

# Driving Facts

TAX NEWS

## Groups? That's a Relief

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In the last issue of Tax News we examined the different types of tax losses that can arise in a standalone company and briefly touched on the subject of group relief. In this article we provide a more in depth look at group situations.

Group relief allows a loss making company to pass on some or all of its losses to a fellow group company. As we shall see later, this provides the scope to minimise the tax charge of the group as a whole.

### What is a Group

For the purposes of loss relief a group relationship exists where:

- One company is a 75% subsidiary of another or;
- Both companies are 75% subsidiaries of a third company

There are some very involved definitions of what constitutes a 75% subsidiary but broadly speaking we look at ownership of ordinary share capital, voting rights and entitlement to profits.

Ascertaining whether there is a 75% relationship becomes more complicated where there are sub-subsidiaries. What do you do, for example, if company A owns 80% of the share capital in company B which in turn owns 80% of the share capital in company C? Who is part of the group? The answer is that you multiply out the subholdings so that in this example A has effective ownership of  $80\% \times 80\% = 64\%$  of C and so cannot include C as part of its group. Just to complicate matters further this means that we would actually have two groups composed of A and B and then B and C. Definite care needs to be taken and advice sought if you have an intricate group structure

### Corresponding Accounting Periods

When we are deciding the amount of profits that can be surrendered from one company to another, the situation is further complicated if both companies do not share a common year end or if only became part of the same group mid accounting period. We are only able to match profits and losses for corresponding accounting periods. This is best illustrated with an example.

Company A has a year end of 31 December 2007 and made a loss £50,000; company B has a year end of June 2007 and has made a profit of £100,000. If both

companies are members of the same group the maximum loss that A can surrender to B is the lower of the profit in B for the shared period ie 1 January 2007 to 30 June 2007 and the loss in A for this same period. It is normal practice to simply time apportion the profits/losses based on the length of the common period unless this would provide an unjust or unreasonable result such as when a company realises a large capital gain. In our example the maximum would therefore be the lower of  $6/12 \times £50,000 = £25,000$  loss and  $6/12 \times £100,000 = £50,000$  profit.

If we are talking about a company leaving a group, great care must be taken because for group relief purposes it is deemed to leave as soon as arrangements are in place for sale. Sometimes this is the same time as legal ownership passes but this is not always the case. If it is a loss making company, these rules could reduce the amount of relief available to the old group.

### Losses which can be Surrendered

Ignoring the more obscure types of losses, the main types of losses which may be surrendered intra-group are as follows:

*Trading losses* – subject to the above rules, any amount of trading loss arising in the current year can be group relieved. The company in which the loss arises does not need to use all the other reliefs available to them before surrendering the loss and the company can choose the exact amount it wishes to give to the other company. This provides the scope for tax planning within the group as a whole

*Schedule A losses and excess management expenses* – In contrast to trading losses only losses which exceed the individual company's current year taxable profits can be surrendered to another company.

### Tax Planning and Group Relief

The group relief provisions have most benefit where there are a number of companies in a group each paying tax at different rates.

A company pays tax at the following rates with the limits being divided by the number of associated companies:

Small companies rate (profits under £300,000) 19%

Standard rate (profits over £1.5 million) 30%

Marginal rate (profits between £300,000 and £1.5 million) 32.75%

If you have a company paying tax at the marginal rate for example, every pound you reduce the taxable profits closer to £300,000 saves more tax than if you surrendered the same amount to a company with profits of say £3 million who was paying tax at 30%. The group relief provisions allow you to choose exactly how much you surrender to each company and so precise tax planning is possible.

In conclusion, it is important not to forget however, that sometimes it is more tax efficient to ignore group relief entirely and to utilise some of the loss reliefs we outlined in our last article. Each company's and group's situation is different and due consideration must be given to many factors including what the company's future taxable profits could be. Only then can the most tax efficient utilisation of losses be achieved.

## Working Time Regulations – Increased Holiday Entitlement

The Government has published a further consultation document, on its proposals to increase the current statutory minimum holiday entitlement from four weeks to 5.6 weeks (maximum entitlement will be 28 days)

It is expected that the increase will be introduced over a two year period, with the first increase to 4.8 weeks from 1 October 2007 and from 4.8 weeks to 5.6 weeks from 1 October 2008.

The object is to remove the current use of the eight Bank Holidays in the 4 weeks minimum holiday entitlement, which effectively means that some employees currently have 12 days holiday plus the Bank Holidays.

At present if your holiday entitlement exceeds the above statutory minimum (12 days plus 8 Bank Holidays), although you must ensure that the minimum holiday is actually taken, it is possible to make a payment in lieu for any untaken holiday over and above the minimum.

For example if your entitlement is 20 days plus Bank Holidays then you can pay in lieu for up to 8 days untaken holiday.

Once the new legislation comes into force employers

will have to ensure that their staff actually take the full entitlement, unless of course your entitlement exceeds the new minimum.

## Companies Act 2006

It is not yet known when the Companies Act 2006 will be fully implemented, however some of the provisions apply now. We will keep you posted, once we have fuller details

From 1 January 2007, the Companies Act 1985 as amended requires the company's name to appear legibly in:

- all its business letters,
- all its notices and other official publications,
- on all its websites,
- all bills of exchange, promissory notes, endorsements, cheques, orders for money or goods purporting to be signed by or on behalf of the company, and
- all bills of parcels, invoices, receipts, letters of credit.

In addition, the company's business letters, order forms and websites have to include fuller particulars, i.e.

- the company's place of registration and the number with which it is registered,
- the address of its registered office,
- in the case of an investment company, the fact that it is such a company.

All these requirements apply whether the document is in hard copy or electronic or any other form.

## Advisory Fuel Rates for Company Cars

With effect from 1 February 2007 the advisory fuel rates for company cars changed as follows (previous figures in brackets)

Engine size	Petrol	Diesel	LPG
Up to 1400cc	9p (11p)	9p (10p)	6p (7p)
1401 to 2000cc	11p (13p)	9p (10p)	7p (8p)
Over 2000cc	16p (18p)	12p (14p)	10p (11p)

These fuel rates apply whether you claim mileage allowance for business use or repay the company for private mileage.

**If you have any queries on any of the subjects covered in this newsletter or on any tax or company secretarial matters please email us at**

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**These articles are of a general nature and specific advice should be obtained before they are acted upon.**