HMRC - VATSC55800 - Consideration: Group Relief

HMRC allows associated group companies to surrender losses to other group members. This is often, although not always, done for a payment and the transactions are referred to as group relief. Associated group companies are members of a group where one is either a 75% subsidiary of the other or where both are 75% subsidiaries of a third company. This comes under s402 Income and Corporation Taxes Act 1988. Detailed information can be found in CTM80000

Payments in relation to group relief are not taxable supplies in the majority of cases. However, in certain circumstances the surrender of group relief can be directly linked to something being done by the associated company. Assuming the associated companies are not members of a VAT group, this gives rise to a supply for VAT purposes with the value of the transfer being the consideration.

This approach was confirmed in the Tilling case described at VATSC56000. Following this decision, the Consultative Committee of the Accountancy Bodies expressed some concern and so a Memorandum of Understanding was produced to clarify the situations where the surrender of group relief is seen as a taxable supply. The wording of the agreement is reproduced in VATSC56200

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