HMRC - CTM80685 - Example: Restriction Where Group Claims Possible

The consortium and group structure is as shown in the diagram at CTM80590.

The percentages shown in the diagram indicate beneficial ownership of ordinary share capital and you should assume that the arrangements rules (CTA10/Ss146A, 146B, and 155) do not apply.

The votes and entitlement to profits and assets on winding up follow the shareholdings shown (see CTA10/Ss151(4) for the 75%+ and 90%+ subsidiaries (CTM80535), and Ss143(3) and 144(3) for the ownership proportions of L and X in CH (CTM80540 and CTM80545)).

Apportionments are on a time basis (see CTM80260 for alternative methods).

Facts

CH is a company owned by a consortium, and L (60%) and X (40%) are members of a consortium throughout the year to 31 December 2011.

CT1, CT2, and CT3 are trading companies and are 100% subsidiaries of CH.

All companies make up accounts for twelve months to 31 December 2011.

CH has excess management expenses in the accounting period of £26,000.

CT2 has profits of £30,000.

CT1 sustained a trading loss of £80,000.

CT3 has neither profit nor loss.

L has profits in excess of £100,000.

Procedure

The amounts that can be surrendered as consortium relief must be restricted by the amount of any potential group claims by companies grouped with the company owned by the consortium under CTA10/S148 (CTM80580).

The claims

If no group claims are made, CH is unable to surrender consortium relief to L. This is because CH can surrender consortium relief only to the extent that CH’s fellow group companies cannot claim the relief. Relief cannot be claimed by CT1 because it has a loss. But CT2 could claim relief for CH’s excess management expenses of £26,000 against its profits of £30,000. This means there is no part of CHs excess management expenses of £26,000 that could not be claimed by a fellow group company and so no part of those excess management expenses can be surrendered as consortium relief.

CT1 can surrender a maximum of £50,000 by way of consortium relief. The only company in CT1’s group that could claim relief is CT2, which could claim relief of £30,000. This means CT1 can surrender as consortium relief the excess of its losses of £80,000 over CT2’s profits of £30,000, which is £50,000. L’s share is 60% of this, £30,000.

However if CT2 makes a group claim for relief of £30,000 from CT1, CT1’s balance of £50,000 is still available for consortium relief. Moreover CH’s excess management expenses of £26,000 could then also be surrendered as consortium relief. This is because any actual group claims made are taken into account when determining the potential amount of group claims for the purposes of CTA10/S149 (CTM80580). So L could then claim a maximum of £15,600 (60% x £26,000) from CH as well as the £30,000 from CT1.

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