HMRC - CTM81605 - Groups: Group Relief: Surrendering Company Not UK Resident: Claims In Respect Of Overseas Losses Of Non Resident Companies: Enquiries

FA98/SCH18/PARA77

Special rules apply when an enquiry is made into a loss surrendered by way of group relief under ICTA88/S403F from a 75% subsidiary resident in another European Economic Area(EEA) territory.

If an enquiry is opened, under the usual enquiry powers (EM2216) HMRC is entitled to ask for any documents in the company’s possession and any information that is reasonable for the purposes of an enquiry.

Where the enquiry concerns a surrender of group relief from a subsidiary resident in another EEA territory, we can ask the claimant company for information explaining how the EEA amount meets all the relevant conditions, and details of the recalculation.

The following are examples of some of the types of evidence that we might request from a claimant company to prove that any loss is unrelievable:

Documentary proof of the loss by way of audited company accounts and tax computations. The claimant company may also be required to demonstrate in which deemed accounting period the loss was incurred and what type of loss it was.

Documentary proof of all attempts made to get relief for the loss, i.e. claims made to the national revenue authorities, whether under statutory provisions or by way of a discrete agreement in the State of residence, for the transfer of the loss between companies in the State of residence.

Board minutes/reports and all internal correspondence which would evidence the fact that the loss making company has considered and exhausted all possibilities to get relief for the loss.

Documentary evidence (board minutes/directors reports etc) of all and any attempts to sell the loss-making company to a third party.

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