



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VII

OTHER PROPERTY, BUSINESSES, INVESTMENTS ETC.

[¹Deduction of trading losses or post-cessation expenditure etc

Textual Amendments

- F1** Ss. 261B-261E and cross-heading inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 329](#) (with [Sch. 2](#))

261B Treating trade loss etc as CGT loss

- (1) A person may make a claim under this section if—
 - (a) relief is available to the person under section 64 or 128 of ITA 2007 (trade or employment loss relief against general income) for a tax year in relation to an amount of loss, and
 - (b) the person makes a claim under that section for the amount to be deducted in calculating the person's net income for the tax year.
- (2) A person may also make a claim under this section if—
 - (a) relief is available to the person as mentioned in subsection (1)(a) for a tax year in relation to an amount of loss, but
 - (b) the person's total income for the tax year is nil or does not include any income from which the amount can be deducted.
- (3) A claim under this section is for determining so much of the amount of the loss (“the relevant amount”) as—
 - (a) is not deducted in calculating the person's net income for the tax year, and

Changes to legislation: *Taxation of Chargeable Gains Act 1992, Cross Heading: Deduction of trading losses or post-cessation expenditure etc is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) has not already been taken into account for the purposes of any relief for any other tax year or any year of assessment (whether under ITA 2007, this section or otherwise).
- (4) When the relevant amount can no longer be varied—
 - (a) by the [^{F2}tribunal] on appeal, or
 - (b) on the order of a court,
 it is treated for the purposes of capital gains tax as an allowable loss accruing to the person in the year of assessment corresponding to the tax year.
- (5) But so much of the relevant amount as exceeds the maximum amount (see section 261C) is not to be treated for the purposes of capital gains tax as an allowable loss.
- (6) The excess may, however, be used in giving effect to any other loss relief under Part 4 of ITA 2007 (depending on the terms of the relief).
- (7) The amount treated as an allowable loss under this section—
 - (a) is no longer to be regarded as an amount available for income tax relief, and
 - (b) is not to be deductible from chargeable gains accruing to a person in any year of assessment that begins after the person has permanently ceased to carry on the trade, profession, vocation, employment or office in which the loss was made.
- (8) A claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the loss was made in the trade, profession, vocation, employment or office.
- (9) In this section “normal self-assessment filing date”, “tax year” and “total income” have the same meaning as in the Income Tax Acts (see section 989 of ITA 2007).

Textual Amendments

- F2** Word in s. 261B(4)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 182**

261C Meaning of “the maximum amount” for purposes of section 261B

- (1) For the purposes of section 261B “the maximum amount” is the amount on which the person would be chargeable to capital gains tax for the year of assessment if—
 - (a) the provisions mentioned below were ignored, and
 - (b) no account were taken of the event mentioned below.
- (2) The provisions are—
 - ^{F3}(a)
 - (b) [^{F4}section 1K(1)] (annual exempt amount), and
 - (c) section 261B.
- (3) The event is any event—
 - (a) which occurs after the date on which the relevant amount (see section 261B(3)) can no longer be varied by the [^{F5}tribunal] on appeal or on the order of a court, and

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Deduction of trading losses or post-cessation expenditure etc is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) in consequence of which the amount chargeable to capital gains tax is reduced as a result of an enactment relating to capital gains tax.

Textual Amendments

- F3** S. 261C(2)(a) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 39](#)
- F4** Words in s. 261C(2)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 78](#)
- F5** Word in s. 261C(3)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 183](#)

261D Treating excess post-cessation trade or property relief as CGT loss

- (1) A person may make a claim under this section if—
- relief is available to the person under section 96 or 125 of ITA 2007 (post-cessation trade or property relief) for a tax year in relation to an amount, and
 - the person makes a claim under that section to deduct the amount in calculating the person's net income for the tax year.
- (2) A person may also make a claim under this section if—
- relief is available to the person as mentioned in subsection (1)(a) for a tax year in relation to an amount, but
 - the person's total income for the tax year is nil.
- (3) A claim under this section is for treating for the purposes of capital gains tax so much of the amount as is not deducted in calculating the person's net income for the tax year (“the relevant amount”) as an allowable loss accruing to the person in the year of assessment corresponding to the tax year.
- (4) But so much of the relevant amount as exceeds the maximum amount (see section 261E) is not to be treated for the purposes of capital gains tax as an allowable loss.
- (5) The relevant amount is no longer to be regarded as an amount available for income tax relief.
- (6) A claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year mentioned in subsection (1) or (2) (as the case may be).
- (7) In this section “normal self-assessment filing date”, “tax year” and “total income” have the same meaning as in the Income Tax Acts (see section 989 of ITA 2007).

261E Meaning of “the maximum amount” for purposes of section 261D

- (1) For the purposes of section 261D “the maximum amount” is the amount on which the person would be chargeable to capital gains tax for the year of assessment if the following were ignored.
- (2) The matters to be ignored are—
- any allowable losses falling to be carried forward to that year from a previous year for the purposes of ^{F6}section 1(3)],

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Deduction of trading losses or post-cessation expenditure etc is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) [^{F7}section 1K(1)] (annual exempt amount), and
- (c) any relief under section 261B or 261D.]

Textual Amendments

- F6** Words in s. 261E(2)(a) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), Sch. 1 para. 79(a)
- F7** Words in s. 261E(2)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), Sch. 1 para. 79(b)

Changes to legislation:

Taxation of Chargeable Gains Act 1992, Cross Heading: Deduction of trading losses or post-cessation expenditure etc is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068](#), art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469](#), reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469](#), reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)