HMRC - OT16520 - Losses - Unrelievable Field Losses: Licence Transfers - Anti-Avoidance - Examples

Example 1

The transfer from X to Y is completed after 7 March 2001 and is subject to a successful FA80\SCH17\PARA4 disapplication. Under the old rules Y’s UFL would have been 70. Its CP6 loss would only have been reduced by 10 under OTA75\S7(3). But under FA01\SCH32, its UFL is reduced to 10 after taking account of X’s relevant profits of 60.

Example 2

The facts are the same as in Example 1 except that in CP3 X’s profits of 40 are calculated after the allowance of a claim under OTA75\S5B (research) of 5. The 5 is ‘unrelated field expenditure’ and needs to be ‘added back’ to arrive at X’s relevant profits. X’s relevant profits therefore become 65 and Y’s UFL is accordingly reduced to 5 (70-65).

Example 3

The facts are the same as in Example 1 except that X transfers only 50% of its interest to Y with the balance being transferred to another company, Z. In calculating Y’s UFL, FA01\SCH32\PARA8(3) means that only 50% of X’s relevant profits (‘the corresponding part’) need to be taken into account. The UFL is therefore 40 (70-30).

Example 4

Both transfers are completed after 7 March 2001 and are subject to successful disapplications under FA80\Sch17\ParaA4. Under the old rules, both X and Z would have been able to claim UFLs of 50. But the UFL that would have arisen had there been no transfers of the interest would have been 50 (combined losses of 100 less relevant profits of 50). Under FA01\Sch32\Para10(1) Z’s UFL remains 50, but X’s UFL is reduced to 0. X’s loss is offset in priority to Z’s as it accrued at an earlier time.

Example 5

Both transfers are completed after 7 March 2001.The XY transfer is subject to a successful FA80\Sch17\Para4 disapplication, but the YZ transfer is within FA80\Sch17 Parts II and III.

Under the old rules, Z’s UFL would have been 40 after taking into account the necessary carry back of 10 under FA80\Sch17\Para15 to cover Y’s assessable profits. But, although Z itself has not been party to an excluded transfer, its loss is still within FA01\Sch32. There is an ‘excluded transfer’ between X and Y (FA01\Sch32\Para1(1)(b)) and Z is a ‘subsequent new owner’ (FA01\Sch32\Para1(1)(c)). Z’s UFL is therefore reduced to 10 (50-10-30), the UFL which would have been claimable had there been no field transfers.

Previous page

Next page