



Income Tax Act 2007

2007 CHAPTER 3

PART 4

LOSS RELIEF

CHAPTER 5

LOSSES IN AN EMPLOYMENT OR OFFICE

128 Employment loss relief against general income

- (1) A person may make a claim for employment loss relief against general income if the person—
 - (a) is in employment or holds an office in a tax year, and
 - (b) makes a loss in the employment or office in the tax year (“the loss-making year”).
- (2) The claim is for the loss to be deducted in calculating the person’s net income—
 - (a) for the loss-making year,
 - (b) for the previous tax year, or
 - (c) for both tax years.

(See Step 2 of the calculation in section 23.)
- (3) If the claim is made in relation to both tax years, the claim must specify the year for which a deduction is to be made first.
- (4) Otherwise the claim must specify either the loss-making year or the previous tax year.
- (5) The claim must be made on or before the first anniversary of the normal self-assessment filing date for the loss-making year.

Status: This is the original version (as it was originally enacted).

- (6) Nothing in this section prevents a person who makes a claim specifying a particular tax year in respect of a loss from making a further claim specifying the other tax year in respect of the unused part of the loss.
- (7) This Chapter is subject to paragraph 2 of Schedule 1B to TMA 1970 (claims for loss relief involving two or more years).
- (8) This section needs to be read with section 129 (how relief works).

129 How relief works

- (1) This subsection explains how the deductions are to be made.

The amount of the loss to be deducted at any step is limited in accordance with section 25(4) and (5).

Step 1

Deduct the loss in calculating the person's net income for the specified tax year.

Step 2

This step applies only if the claim is made in relation to both tax years.

Deduct the part of the loss not deducted at Step 1 in calculating the person's net income for the other tax year.

- (2) There is a priority rule if a person—
 - (a) makes a claim for employment loss relief against general income (“the first claim”) in relation to the loss-making year, and
 - (b) makes a separate claim in respect of a loss made in the following tax year in relation to the same tax year as the first claim.
- (3) The rule is that priority is given to making deductions under the first claim.
- (4) For this purpose a “separate claim” means—
 - (a) a claim for employment loss relief against general income, or
 - (b) a claim for trade loss relief against general income (see sections 64 to 70).

130 Treating loss in employment or office as CGT loss

A person who cannot deduct all of a loss in an employment or office under a claim for employment loss relief against general income may be able to treat the unused part as an allowable loss for capital gains tax purposes: see sections 261B and 261C of TCGA 1992.