HMRC - CTM81560 - Groups: Group Relief: Surrendering Company Not UK Resident: Amount Of The Loss: UK Recomputation

ICTA88/SCH18A (11) to (16)

If certain conditions are met, a UK parent company (or a UK resident subsidiary of the UK parent company) may be able to claim to set an amount representing the foreign tax loss suffered by a subsidiary resident in another European Economic Area (EEA) territory against its profits.

The tax loss to be considered is the loss computed under the rules of the EEA territory in which the surrendering company is resident, or, in the case of a company not resident inthe EEA, the rules of the EEA territory where it carries on a trade through a permanent establishment.

In order to quantify the loss eligible for relief, the foreign loss is to be recomputed in accordance with UK principles.

How the rules work

Foreign losses must be recomputed in accordance with UK tax principles, i.e. inaccordance with the provisions of the UK Corporation Tax Acts and UK GAAP or International Accounting Standards (IAS) if appropriate. (All EU companies listed on a regulated marketare required to prepare group accounts under IAS from 1 Jan 2005. In addition the DTI allows unquoted companies to adopt IAS from this date.) This may require a full recomputation of the relevant amounts. However in some cases a full recomputation will not be necessary to identify the UK measure of a particular category of loss or other amount available for surrender by way of group relief. In such a case all UK tax principles must still be applied, but it may be sufficient to start with, say, the foreign trading loss and adjust for differences between respective accounting standards and tax law.

To enable the recomputation to be carried out, the extended rules require assumptions to be made about the surrendering company. Those assumptions relate to:

the company’s place of residence; (CTM81565),

the place in which any trade is carried on by the company; (CTM81565),

accounting periods of the company; (CTM81570), and

capital expenditure on plant and machinery (for capital allowances purposes), (CTM81575),

and apply for the purpose of the recomputation only.

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