of section 343(3) of the Taxes Act 1988, become entitled to relief under section 393(1) of that Act,

and which would, apart from the restructuring scheme mentioned in sub-paragraph (2)(a) above, have fallen to be set off under the said section 393(1) against trading income of the predecessor arising in the accounting period in which the relevant date falls;

“unrelieved transferred losses” means so much of a transferred loss as would, apart from the restructuring scheme mentioned in sub-paragraph (2) (a) above, have fallen to be set off under section 393(1) of the Taxes Act 1988, as it applies by virtue of sub-paragraph (3) above, against trading income of the predecessor arising in the accounting period in which the relevant date falls.

(13) It shall be assumed for the purposes of the definitions of “unrelieved trading losses” and “unrelieved transferred losses” in sub-paragraph (12) above (if it is not in fact the case) that the trading income mentioned in those definitions is at least equal to the aggregate amount of the losses in question of each of those descriptions.

#### Textual Amendments

- F1** Sch. 24 para. 15(11)(ba) inserted (15.1.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 50(2)**; S.I. 2000/3376, **art. 2**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16A(2)(g) inserted by [2023 c. 30 Sch. 13 para. 28](#)
- s. 160(2)-(7) modified by 2010 c. 8 s. 464(6) (as inserted) by [2017 c. 32 Sch. 5 para. 1](#)
- Sch. 5 para. 2(1)(pa) inserted by [S.I. 2022/109 reg. 4](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)