

Removing inadvertent restriction on corporate tax group loss relief

Who is likely to be affected?

Companies inadvertently restricted from the Group Relief scheme through involvement in certain commercial arrangements with public authorities.

General description of the measure

The measure expands the types of commercial arrangements that are exempt from anti-avoidance rules affecting group loss relief.

Policy objective

This measure will ensure the group loss relief anti-avoidance rules are more effectively targeted for the future. They will continue to restrict access to relief where none is intended while allowing improved access where it is, helping to maintain the fairness and competitiveness of the tax system.

Background to the measure

This measure will be announced on 11 December 2012.

Detailed proposal

Operative date

The measure will have effect for accounting periods ending on or after 1 April 2013

Current law

Section 154 CTA10 prevents access to group loss relief where there are 'arrangements' in place meaning that, at some point in the current accounting period or future, one company could cease to be a member of a group. The rule prevents the use of loss relief where it would amount to loss-buying, but is not intended to prevent access where there are legitimate commercial arrangements in place. There are already a range of related exemptions that carve out commercial arrangements from the rule, but they do not prevent all commercial arrangements from being caught.

Proposed revisions

Legislation will be introduced into the Finance Bill to ensure that conditions imposed by a statutory body by which one company will leave a group at a pre-determined date will not prevent claims to group relief. This targeted amendment to the rules will not remove the current loss buying avoidance protection.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	-	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2013.					
Economic impacts	The measure is not expected to have any significant economic impacts.					
Impact on individuals and households	The measure is not expected to have any impact on individuals or households.					
Equalities impacts	The measure will have no equality impacts.					
Impact on business including civil society organisations	<p>The measure is expected to have a negligible impact on businesses and civil society organisations.</p> <p>Businesses that are adversely affected by the current legislation will not be able to benefit from the Group Relief scheme. To do so, they will face a negligible one-off cost in familiarising themselves with the appropriate regulations and a negligible increase in on-going administrative burdens from supplying information to HMRC to claim group loss relief.</p>					
Operational impact (£m) (HMRC or other)	The measure will not have any operational impact on HMRC.					
Other impacts	Other impacts have been considered and none have been identified.					

Monitoring and evaluation

The measure will be monitored through informal communication with taxpayers.

Further advice

If you have any questions about this change, please contact Deonne Rowland on 020 7270 5677 (email: deonne.rowland@hmtreasury.gsi.gov.uk) or Paula Jarnecki on 020 7147 2607 (email: paula.jarnecki@hmrc.gsi.gov.uk).

1 Arrangements for transfers of companies

- (1) In section 156 of CTA 2010 (definition of “arrangements” for purposes of sections 154 to 155B, etc) –
 - (a) in subsection (2), in paragraph (b), after “include” insert “ –
 - (i) ”,
 - (ii) a condition or requirement imposed by, or agreed with, a Minister of the Crown, the Scottish Ministers, a Northern Ireland department or a statutory body.”,
 - (b) at the end of that paragraph insert “, or
 - (ii) a condition or requirement imposed by, or agreed with, a Minister of the Crown, the Scottish Ministers, a Northern Ireland department or a statutory body.”,
 - (c) after that subsection insert –

“(2A) In subsection (2) “statutory body” means a body (other than a company) established by or under a statutory provision for the purpose of carrying out functions conferred on it by or under a statutory provision, except that the Treasury may, by order, specify that a body is or is not to be a statutory body for this purpose.”
- (2) In sections 154(3) and 155(3) of that Act (arrangements for transfers), for “154A” substitute “155A”.
- (3) The amendments made by this section have effect in relation to accounting periods ending on or after 1 April 2013.

EXPLANATORY NOTE

ARRANGEMENT FOR TRANSFERS OF COMPANIES

SUMMARY

1. This clause makes a specific change to the types of arrangements that are exempt from the anti-avoidance rules affecting the group relief rules contained in Part 5 of the Corporation Tax Act 2010 (CTA 2010). The clause also corrects cross-reference errors in sections 154(3) and 155(3) of CTA 2010.

DETAILS OF THE CLAUSE

2. The clause amends section 156 of CTA 2010 which provides the definition of 'arrangements' for the purposes of the anti-avoidance rules in sections 154 and 155. These sections ensure, for example, that if there are arrangements providing a specific date on which a company can leave a group and come under the control of another that no group relief can flow.
3. Subsection (1)(b) inserts new sub-paragraph (ii) to section 156(2)(b). The paragraph extends the exclusion of what is not treated as arrangements to include conditions and requirements imposed by, or agreed with, Ministers or statutory bodies.
4. Subsection (1)(c) inserts new subsection (2A) which provides a definition of statutory body for the purposes of section 156(2).
5. Subsection (2) corrects the reference to section 154A in sections 154(3) and 155(3) to section 155A.
6. Subsection (3) provides that the changes made by the clause are for accounting periods ending on or after 1 April 2013.

BACKGROUND

7. Currently some statutory public bodies set down conditions or requirements for companies (who are members of wider groups) operating in specific sectors, which mean they are inadvertently caught by the anti-avoidance rules in sections 154 to 156 of CTA 2010 preventing the flow of group relief.
8. For accounting periods ending on or after 1 April 2013, any such conditions imposed by, or agreed with, a statutory public body will not be arrangements that prevent the flow of group relief.

FINANCE BILL

9. If you have any questions about this change, or comments on the legislation, please contact Paula Jarnecki on 020 7147 2607 (email: paula.jarnecki@hmrc.gsi.gov.uk).