
STATUTORY INSTRUMENTS

2011 No. 1785

**The Corporation Tax (Instalment
Payments) (Amendment) Regulations 2011**

Substitution of regulation 9

12. For regulation 9 (consequential amendment of section 102 of the Finance Act 1989)(1) substitute—

“Consequential amendment of Chapter 4 of Part 22 of CTA 2010

9.—(1) Chapter 4 of Part 22 of CTA 2010 (surrender of tax refund within a group) applies with the modifications specified in paragraphs (2) to (5) in any case where a tax refund is due to be made to the surrendering company in respect of an amount paid in respect of its total liability for an accounting period and—

- (a) either the surrendering company or the recipient company referred to in that Chapter is a large company as respects that accounting period; or
- (b) both the surrendering company and the recipient company referred to in that Chapter are large companies as respects that accounting period.

(2) In section 963 (power to surrender tax refund), after subsection (2) insert—

“(2A) If, and to the extent that, the tax refund surrendered is within subsection (4)(c) and is of an amount paid in respect of the surrendering company’s bank levy liability for the accounting period, the requirement in subsection (2)(b) is to be read as a requirement that the surrendering company and the recipient company are both entities which are jointly and severally liable for the surrendering company’s bank levy liability for that period in accordance with paragraph 53 of Schedule 19 to the Finance Act 2011.

(2B) In subsection (2A) the reference to the surrendering company’s bank levy liability for the accounting period is to any liability within paragraph 53(8) of that Schedule which the company has for that accounting period.”

(3) In subsection (4) of that section—

- (a) omit the “or” at the end of paragraph (a); and
- (b) after paragraph (b) insert—

“, or

- (c) the repayment in whole or in part of any amount paid by way of an instalment under the Corporation Tax (Instalment Payments) Regulations 1998 in respect of the company’s total liability for the period (within the meaning of regulation 2(3)).”

(4) In section 964 (effects of surrender of tax refund), in subsection (6), after “refund” insert “other than a refund of instalment corporation tax”.

(5) After that subsection insert—

(1) Regulation 9 has been amended by regulation 3 of S.I. 1999/1929 and regulation 8 of 2005/889.

“(6A) For the purpose of this Chapter “the relevant date”, in relation to a refund of instalment corporation tax, means—

- (a) in so far as the refund falls to be treated in accordance with subsections (6C) to (6E) as consisting of a repayment of the whole or any part of a payment made on or before the earliest due date, that date, and
- (b) in so far as the refund falls to be treated in accordance with those subsections as consisting of the repayment of the whole or any part of a payment made after the earliest due date, the date on which the payment was made.

(6B) For the purposes of subsection (6A), the earliest due date, in relation to a refund of instalment corporation tax, is—

- (a) where the surrendering company is a large company for the relevant accounting period, the earliest date on which any amount is treated as having become due and payable by that company under regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of the Corporation Tax (Instalment Payments) Regulations 1998 in respect of that company’s total liability for that period, and
- (b) where the surrendering company is not a large company for that accounting period, the date that would have been the earliest due date under paragraph (a) had it been a large company for that period.

(6C) For the purposes of subsection (6A), at the same time as giving notice under section 963(2) in the case of any refund of instalment corporation tax relating to any accounting period, the surrendering company must also give notice to an officer of Revenue and Customs identifying the extent to which it requires the refund to be treated as consisting of amounts comprised in any payment or payments made for that period.

(6D) Where, in a case to which subsection (6C) applies, an officer of Revenue and Customs notifies the surrendering company that the amount of the refund of instalment corporation tax relating to the accounting period is less than the aggregate of the amounts identified under that subsection, the company must, no later than 30 days after the notification, give a revised notice under that subsection to the officer of Revenue and Customs.

(6E) Where in a case to which subsection (6D) applies—

- (a) a notification has been given to the surrendering company under that subsection, and
- (b) the surrendering company does not give a revised notice in accordance with the requirements of that subsection,

the same consequences follow as if a notice had not been given in accordance with section 963(2) in relation to the refund.

(6F) In this section—

- (a) references to a refund of instalment corporation tax are references to any refund of tax for any accounting period which falls in relation to that accounting period within paragraph (c) of the definition of “tax refund” in section 963(4),
- (b) “large company” has the same meaning as in regulation 3 of the Corporation Tax (Instalment Payments) Regulations 1998, and
- (c) references to the total liability of a company for an accounting period are to be construed in accordance with regulation 2(3) of those Regulations.”.”.