HMRC - CTM80560 - Surrender By Company In Same Group As Member Of The Consortium: Consortium Condition 3

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 surrender losses, etc, to the company owned by a consortium. This is ‘consortium condition three’ (CTA10/S133(2)).

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.

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 surrendered by the link company and all group companies related to it is limited to the total amount that the link company itself could surrender (CTA10/S146(4)). This limit bases the total surrender on the link company’s ownership proportion as in CTA10/S144(2) (CTM80545).

In looking at the amount that the link company could claim:

Assume that the link company is UK related, and

Use the claimant company’s overlapping period in place of the link company’s

For the purposes of determining the share of the total profits of the company owned by the consortium that can be covered by consortium relief, CTA10/S145 limits the claim by reference to the link company’s ownership proportion of the company owned by the consortium under CTA10/S144 (CTM80545) for the period which is the overlapping period in relation to the claim (CTA10/Ss138 to 142).

Where the company owned by the consortium is itself a member of a group, the amount of consortium relief that it may claim is limited to the excess of the group’s potential relief (CTA10/S149). There is more guidance on this at CTM80585.

See the example at CTM80675.

Previous page

Next page