



Finance Act 2013

2013 CHAPTER 29

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 3

CORPORATION TAX: GENERAL

Losses, other reliefs and deductions

29 Restriction on surrender of losses: controlled foreign company cases

- (1) Section 105 of CTA 2010 (restriction on surrender of losses etc within section 99(1) (d) to (g)) is amended as follows.
- (2) In subsection (2), for “the surrendering company's gross profits of the surrender period” substitute “ the profit-related threshold ”.
- (3) In subsection (3), for “those gross profits” substitute “ the profit-related threshold ”.
- (4) After subsection (3) insert—
 - “(3A) The profit-related threshold” is the sum of—
 - (a) the surrendering company's gross profits of the surrender period, and
 - (b) where chargeable profits of a CFC for an accounting period ending in the surrender period are apportioned to the surrendering company in accordance with step 3 in subsection (1) of 371BC of TIOPA 2010 and the surrendering company is in relation to that accounting period of the CFC a chargeable company for the purposes of step 4 in that subsection, the total of the chargeable profits so apportioned.

(3B) Where—

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- (a) an accounting period of a CFC ending in the surrender period is one to which (because of paragraph 50 of Schedule 20 of FA 2012) the repeal of Chapter 4 of Part 17 of ICTA does not apply,
- (b) chargeable profits of the CFC for that accounting period are apportioned to the surrendering company in accordance with sections 747(3) and 752 of ICTA, and
- (c) the surrendering company is not prevented by section 747(5) of ICTA from being chargeable to tax in respect of the CFC for that accounting period,

the profit-related threshold also includes the total of the chargeable profits so apportioned.”

- (5) After subsection (5) insert—

“(5A) For the purposes of this section—

“CFC” has the same meaning as in Part 9A of TIOPA 2010, except that in subsection (3B) it means a controlled foreign company as defined by section 747(2) of ICTA;

“chargeable profits”, in relation to a CFC, is to be read in accordance with section 371BA(3) of TIOPA 2010, except that in subsection (3B) it is to be read in accordance with section 747(6) of ICTA.”

- (6) The amendments made by this section have effect where the surrender period of the surrendering company ends on or after 20 March 2013, but subject to the following.
- (7) For the purposes of section 105(3A)(b) and (3B)(b) of CTA 2010, chargeable profits do not include—
- (a) chargeable profits for an accounting period within the meaning of Part 9A of TIOPA 2010 ending before 20 March 2013, or
 - (b) chargeable profits for an accounting period within the meaning of Chapter 4 of Part 17 of ICTA ending before that date.
- (8) Subsection (9) applies where—
- (a) an accounting period within the meaning of Part 9A of TIOPA 2010, or
 - (b) an accounting period within the meaning of Chapter 4 of Part 17 of ICTA, falls partly before and partly on or after 20 March 2013.
- (9) For the purposes of section 105 of CTA 2010, the chargeable profits of the CFC for that period, so far as apportioned to the surrendering company as mentioned in subsection (3A)(b) or (3B)(b) of that section (as the case requires), are to be further apportioned on a just and reasonable basis between the two parts of the period, and the chargeable profits referred to in subsection (3A)(b) or (3B)(b) are not to include the chargeable profits apportioned to the part ending before 20 March 2013.

30 Loss relief surrenderable by non-UK resident established in EEA state

- (1) Section 107 of CTA 2010 (surrender of losses etc) is amended as follows.
- (2) After subsection (1) insert—

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“(1A) If the surrendering company is established in the EEA (within the meaning of section 134A), it may surrender a loss or other amount under this Chapter only so far as conditions A and B are met.

Subsection (6A) imposes restrictions on a surrender under this subsection.”

(3) In subsection (2) for “The” substitute “ In any other case, the ”.

(4) After subsection (6) insert—

“(6A) A loss or other amount may not be surrendered by virtue of subsection (1A) if and to the extent that it, or any amount brought into account in calculating it, corresponds to, or is represented in, amounts within subsection (6B).

(6B) An amount is within this subsection if, for the purposes of non-UK tax chargeable under the law of a territory, the amount is (in any period) deducted from or otherwise allowed against non-UK profits of any person.”

(5) In subsection (7), after “subsection (6)” insert “ or (6B) ”.

(6) The amendments made by this section have effect in relation to accounting periods beginning on or after 1 April 2013.

(7) But for this purpose an accounting period beginning before, and ending on or after, 1 April 2013 is to be treated as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate accounting periods.

(8) An apportionment for the purposes of subsection (7) must be made in accordance with section 1172 of CTA 2010 (time basis) or, if that method produces a result that is unjust or unreasonable, on a just and reasonable basis.

31 Arrangements for transfers of companies

(1) In section 156 of CTA 2010 (definition of “arrangements” for purposes of sections 154 to 155B, etc)—

(a) in subsection (2), in paragraph (b), after “include” insert “—
(i)”,

(b) at the end of that paragraph insert “, or
(ii) a condition or requirement imposed by, or agreed with, a Minister of the Crown, the Scottish Ministers, a Northern Ireland department or a statutory body.”,
and

(c) after that subsection insert—

“(2A) In subsection (2) “statutory body” means a body (other than a company as defined by section 1(1) of the Companies Act 2006) established by or under a statutory provision for the purpose of carrying out functions conferred on it by or under a statutory provision, except that the Treasury may, by order, specify that a body is or is not to be a statutory body for this purpose.”

(2) In sections 154(3) and 155(3) of that Act (arrangements for transfers), for “154A” substitute “ 155A ”.

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- (3) In section 188 of that Act (other definitions for Part 5), in subsection (1), after “company” insert “(except in section 156(2A))”.
- (4) The amendments made by this section have effect in relation to accounting periods ending on or after 1 April 2013.

32 Change in company ownership: company reconstructions

- (1) For section 676 of CTA 2010 (disallowance of trading losses where company reconstruction without a change of ownership) substitute—

“676 Company reconstructions

- (1) Subsection (2) applies if, before the change in ownership—
 - (a) a trade carried on by another company (“the predecessor company”) is transferred to the company, and
 - (b) the transfer is a transfer to which Chapter 1 of Part 22 applies (transfers of trade without a change of ownership).
- (2) In determining any relief available to the company by virtue of section 944(3) (carry forward of trading losses in successor company), this Chapter applies as if—
 - (a) references to a trade carried on by the company included the trade as carried on by the predecessor company or by any predecessor of that company, and
 - (b) any loss sustained by the predecessor company or any predecessor of that company had been sustained by the company.
- (3) Subsection (4) applies if, after the change in ownership—
 - (a) a trade carried on by the company is transferred to another company (“the successor company”), and
 - (b) the transfer is a transfer to which Chapter 1 of Part 22 applies.
- (4) In determining—
 - (a) any relief available to the company under section 45 (carry forward of trading losses), or
 - (b) any relief available to the successor company or any successor of that company by virtue of section 944(3),
 this Chapter applies as if references to a trade carried on by the company included the trade as carried on by the successor company or by any successor of that company.
- (5) For the purposes of this section a company (“company A”) is a predecessor of another company (“company B”), and company B is a successor of company A, if the first or second condition is met.
- (6) The first condition is that Chapter 1 of Part 22 applies in relation to company A and company B as respectively the predecessor and the successor within the meaning of that Chapter.
- (7) The second condition is that—

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- (a) Chapter 1 of Part 22 applies in relation to company A and a third company (“company C”) as respectively the predecessor and the successor within the meaning of that Chapter, and
 - (b) company C is (whether by virtue of the first condition or this condition) a predecessor of company B.”
- (2) The amendment made by this section has effect in relation to changes in ownership that occur on or after 20 March 2013.

33 Change in company ownership: shell companies

Schedule 13—

- (a) inserts into Part 14 of CTA 2010 (change in company ownership) a new Chapter 5A (shell companies: restrictions on relief), and
- (b) makes consequential provision.

34 Transfer of deductions

Schedule 14—

- (a) inserts into CTA 2010 a new Part 14A (transfer of deductions), and
- (b) makes consequential provision.

35 R&D expenditure credits

Schedule 15 contains provision about R&D expenditure credits.

36 Relief for television production and video games development

- (1) Schedule 16 contains provision about television production.
- (2) Schedule 17 contains provision about video games development.
- (3) Schedule 18 contains consequential amendments.

Status:

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