HMRC - CTM80165 - Groups: Overview Of The Arrangements Rules

CTA10/S154

Under CTA10/S154 two companies which would otherwise be treated as members of the same group for group relief purposes are not treated in this way if there are certain arrangements in place.

CTA10/S156(2) defines arrangements as:

a. being of any kind (whether or not in writing), but does not include

b. i) a power of a Minister of the Crown, the Scottish Ministers or a Northern Ireland department to give directions to a statutory body as to the disposal of assets belonging to the body or to a subsidiary of the body, or

 ii) conditions or requirements imposed or agreed with a Minister of the Crown, the Scottish Ministers or a Northern Ireland department

Paragraph (ii) applies for accounting periods ending on or after 30 April 2013.

Where there are arrangements within (a) but not (b) above you must then look for the conditions in CTA10/S154(2)(a) and (b). If these apply the two companies are disqualified from surrendering and claiming group relief.

The two conditions are:

a. that one of the two companies must have trading losses or other amounts which would be available for surrender for group relief purposes, and

b. that there are arrangements which have any of the three effects in CTA10/S154(3).

Effect 1 in CTA10/S154(3) is that one of the companies (or a successor, as defined in CTM80170) could:

cease to be a member of the same group as the other,

and

become a member of the same group as a third company (CTM80170 on effect 1).

Effect 2 in CTA10/S154(3) is that:

any person (apart from the two companies concerned) has or could obtain, or

any persons together have or could obtain,

control of one of the companies but not of the other (CTM80175 on effect 2).

There is guidance on the circumstances that can arise in insolvency proceedings and the interaction with effect 2 at CTM80209 under ‘Change of control’.

Effect 3 in CTA10/S154(3) is that a third company could begin to carry on the whole or part of a trade which, at any time during or after the current period, is carried on by the first company. The third company could do so either as a:

successor of the first company, or

successor of another company that is not a third company but which, at some time during or after the end of that accounting period, has begun to carry on the whole or part of that trade (CTM80180 on effect 3).

These are all subject to CTA10/Ss155A and 155B, which provide that certain commercial arrangements are not arrangements within S154(3) (CTM80181).

There is no requirement to establish an avoidance motive in the arrangements. If the arrangements fit within the effects then the restrictions will apply.

Claims made under a consortium relationship will be subject to the arrangements rules in CTA10/S155 (CTM80600 onwards).

Further guidance on arrangements

There is guidance at CTM80185 on ‘enabling’ arrangements. These are arrangements which confer rights which are not necessarily intended to be exercised immediately but which are available to be exercised at some future date to suit the convenience of the parties.

There is guidance on how the facts of the case can affect the date of the arrangements at CTM80195.

There is guidance at CTM80190 on ‘direct’ arrangements. These represent a stage in the process of negotiating an intended transaction.

There is further guidance on HMRC’s treatment of certain circumstances that may lead to ‘arrangements’ in SP3/93 {#} (see also CTM80205).

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