

Effect of arrangements for transfer of company to another group, etc. CTA76 s120 424.—(1) In this section—

“control” has the meaning assigned to it by section 11;

“third company” means a company which, apart from any provision made by or under any arrangements specified in subsection (3)(b) or (4)(b), is not a member of the same group of companies as the first company (within the meaning of subsection (3)) or, as the case may be, the trading company or holding company to which subsection (4) applies.

(2) For the purposes of this section, a company shall be a successor of another company if it carries on a trade which in whole or in part the other company has ceased to carry on and the circumstances are such that—

(a) section 400 applies in relation to the 2 companies as the predecessor and the successor within the meaning of that section, or

(b) the 2 companies are connected with each other.

(3) Where apart from this section 2 companies (in this subsection referred to respectively as “the first company” and “the second company”) would be treated as members of the same group of companies and—

(a) in an accounting period one of the 2 companies has trading losses or other amounts eligible for relief from corporation tax which apart from this section it would be entitled to surrender as mentioned in section 411 (2), and

(b) arrangements are in existence by virtue of which, at some time during or after the expiry of that accounting period—

(i) the first company or any successor of the first company could cease to be a member of the same group of companies as the second company and could become a member of the same group of companies as a third company,

(ii) any person has or could obtain, or any persons together have or could obtain, control of the first company but not of the second company, or

(iii) a third company could begin to carry on the whole or any part of a trade which at any time in that accounting period is carried on by the first company, and could do so either as a successor of the first company or as a successor of another company which is not a third company but which, at some time during or after the expiry of that accounting period, has begun to carry on the whole or any part of that trade,

then, for the purposes of this Chapter, the first company shall be treated as not being a member of the same group of companies as the second company.

(4) Where a trading company is owned by a consortium or is a 90 per cent subsidiary of a holding company owned by a consortium and—

(a) in any accounting period the trading company had trading losses or other amounts eligible for relief from corporation tax which apart from this section it would be entitled to surrender as mentioned in section 411 (2), and

(b) arrangements are in existence by virtue of which—

(i) the trading company or any successor of the trading company could, at some time during or after the expiry of that accounting period, become a 75 per cent subsidiary of a third company,

(ii) any person who owns, or any persons who together own, less than 50 per cent of the ordinary share capital of the trading company has or together have, or could at some time during or after the expiry of that accounting period obtain, control of the trading company,

(iii) any person, other than a holding company of which the trading company is a 90 per cent subsidiary, either alone or together with connected persons, holds or could obtain, or controls or could control, the exercise of not less than 75 per cent of the votes which may be cast on a poll taken at a general meeting of the trading company in that accounting period or in any subsequent accounting period, or

(iv) a third company could begin to carry on, at some time during or after the expiry of that accounting period, the whole or any part of a trade which at any time in that accounting period is carried on by the trading company, and could do so either as a successor of the trading company or as a successor of another company which is not a third company but which, at some time during or after the expiry of that accounting period, has begun to carry on the whole or any part of that trade,

then, for the purposes of this Chapter, the trading company shall be treated as though it were not (as the surrendering company) within paragraph (a), (b) or (c) of section 411 (3).

(5) In any case where a trading company is a 90 per cent subsidiary of a holding company owned by a consortium, any reference in subsection (4) to the trading company, other than a reference in paragraph (b)(iv) of that subsection, shall be construed as including a reference to the holding company.