

## NOTICES OF AMENDMENTS

**Monday 23 June 2014**

### CONSIDERATION OF BILL

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Mr Chancellor of the Exchequer

NC2

\*To move the following Clause—

**“Determination of beneficial entitlement for purposes of group relief**

- (1) CTA 2010 is amended as follows.
  - (2) In section 169 (interpretation of provisions to determine proportion of beneficial entitlement)—
    - (a) in subsection (2), for the definition of “arrangements” substitute—
      - “(a) “arrangements”—
      - (a) means arrangements of any kind (whether or not in writing), but
      - (b) does not include 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,” and
    - (b) after that subsection insert—
  - “(3) In subsection (2) “statutory body” means a body (other than a company as defined by section 1(1) of the Companies Act 2006) 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.”
  - (3) In section 188 (other definitions for Part 5), in subsection (1), in the definition of “company” for “section 156(2A)” substitute “sections 156(2A) and 169(3)”.
  - (4) The amendments made by this section have effect in relation to accounting periods ending on or after 1 January 2015.”
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## **EXPLANATORY NOTE**

### **NEW CLAUSE 2: DETERMINATION OF BENEFICIAL ENTITLEMENT FOR PURPOSES OF GROUP RELIEF**

#### **SUMMARY**

1. This new 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 (CTA) 2010.

#### **DETAILS OF THE NEW CLAUSE**

2. The clause amends section 169 of CTA 2010 which provides the definition of “arrangements” for the purposes of the anti-avoidance rules in sections 171 to 174. These sections restrict access to group relief where there are arrangements in place meaning that at some point in the future one company’s rights over the profits or assets of another company could change.

3. Subsection (2)(a) splits the definition of “arrangements” in section 169(2) into two. Subsection (a) retains the existing wording. Subsection (b) provides that “arrangements” does not include conditions or requirements imposed by, or agreed with, Ministers or statutory bodies.

4. Subsection (2)(b) inserts new subsection (3) which provides a definition of statutory body for the purposes of section 169(2).

5. Subsection (3) extends the exclusion to the definition of “company” in section 188(1) to include section 169(3).

6. Subsection (4) provides that the changes made by the clause are for accounting periods ending on or after 1 January 2015.

#### **BACKGROUND NOTE**

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 may be inadvertently caught by the anti-avoidance rules in sections 171 to 174 of CTA 2010 restricting the flow of group relief.

8. For accounting periods ending on or after 1 January 2015, any such conditions imposed by, or agreed with, Ministers or a statutory public body will not be arrangements that restrict the flow of group relief.



# Removing inadvertent restriction on corporation tax group loss relief

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## Who is likely to be affected?

Companies inadvertently restricted from the group relief rules by their involvement in certain commercial arrangements where conditions are agreed or imposed by a Minister or a statutory body.

## General description of the measure

The measure expands the type 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 in 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 was announced on 24 June 2014.

## Detailed proposal

### Operative date

This measure will have effect for accounting periods ending on or after 1 January 2015.

### Current law

Sections 171 to 174 Corporation Tax Act 2010 restrict access to group loss relief where there are certain arrangements in place meaning that at some point in the future one company's right over the profits or assets of another could change.

The rules prevent the use of loss relief where it would amount to loss-buying, but are not intended to prevent access where there are legitimate commercial arrangements in place.

There are already a range of related exemptions in section 174A and section 174B that carve out commercial arrangements from the rules, but they do not prevent all legitimate commercial arrangements from being caught.

### Proposed revisions

Legislation will be introduced in Finance Bill 2014 to ensure that conditions agreed or imposed by a Minister or statutory body, which provide that at some point in the future one company's right over the profits or assets of another could change, 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)   | 2014-15   | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
|---|---|---------|---------|---------|---------|
|   | nil   | nil     | nil     | nil     | nil     |
|   | This measure is not expected to have an Exchequer impact.   |         |         |         |         |
| <b>Economic impact</b>  | This measure is not expected to have any significant economic impacts.  |         |         |         |         |
| <b>Impact on individuals and households</b>                     | This measure is not expected to have any impact on individuals or households.   |         |         |         |         |
| <b>Equalities impacts</b>                                       | These changes are not expected to have an impact on any protected equality group.   |         |         |         |         |
| <b>Impact on business including civil society organisations</b> | <p>The measure could impact on a small number of large companies investing in large infrastructure projects.</p> <p>Businesses that are adversely affected by the current legislation have an increased admin and compliance burden to able to benefit from the group relief rules. In order to take advantage of group relief in the future, these businesses will face a negligible one-off burden of familiarising themselves with the amendments to the legislation.</p> <p>The measure will have no impact on civil society organisations.</p> |         |         |         |         |
| <b>Operational impact (£m) (HMRC or other)</b>                  | This measure will not have any operational impact on HM Revenue & Customs.  |         |         |         |         |
| <b>Other impacts</b>  | <p>The impact on small and micro business has been considered and no impacts have been identified.</p> <p>Other impacts have been considered and none have been identified.</p>   |         |         |         |         |

## Monitoring and evaluation

The measure will be kept under review through communication with affected taxpayer groups.

## Further advice

If you have any questions about this change, please contact Steve Mole on 03000 585460 (email: [steven.mole@hmrc.gsi.gov.uk](mailto:steven.mole@hmrc.gsi.gov.uk)) or Christina Hart on 020 7270 6864 (email: [christina.hart@hmtreasury.gsi.gov.uk](mailto:christina.hart@hmtreasury.gsi.gov.uk)).

## Declaration

David Gauke MP, Exchequer Secretary to the Treasury has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.