HMRC - CTM81555 - Groups: Group Relief: Surrendering Company Not UK Resident: Amount Of The Loss: Unallowable Losses And Arrangements

ICTA88/S403G

The extended loss relief rules identify a specific category of loss for which UK group relief will now be available. There are certain conditions, which need to be met before the loss can be available for surrender as group relief, (see CTM81525).

In addition there are rules to prevent group relief being given, which otherwise, as a result of certain arrangements, would be available for surrender.

How the rules work

The unallowable loss rules apply to losses which arise to companies or permanent establishments in European Economic Area (EEA) territories, and which are therefore potentially available for relief under ICTA88/S403F. There are two conditions and relief will be denied only if both are met.

The first condition is that arrangements either:

turn an existing loss into a loss which will qualify for relief; or

give rise to a new loss that qualifies for relief.

The second condition is that obtaining that relief was one of the main purposes of those arrangements..

Definition of arrangements

‘Arrangements’, for this purpose, includes any agreement, understanding, scheme, transaction or series of transactions, whether legally enforceable or not. The legislation does not apply simply because UK group relief will be available as a result of actions taken by any party to those arrangements. It acts so that UK group relief will only be denied where obtaining that relief was one of the main purposes of the arrangements.

Effective date

The unallowable loss rule applies to losses derived from arrangements made on or after 20 February 2006 and to losses that would otherwise qualify for relief and which arise onor after 20 February 2006 from arrangements already in existence before that date. Although the legislation applies to losses claimed in accounting periods and arising from loss periods starting on or after 1 April 2006 or straddling that date (CTM81505), if the loss has arisen due to arrangements made on orafter 20 February 2006 then it may be caught by ICTA88/S403G.

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