HMRC - CTM80555 - Claim By Company In Same Group As Member Of The Consortium: Claims Based On Consortium Condition 2

CTA10/Ss132 to 134A, CTA10/Ss143 to 149

For the meaning of terms used in this paragraph see CTM80550 and for a diagram illustrating them see CTM80590.

Where a member of the consortium is also a member of a group (a ‘link company’), other companies in the group can claim losses, etc, from the company owned by a consortium. This is ‘consortium condition 2’ (CTA10/S133(1)).

The conditions cannot be met if the shares the link company holds in the company owned by a consortium or the holding company thereof (CTM80535) would realise a trading receipt if they were sold (CTA10/S133(3)).

UK related or established in the EEA

For accounting periods beginning before 12 July 2010 the link company must be UK related

For accounting periods beginning on or after 12 July 2010, the link company must be UK related or established in the EEA (CTA10/S133(1)(g)).

A company is ‘UK related’ if it is UK resident or is carrying on a trade in the UK through a permanent establishment (CTA10/S134).

A company is ‘established in the EEA’ if it is constituted under the laws of the UK or another EEA territory and has its registered office, central administration, or principal place of business in the European Economic Area (CTA10/S134A).

Link company established in the EEA but not UK related

Where the link company is established in the EEA but not UK related, the link company must be a member of the same group as the claimant without the involvement of a ‘relevant company’ (CTA10/S133(5), (6), and (8))

A ‘relevant company’ is a company that is not established in the EEA (CTA10/Ss133(7) and 134A). This means the chain establishing the group relationship between the claimant and link company must not include any links outside the EEA

Limitations on the amount of the claim

The total amount that can be claimed by the link company and all group companies related to it is limited to the total amount that the link company itself could claim (CTA10/S146(1)).

When assessing what the link company can claim:

Assume no other claims have been made by group companies under this condition,

Assume that the link company meets the ‘UK related’ condition, and

Assume the link company has sufficient ‘total profits’ when applying CTA10/S137 (CTM80145)

CTA10/S143 limits the amount that a member of the consortium can claim from the company owned by the consortium by reference to four ownership proportions (CTM80540). CTA10/S145 applies those rules by reference to ownership proportions of the link company rather than the company making the claim.

If the claimant company is not in a group relationship with the link company throughout the accounting period concerned then, for the purposes of apportionment under CTA10/Ss138 to 141 (CTM80215), only the period when the claimant company was in a group relationship with the link company can be part of an ‘overlapping period’ (CTM80225). Any other periods are treated as not coinciding with any part of the accounting period of the surrendering company (CTA10/S142).

Where the surrendering company’s ‘surrenderable amounts’ include a trading loss, the amount of group relief that may be claimed from it is determined by assuming that the company owned by the consortium has exhausted its CTA10/S37 loss claims for that period (CTA10/S147) (CTM80570).

Where the company owned by the consortium is itself a member of a group, the amount of consortium relief that may be claimed from it is limited to the excess of its group’s potential relief (CTA10/S148) (CTM80580).

See the example at CTM80680.

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