HMRC - CTM81545 - Groups: Group Relief: Surrendering Company Not UK Resident: Amount Of The Loss: The Precedence Condition

ICTA88/SCH18A (9)

There are four conditions, which must be satisfied before a loss arising in a 75% subsidiary resident in another European Economic Area (EEA) territory will be available for group relief in the UK, (CTM81510). The fourth of these is the precedence condition.

The precedence condition denies relief for a loss under the new rules if relief could be obtained in the territory of residence of an intermediate company in the ownership chain.

A loss satisfies the precedence condition if it cannot be relieved in the territory of residence of any intermediate company in an ownership chain between a surrendering company and the UK resident company of which it is a 75% subsidiary.

Whether a loss can be relieved in the territory of residence of an intermediate company is determined by the laws of the territory in question.

The precedence condition applies whatever the level of ownership of the intermediate company by the UK resident company, or of the surrendering company by the intermediate company.

Where the surrendering company is a 75% subsidiary of more than one UK resident company,the precedence condition only applies in relation to intermediate companies between the surrendering company and the nearest such UK resident company in the ownership chain.

There are worked examples at CTM81610.

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