HMRC - CTM81255 - Claims

A claim to surrender ACT under ICTA88/S240 has to be made within six years after the end of the accounting period in which the relevant dividends were paid. A claim requires the consent, notified to the Inspector, of the subsidiary or subsidiaries concerned.

No specific form of claim is required. In practice, you can accept relevant entries in the CT computations and supporting schedules of a parent company as a claim to surrender,provided that:

the amount surrendered, and

the name of the accepting company,

are identified. In the same way, you can accept as consent to the surrender, without a formal document signed by the company secretary, an entry in the CT computations of the accepting company, showing:

the amount of the surrendered ACT,

and

the name of the surrendering company.

Note that this contrasts with the position for group relief where formal consent is required. The reason for the difference is that the new owner of a subsidiary which:

has been sold by a parent company,

and

has had ACT surrendered to it,

is not likely to complain, even if the surrendered ACT is surplus and cannot be carried forward under the new ownership. However, the new owner of a subsidiary that has surrendered losses to its previous parent as group relief may well complain.

It is not necessary for companies to give the precise figures, following the decisions in Procter and Gamble Ltd v Taylerson, TL3159, TL3245 (CTM20190)and Gallic Leasing Ltd v Coburn, TL3175, TL3264 and TL3290. These cases were not themselves concerned with ACT surrender. But they seem to establish the general principle that a claim may be adequate if presented in such a way that the figures are only ascertainable later.

It follows that a claim to surrender ACT in terms of an estimated figure to be finally settled by a formula, or a claim made only by way of a formula, is acceptable. Such aclaim cannot take account of any later event, although, in practice, account may be taken of any other claim that could have been made at the date of the claim to surrender. Thus account could be taken of a claim to group relief in respect of a loss of another group member, to the extent that the loss had not been surrendered elsewhere at the date of the claim. A claim expressed in terms of surrendering ACT to the extent that it is surplus should be taken to mean the surplus as at the time the claim is made, although this may only be ascertainable later. Any claim to surrender or notification of consent considered deficient should be brought to the attention of the company or its agents immediately.

A claim to surrender ACT may be withdrawn at any time before its determination. Using this facility, provided the statutory time limit has not expired, the surrendering company may be able to take account of events that have occurred since the date of the original claim by withdrawing that claim and making a new one.

A claim to surrender ACT is determined when:

notice of consent by the subsidiary has been received,

all the figures in the claim have been quantified,

an inspector has given a decision on the claim, either by letter or by an assessment.

So where a company makes a single formula claim to surrender ACT to a number of subsidiary companies, the claim cannot be determined until the amount destined for each subsidiary is agreed.

Until a claim to surrender ACT is determined the subsidiary cannot properly take account of the benefit of the ACT in computing its CT liability. However, where a surrendering company has made a valid claim there is no objection to the subsidiary provisionally including the amount which is likely to be surrendered in its computation of tax payable on form CT200.

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