
STATUTORY INSTRUMENTS

1999 No. 358

The Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999

Definition of final accounting period—company a member of a group

5.—(1) For the purpose of regulation 2 and subject to paragraphs (3) to (10), where a company is a member of a group at any time in the relevant accounting period, the final accounting period of that company in its capacity as a member of that group is the accounting period beginning in the period of twelve months immediately following the end of the relevant accounting period or, if there is more than one accounting period beginning in that period of twelve months, the latest accounting period beginning in that period.

(2) In paragraph (1) “the relevant accounting period” is the first accounting period of the company after which no amount of unrelieved surplus ACT belonging to the company or any other company which is a member of the group at any time in that accounting period is available to be set against any liability to corporation tax in accordance with these Regulations; and for this purpose unrelieved surplus ACT belonging to another company that is a member of the group at any time in that accounting period shall be regarded as so available until the end of that other company’s accounting period.

(3) Paragraph (1) shall not apply where—

- (a) the company is a member of the group as at 6th April 1999, and
- (b) at any time in the first accounting period of the parent company of the group to begin on or after that date, the parent company notifies an officer of the Board on behalf of the group that the group will not seek or, as the case may be, will cease to seek recovery of unrelieved surplus ACT in respect of any accounting period of any member of the group that begins on or after that date.

(4) A notification made in accordance with paragraph (3) shall, subject to paragraph (9), be binding on each company that was a member of the group as at 6th April 1999.

(5) Where, otherwise than in a case to which paragraph (3) applies, at any time in an accounting period of the parent company of the group the parent company notifies an officer of the Board on behalf of the group that the group wishes the accounting period of any member of the group in which the notification is made to be the final accounting period of that member and that it will not seek recovery of amounts of unrelieved surplus ACT available to that member in respect of any subsequent accounting period, the final accounting period of that member and the final accounting period of the parent company is, subject to paragraphs (7) to (10), the accounting period of the parent company in which the notification by the parent company is made.

(6) A notification made in accordance with paragraph (5) shall, subject to paragraph (10), be binding on each company that was a member of the group when the notification was made or that subsequently becomes a member of the group prior to the end of the parent company’s final accounting period.

(7) Where paragraph (5) applies and the accounting period of a company in the group other than the parent company that would otherwise be its final accounting period in accordance with that paragraph begins before the end of, but ends after, the accounting period of the parent company

in which the notification by the parent company is made, the accounting period of the company concerned shall be treated as if the part ending with the last day of the parent company's accounting period, and the part after, were two separate accounting periods; and the part ending with the last day of the parent company's accounting period shall, subject to paragraph (10), be treated as the company's final accounting period for the purposes of this regulation.

(8) Where—

- (a) there is an amount of surplus shadow ACT in respect of an accounting period of any company that is a member of the group beginning in the period of twelve months (“the relevant period”) immediately following the end of the accounting period of the company in which the parent company notifies an officer of the Board as mentioned in paragraph (5), and
- (b) all or any part of that surplus amount falls to be carried back under regulation 12 or 13 to an accounting period of a company that is a member of the group ending before the relevant period of the company referred to in sub-paragraph (a),

the final accounting period of any company that is a member of the group at any time in the relevant period shall, subject to paragraph (10), be the accounting period or, if more than one, the latest accounting period beginning in the relevant period from which an amount of surplus shadow ACT falls to be carried back as mentioned in sub-paragraph (b) of this paragraph, and not the accounting period referred to in paragraph (5).

(9) Where in an accounting period (“the material period”) subsequent to the accounting period in which the parent company notifies an officer of the Board as mentioned in paragraph (3), a company which has an amount of unrelieved surplus ACT becomes a member of the group, these Regulations shall apply in relation to the material period (but not earlier accounting periods) as if no notification had been made in accordance with that paragraph, but not so as to entitle any company to whom that notification, when made, applied to seek recovery of any amount of unrelieved surplus ACT.

(10) Where in an accounting period (“the material period”) subsequent to the final accounting period as determined in accordance with paragraph (1), (5), (7) or (8), a company which has an amount of unrelieved surplus ACT becomes a member of the group, these Regulations shall apply in relation to the material period (but not earlier accounting periods) as if the final accounting period had not yet been determined in accordance with any of those paragraphs, but not so as to entitle a company whose final accounting period had previously been determined in accordance with those provisions to seek recovery of any amount of unrelieved surplus ACT.

(11) Where—

- (a) a company is a member of two or more groups,
- (b) its final accounting period as a member of one or more, but not all, of the groups concerned has been determined in accordance with the previous provisions of this regulation, and
- (c) at least one of those determinations is as a result of a notification made by a parent company in accordance with paragraph (5) of this regulation,

these Regulations shall have effect in relation to the group or groups in respect of which the final accounting period of the company has not been determined as if the total amount of its unrelieved surplus ACT had been set against its liability to corporation tax in accordance with regulation 14.