

Status: Point in time view as at 26/03/2015.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, SCHEDULE 18. (See end of Document for details)

SCHEDULES

SCHEDULE 18

Section 118

ACCELERATED PAYMENTS: GROUP RELIEF

Amendments of Part 4 of FA 2014

- 1 Part 4 of FA 2014 (accelerated payments etc) is amended as follows.
- 2 In section 199 (overview of Part 4), in paragraph (c) omit the “and” at the end of sub-paragraph (ii), and after sub-paragraph (iii) insert “, and
(iv) provision restricting the surrender of losses and other amounts for the purposes of group relief.”
- 3 (1) Section 220 (content of notice given while a tax enquiry is in progress) is amended as follows.
(2) In subsection (2)—
 - (a) in paragraph (b), after “the payment” insert “ (if any) ”, and
 - (b) omit the “and” at the end of that paragraph, and after paragraph (c) insert “, and
(d) if the denied advantage consists of or includes an asserted surrenderable amount, specify that amount and any action which is required to be taken in respect of it under section 225A.”
- (3) After subsection (4) insert—

“(4A) Asserted surrenderable amount” means so much of a surrenderable loss as a designated HMRC officer determines, to the best of that officer’s information and belief, to be an amount—

 - (a) which would not be a surrenderable loss of P if the position were as stated in paragraphs (a), (b) or (c) of subsection (4), and
 - (b) which is not the subject of a claim by P for relief from corporation tax reflected in the understated tax amount (and hence in the payment required to be made under section 223).

(4B) “Surrenderable loss” means a loss or other amount within section 99(1) of CTA 2010 (or part of such a loss or other amount).”
- (4) In subsection (6), for “the payment specified under subsection (2)(b)” substitute “ any payment specified under subsection (2)(b) or amount specified under subsection (2)(d) ”.
- 4 (1) Section 221 (content of notice given pending an appeal) is amended as follows.
(2) In subsection (2)—
 - (a) in paragraph (b), after “the disputed tax” insert “ (if any) ”, and
 - (b) omit the “and” at the end of paragraph (b) and after paragraph (c) insert “, and

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- (d) if the denied advantage consists of or includes an asserted surrenderable amount (within the meaning of section 220(4A)), specify that amount and any action which is required to be taken in respect of it under section 225A.”
- 5 (1) Section 222 (representations about a notice) is amended as follows.
- (2) In subsection (2) omit the “or” at the end of paragraph (a), and after paragraph (b) insert “, or
- (c) objecting to the amount specified in the notice under section 220(2) (d) or section 221(2)(d).”
- (3) In subsection (4)—
- (a) omit the “and” at the end of paragraph (a),
- (b) in paragraph (b), after “different amount” insert “ (or no amount) ”, and
- (c) omit the “or” after sub-paragraph (i) of that paragraph and after sub-paragraph (ii) insert “, or
- (iii) remove from the notice the provision made under section 220(2)(b) or section 221(2)(b), and
- (c) if representations were made under subsection (2)(c) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount (or no amount) ought to have been specified under section 220(2)(d) or 221(2)(d), and then—
- (i) confirm the amount specified in the notice,
- (ii) amend the notice to specify a different amount, or
- (iii) remove from the notice the provision made under section 220(2)(d) or section 221(2)(d).”
- 6 (1) Section 223 (effect of notice given while tax enquiry is in progress) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies where—
- (a) an accelerated payment notice is given by virtue of section 219(2)(a) (notice given while a tax enquiry is in progress) (and not withdrawn), and
- (b) an amount is stated in the notice in accordance with section 220(2) (b).”
- (3) In subsection (2), for “the amount specified in the notice in accordance with section 220(2)(b)” substitute “ that amount ”.
- (4) Accordingly, in the heading for that section after “progress” insert “ : accelerated payment ”.
- 7 After section 225 insert—

“Prevention of surrender of losses

225A Effect of notice: surrender of losses ineffective, etc

- (1) This section applies where—

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- (a) an accelerated payment notice is given (and not withdrawn), and
 - (b) an amount is specified in the notice in accordance with section 220(2)(d) or 221(2)(d).
- (2) P may not consent to any claim for group relief in respect of the amount so specified.
- (3) Subject to subsection (2), paragraph 75 (other than sub-paragraphs (7) and (8)) of Schedule 18 to FA 1998 (reduction in amount available for surrender) has effect as if the amount so specified ceased to be an amount available for surrender at the time the notice was given to P.
- (4) For the purposes of subsection (3), paragraph 75 of that Schedule has effect as if, in sub-paragraph (2) of that paragraph for “within 30 days” there were substituted “ before the end of the payment period (within the meaning of section 223(5) of the Finance Act 2014) ”.
- (5) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made in accordance with paragraph 75(6) of Schedule 18 to FA 1998 where, pursuant to subsection (3), a claimant company receives—
 - (a) notice of the withdrawal of consent under paragraph 75(3) of that Schedule, or
 - (b) a copy of a notice containing directions under paragraph 75(4) of that Schedule.
- (6) Subsection (7) applies where—
 - (a) a company makes such an amendment to its company tax return at a time when an enquiry is in progress into the return, and
 - (b) paragraph 31(3) of that Schedule prevents the amendment from taking effect until the enquiry is completed.
- (7) Section 219 (circumstances in which an accelerated payment notice may be given) has effect, in its application to that company in a case where section 219(2)(a) applies (tax enquiry in progress), as if—
 - (a) for the purposes of section 219(3), that amendment to the return had not been made,
 - (b) in section 219(4), after paragraph (c) there were inserted—
 - “(d) P has amended its company tax return, in accordance with paragraph 75(6) of Schedule 18 to FA 1998, in circumstances where pursuant to section 225A(3), P has received—
 - (i) notice of the withdrawal of consent under paragraph 75(3) of that Schedule, or
 - (ii) a copy of a notice containing directions under paragraph 75(4) of that Schedule,but paragraph 31(3) of that Schedule prevents that amendment having effect.”,
 - (c) in section 220(4), after paragraph (c) there were inserted—
 - “(d) in the case of a notice given by virtue of section 219(4)(d) (cases involving withdrawal of consent for losses claimed), it were assumed that P

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- had never made the claim to group relief to which the amendment to its company tax return relates.”, and
- (d) in section 227(10), for “or (c)” there were substituted “, (c) or (d)”.
- (8) Subsections (2) and (3) are subject to—
- (a) section 227(14) to (16) (provision about claims for group relief, and consents to claims, following amendment or withdrawal of an accelerated payment notice), and
- (b) section 227A (provision about claims for group relief, and consents to claims, once tax position finally determined).”
- 8 (1) Section 227 (withdrawal, modification or suspension of accelerated payment notice) is amended as follows.
- (2) In subsection (2) omit the “or” after paragraph (b) and after paragraph (c) insert “, or
- (d) reduce the amount specified in the accelerated payment notice under section 220(2)(d) or 221(2)(d).”
- (3) In subsection (4), after “(2)(c)” insert “ or (d) ”.
- (4) In subsection (6)(b), after “advantage” insert “ etc ”.
- (5) In subsection (7), omit the “and” after paragraph (a) and after paragraph (b) insert “, and
- (c) if the amount of the asserted surrenderable amount is less than the amount specified in the notice, amend the notice under subsection (2)(d) to substitute the lower amount.”
- (6) After subsection (12) insert—
- “(12A) Where, as a result of an accelerated payment notice specifying an amount under section 220(2)(d) or 221(2)(d), a notice of consent by P to a claim for group relief in respect of the amount specified (or part of it) became ineffective by virtue of section 225A(3), nothing in subsection (12) operates to revive that notice.”
- (7) After subsection (13) insert—
- “(14) If the accelerated payment notice is amended under subsection (2)(d) or withdrawn—
- (a) section 225A(2) and (3) (which prevents consent being given to group relief claims) cease to apply in relation to the released amount, and
- (b) a claim for group relief may be made in respect of any part of the released amount within the period of 30 days after the day on which the notice is amended or withdrawn.
- (15) The time limits otherwise applicable to amendment of a company tax return do not apply to the extent that it makes a claim for group relief within the time allowed by subsection (14).
- (16) “The released amount” means—
- (a) in a case where the accelerated payment notice is amended under subsection (2)(d), the amount represented by the reduction, and

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- (b) in a case where the accelerated payment notice is withdrawn, the amount specified under section 220(2)(d) or 221(2)(d).”

9 After section 227 insert—

“Group relief claims after accelerated payment notices

227A Group relief claims after accelerated payment notices

- (1) This section applies where as a result of an accelerated payment notice given to P—
- (a) P was prevented from consenting to a claim for group relief in respect of an amount under section 225A(2), or
 - (b) pursuant to section 225A(3), a consent given by P to a claim for group relief in respect of an amount was ineffective.
- (2) If a final determination establishes that the amount P has available to surrender consists of or includes the amount referred to in subsection (1)(a) or (b) or a part of it (“the allowed amount”)—
- (a) section 225A(2) and (3) (which prevents consent being given to group relief claims) ceases to apply in relation to the allowed amount, and
 - (b) a claim for group relief in respect of any part of the allowed amount may be made within the period of 30 days after the relevant time.
- (3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes a claim for group relief in respect of any part of the allowed amount within the time limit allowed by subsection (2)(b).
- (4) In this section—
- “final determination” means—
- (a) a conclusion stated in a closure notice under paragraph 34 of Schedule 18 to FA 1998 against which no appeal is made;
 - (b) the final determination of a tax appeal within paragraph (d) or (e) of section 203;
- “relevant time” means—
- (a) in a case within paragraph (a) above, the end of the period during which the appeal could have been made;
 - (b) in the case within paragraph (b) above, the end of the day on which the final determination occurs.”

10 (1) Schedule 32 (accelerated payments and partnerships) is amended as follows.

(2) In paragraph 4 (content of partner payment notice)—

- (a) in sub-paragraph (1), in paragraph (b), after “the payment” insert “(if any)”,
- (b) in that sub-paragraph omit the “and” at the end of paragraph (b) and after paragraph (c) insert “, and
- (d) if the denied advantage consists of or includes an asserted surrenderable amount, specify that amount and any action which is required to be taken in respect of it under paragraph 6A.”,

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- (c) after sub-paragraph (4) insert—
- “(4A) Asserted surrenderable amount” means so much of a surrenderable loss which the relevant partner asserts to have as a designated HMRC officer determines, to the best of that officer's information and belief, to be an amount—
- (a) which would not be a surrenderable loss of that partner if the position were as stated in paragraphs (a), (b) or (c) of sub-paragraph (3), and
- (b) which is not the subject of a claim by the relevant partner to relief from corporation tax which is reflected in the amount of the understated partner tax of that partner (and hence in the payment required to be made under paragraph 6).
- (4B) “Surrenderable loss” means a loss or other amount within section 99(1) of CTA 2010 (or part of such a loss or other amount).”, and
- (d) in sub-paragraph (5), for “the payment specified under sub-paragraph (1)(b)” substitute “ any payment specified under sub-paragraph (1)(b) or amount specified under sub-paragraph (1)(d) ”.
- (3) In paragraph 5 (representations about a partner payment notice)—
- (a) in sub-paragraph (2) omit the “or” at the end of paragraph (a), and after paragraph (b) insert “, or
- (c) objecting to the amount specified in the notice under paragraph 4(1)(d).”,
- (b) in sub-paragraph (4), omit the “and” at the end of paragraph (a),
- (c) in paragraph (b) of that sub-paragraph, after “different amount” insert “ (or no amount) ”,
- (d) in that paragraph, omit the “or” at the end of sub-paragraph (i) and after sub-paragraph (ii) insert “, or
- (iii) remove from the notice the provision made under paragraph 4(1)(b).”, and
- (e) after that paragraph insert “, and
- (c) if representations were made under sub-paragraph (2)(c) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount (or no amount) ought to have been specified under paragraph 4(1)(d), and then—
- (i) confirm the amount specified in the notice,
- (ii) amend the notice to specify a different amount, or
- (iii) remove from the notice the provision made under paragraph 4(1)(d).”.
- (4) In paragraph 6 (effect of partner payment notice)—
- (a) for sub-paragraph (1) substitute—
- “(1) This paragraph applies where—
- (a) a partner payment notice has been given to a relevant partner (and not withdrawn), and
- (b) an amount is stated in the notice in accordance with paragraph 4(1)(b).”, and

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- (b) in sub-paragraph (2) for “the amount specified in the notice in accordance with paragraph 4(1)(b)” substitute “ that amount ”.
- (5) After paragraph 6 insert—
- “6A (1) This paragraph applies where—
- (a) an accelerated payment notice is given (and not withdrawn), and
 - (b) an amount is specified in the notice in accordance with paragraph 4(1)(d).
- (2) The relevant partner may not at any time when the notice has effect consent to any claim for group relief in respect of the amount so specified.
- (3) Subject to sub-paragraph (2), paragraph 75 (other than sub-paragraphs (7) and (8)) of Schedule 18 to FA 1998 (reduction in amount available for surrender) has effect at any time when the notice has effect as if that specified amount ceased to be an amount available for surrender at the time the notice was given to the relevant partner.
- (4) For the purposes of sub-paragraph (3), paragraph 75 of that Schedule has effect as if, in sub-paragraph (2) of that paragraph for “within 30 days” there were substituted “ before the end of the payment period (within the meaning of paragraph 6(5) of Schedule 32 to the Finance Act 2014) ”.
- (5) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made in accordance with paragraph 75(6) of Schedule 18 to FA 1998 where the relevant partner withdraws consent by virtue of sub-paragraph (3).”
- (6) In paragraph 8 (withdrawal, suspension or modification of partner payment notices), in sub-paragraph (2)—
- (a) before paragraph (a) insert—
 - “(za) section 227(2)(d), (12A) and (16) has effect as if the references to section 220(2)(d) or 221(2)(d) were to paragraph 4(1)(d) of this Schedule.”, and
 - (b) omit the “and” after paragraph (a) and after paragraph (b) insert “, and
 - (c) section 227(12A) has effect as if the reference to section 225A(3) were to paragraph 6A(3) of this Schedule.”

Consequential amendment

- 11 In section 55 of TMA 1970 (recovery of tax not postponed), in subsection (8C) omit the “or” after paragraph (b) and after paragraph (c) insert “, or
- (d) the amount of tax specified in an assessment under paragraph 76 of Schedule 18 to the Finance Act 1998 where—
 - (i) an asserted surrenderable amount is specified in the notice under section 220(2)(d) of the Finance Act 2014 or under paragraph 4(1)(d) of Schedule 32 to that Act, and
 - (ii) the claimant company has failed to act in accordance with paragraph 75(6) of Schedule 18 to the Finance Act 1998.”

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Transitional provision

- 12 (1) Section 225A(3) of FA 2014 (effect of notices: surrender of losses ineffective) (inserted by paragraph 7 of this Schedule) has effect in relation to an amount specified in a notice in accordance with section 220(2)(d) or 221(2)(d) of that Act (inserted by paragraphs 3(2) and 4(2) of this Schedule) whether the consent to a claim for group relief was given, or the claim itself was made, before or on or after the day on which this Act is passed.
- (2) Paragraph 6A(3) of Schedule 32 to FA 2014 (partnerships: effect of notices: surrender of losses ineffective) (inserted by paragraph 10(5) of this Schedule) has effect in relation to an amount specified in a notice in accordance with paragraph 4(1)(d) of that Schedule (inserted by paragraph 10(2) of this Schedule) whether the consent to a claim for group relief was given, or the claim itself was made, before or on or after the day on which this Act is passed.

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