



Income Tax Act 2007

2007 CHAPTER 3

PART 4

LOSS RELIEF

CHAPTER 2

TRADE LOSSES

Post-cessation trade relief

96 Post-cessation trade relief

- (1) A person may make a claim for post-cessation trade relief if, after permanently ceasing to carry on a trade—
 - (a) the person makes a qualifying payment, or
 - (b) a qualifying event occurs in relation to a debt owed to the person, and the payment is made, or the event occurs, within 7 years of that cessation.
- (2) If the claim is made in respect of a payment, the claim is for the payment to be deducted in calculating the person's net income for the tax year in which the payment is made (see Step 2 of the calculation in section 23).
- (3) If the claim is made in respect of an event, the claim is for the appropriate amount of the debt to be deducted in calculating the person's net income for the relevant tax year (see Step 2 of the calculation in section 23).
- (4) The claim must be made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the deduction is to be made.
- (5) If—
 - (a) the person is a company within the charge to income tax under Chapter 2 of Part 2 of ITTOIA 2005 in respect of a trade, and

Status: Point in time view as at 30/11/2015.

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- (b) the company ceases at any time to be within that tax charge in respect of the trade,
 the company is treated for the purposes of this section as permanently ceasing to carry on the trade at that time.
- (6) This section applies to professions and vocations as it applies to trades (and sections 97 and 98 are to be read accordingly).
- (7) This section needs to be read with—
- (a) section 97 (meaning of “qualifying payment”),
 - (b) section 98 (meaning of “qualifying event” etc),
 - [^{F1}(ba) section 98A (denial of relief for tax-generated payments or events),]
 - (c) section 99 (reduction of relief for unpaid trade expenses), and
 - (d) section 100 (prohibition against double counting).

Textual Amendments

- F1** S. 96(7)(ba) inserted (17.7.2012) (with effect in accordance with s. 9(5) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 9\(2\)](#)

97 Meaning of “qualifying payment”

- (1) For the purposes of section 96 a person makes a “qualifying payment” after permanently ceasing to carry on a trade if the person makes a payment wholly and exclusively for any of purposes A to D.
- (2) A payment is made for purpose A if it is made—
- (a) in remedying defective work done, goods supplied or services provided in the course of the trade, or
 - (b) by way of damages (whether awarded or agreed) in respect of defective work done, goods supplied or services provided in the course of the trade.
- (3) A payment is made for purpose B if it is made in meeting the expenses of legal or other professional services in connection with a claim (a “claim about defects”) that—
- (a) work done in the course of the trade was defective,
 - (b) goods supplied in the course of the trade were defective, or
 - (c) services provided in the course of the trade were defective.
- (4) A payment is made for purpose C if it is made in insuring—
- (a) against liabilities arising out of any claim about defects, or
 - (b) against the liability to meet the expenses of legal or other professional services in connection with any claim about defects.
- (5) A payment is made for purpose D if it is made for the purpose of collecting a debt which was brought into account in calculating the profits of the trade.

98 Meaning of “qualifying event” etc

- (1) This section explains for the purposes of section 96 what is meant by—
- (a) a “qualifying event” occurring in relation to a debt owed to a person who has permanently ceased to carry on a trade, and

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- (b) “the appropriate amount of the debt” to be deducted in calculating a person's net income for “the relevant tax year”.
- (2) A qualifying event occurs in relation to a debt owed to the person if—
 - (a) an unpaid debt was brought into account in calculating the profits of the trade,
 - (b) the person is entitled to the benefit of the debt, and
 - (c) the debt is released (in whole or in part) as part of a statutory insolvency arrangement (within the meaning of Part 2 of ITTOIA 2005).

The event occurs when the debt is released.

- (3) The appropriate amount of the debt to be deducted is—
 - (a) the amount released, or
 - (b) if the person was entitled to only part of the benefit of the debt, the corresponding part of the amount released.
- (4) The relevant tax year is the tax year in which the debt is released.
- (5) A qualifying event also occurs in relation to a debt owed to the person if—
 - (a) an unpaid debt was brought into account in calculating the profits of the trade,
 - (b) the person is entitled to the benefit of the debt, and
 - (c) the debt proves to be bad.

The event occurs when the debt proves to be bad.

- (6) The appropriate amount of the debt to be deducted is—
 - (a) the amount of the debt, or
 - (b) if the person was entitled to only part of the benefit of the debt, the corresponding part of the amount of the debt.
- (7) The relevant tax year is the tax year specified in the claim.
- (8) The person making the claim may specify—
 - (a) the tax year in which the debt proves to be bad, or
 - (b) a subsequent tax year throughout which the debt remains bad (so long as the tax year begins within 7 years of the cessation),but, if the person has previously made a claim specifying a tax year in respect of the debt, the person may not specify another tax year in respect of it.

Modifications etc. (not altering text)

C1 S. 98 applied (17.7.2012) by [Finance Act 2012 \(c. 14\), s. 9\(8\)](#)

[^{F2}98A Denial of relief for tax-generated payments or events

- (1) Post-cessation trade relief is not available to a person in respect of a payment or an event which is made or occurs directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements (and, accordingly, no section 261D claim may be made in respect of the payment or event).
- (2) For this purpose “relevant tax avoidance arrangements” means arrangements—
 - (a) to which the person is a party, and

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- (b) the main purpose, or one of the main purposes, of which is the obtaining of a reduction in tax liability as a result of the availability of post-cessation trade relief (whether by making a claim for that relief or a section 261D claim).
- (3) In this section—
 - (a) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
 - (b) “section 261D claim” means a claim under section 261D of TCGA 1992.]

Textual Amendments

- F2** S. 98A inserted (17.7.2012) (with effect in accordance with s. 9(5)(7)(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 9\(3\)](#)

99 Reduction of relief for unpaid trade expenses

- (1) This section applies for the purposes of post-cessation trade relief in respect of a person's trade if a deduction was made in calculating the profits of the trade for an expense not actually paid (an “unpaid expense”).
- (2) The amount of the person's relief for a tax year is reduced (but not below nil) by—
 - (a) the total amount of unpaid expenses at the end of the tax year, or
 - (b) if the person carried on the trade as a partner in a firm, the person's share of the total amount of unpaid expenses at the end of the tax year.
- (3) But any unpaid expense which is taken into account in reducing the amount of the person's relief for a tax year is left out of account in making reductions for subsequent tax years.
- (4) If the person actually pays an amount in respect of an unpaid expense taken into account in reducing the amount of the person's relief, the person is treated as making a qualifying payment for the purposes of section 96.
- (5) The amount of the qualifying payment is—
 - (a) the amount actually paid, or
 - (b) if less, the amount of the reduction.
- (6) This section applies to professions and vocations as it applies to trades.

100 Prohibition against double counting

- (1) Post-cessation trade relief is not available for an amount for which relief is given, or is available, under any other provision of the Income Tax Acts.
- (2) For this purpose—
 - (a) relief available under section 254 of ITTOIA 2005 (allowable deductions against post-cessation receipts) is treated as given for other amounts before any amount for which post-cessation trade relief is available, and
 - (b) relief under that section is treated as available if it would have been available but for the fact that the post-cessation receipts (against which the deductions would have been allowed) are exempt under section 524 of this Act.

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101 Treating excess post-cessation trade relief as CGT loss

A person who cannot deduct all of an amount under a claim for post-cessation trade relief may be able to treat the unused part as an allowable loss for capital gains tax purposes: see sections 261D and 261E of TCGA 1992.

Status:

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Changes to legislation:

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