



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 5

#### LOAN RELATIONSHIPS

#### [<sup>F1</sup>CHAPTER 16A

#### NON-TRADING DEFICITS: POST 1 APRIL 2017 DEFICITS

##### Textual Amendments

- F1** Pt. 5 Ch. 16A inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 4](#)

##### Modifications etc. (not altering text)

- C1** Pt. 5 Ch. 16A modified by [2010 c. 4, s. 676AH\(1\)](#) (as inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 75](#))

#### 463A Introduction to Chapter

- (1) This Chapter applies if—
  - (a) for any accounting period beginning on or after 1 April 2017 a company has a non-trading deficit from its loan relationships under section 301(6), and
  - (b) at the end of that accounting period the company is not a charity.
- (2) In this Chapter “the deficit” and “the deficit period” mean that deficit and that period respectively.
- (3) Sections 463B and 463C deal with claims to set off the deficit against profits of the deficit period or earlier periods.
- (4) Sections 463D to 463F deal with the consequences of such claims.

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- (5) Sections 463G to 463I provide for so much of the deficit as is not—
- (a) set off against profits under section 463B, or
  - (b) surrendered as group relief under Part 5 of CTA 2010,
- to be carried forward to later accounting periods.

#### **463B Claim to set off deficit against profits of deficit period or earlier periods**

- (1) The company may make a claim for the whole or part of the deficit—
- (a) to be set off against any profits of the company (of whatever description) for the deficit period, or
  - (b) to be carried back to be set off against profits for earlier accounting periods.
- (2) No claim may be made under subsection (1) in respect of so much of the deficit as is surrendered as group relief under Part 5 of CTA 2010.
- (3) For time limits and other provisions applicable to claims under subsection (1), see section 463C.
- (4) For what happens when a claim is made under subsection (1)(a), see section 463D.
- (5) For what happens when a claim is made under subsection (1)(b), and the profits available for relief when such a claim is made, see sections 463E and 463F.

#### **463C Time limits for claims under section 463B(1)**

- (1) A claim under section 463B(1) must be made within—
- (a) the period of 2 years after the deficit period ends, or
  - (b) such further period as an officer of Revenue and Customs allows.
- (2) Different claims may be made in respect of different parts of a non-trading deficit for any deficit period.
- (3) But no claim may be made in respect of any part of a deficit to which another such claim relates.

#### **463D Claim to set off deficit against profits for the deficit period**

- (1) This section applies if a claim is made under section 463B(1)(a) for the whole or part of the deficit to be set off against profits for the deficit period.
- (2) The amount of the deficit to which the claim relates must be set off against the profits of the company for the deficit period which are identified in the claim.
- (3) Those profits are reduced accordingly.
- (4) Relief under this section must be given before relief is given against profits for the deficit period—
- (a) under section 37 or 62(1) to (3) of CTA 2010 (deduction of losses from total profits for the same or earlier accounting periods), or
  - (b) as a result of a claim under section 463B(1)(b) (carry-back) in respect of a deficit for a later period.

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- (5) No relief may be given under this section against ring fence profits of the company within the meaning of Part 8 of CTA 2010 (oil activities) or contractor's ring fence profits of the company within the meaning of Part 8ZA of that Act (oil contractors).

#### **463E Claim to carry back deficit to earlier periods**

- (1) This section applies if a claim is made under section 463B(1)(b) for the whole or part of the deficit to be carried back to be set off against profits for accounting periods before the deficit period.
- (2) The claim has effect only if it relates to an amount no greater than the lesser of—
- (a) so much of the deficit as is not an amount in relation to which a claim is made under section 463B(1)(a), and
  - (b) the total amount of the profits available for relief under this section.
- (3) Section 463F explains which profits are so available.
- (4) The amount to which the claim relates is set off against those profits by treating them as reduced accordingly.
- (5) If those profits are profits for more than one accounting period, the relief is applied by setting off the amount to which the claim relates against profits for a later period before setting off any remainder of that amount against profits for an earlier period.

#### **463F Profits available for relief under section 463E**

- (1) The profits available for relief under section 463E are the amounts which (apart from the relief) would be charged under this Part as profits for accounting periods ending within the permitted period after giving every prior relief.
- (2) In this section—
- “the permitted period” means the period of 12 months immediately before the deficit period, and
  - “prior relief” means a relief which subsection (5) provides must be given before relief under section 463E.
- (3) If an accounting period ending within the permitted period begins before it, only a part of the amount which (apart from the relief) would be chargeable under this Part for the period, after giving every prior relief, is available for relief under section 463E.
- (4) That part is so much as is proportionate to the part of the accounting period in the permitted period.
- (5) The reliefs which must be given before relief under section 463E are—
- (a) relief as a result of a claim under section 459(1)(a) or section 463B(1)(a) (claim for deficit to be set off against total profits for the deficit period),
  - (b) relief in respect of a loss or deficit incurred or treated as incurred in an accounting period before the deficit period,
  - (c) relief under Part 6 of CTA 2010 (charitable donations relief in respect of payments made wholly and exclusively for the purposes of a trade),
  - (d) relief under section 37 of CTA 2010 (losses deducted from total profits of the same or an earlier accounting period), and

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- (e) if the company is a company with investment business for the purposes of Part 16 (companies with investment business)—
  - (i) any deduction in respect of management expenses under section 1219 (expenses of management of a company's investment business),
  - (ii) relief under Part 6 of CTA 2010 in respect of payments made wholly and exclusively for the purposes of its business, and
  - (iii) any allowance under Part 2 of CAA 2001 (plant and machinery allowances).

### **463G Carry forward of unrelieved deficit against total profits**

- (1) This section applies if conditions A to D are met.
- (2) Condition A is that—
  - (a) any amount of the deficit (“the unrelieved amount”) is not—
    - (i) set off against profits on a claim under section 463B(1), or
    - (ii) surrendered as group relief under Part 5 of CTA 2010.
- (3) Condition B is that it is not the case—
  - (a) that the company ceased to be a company with investment business in the deficit period, or
  - (b) (if the company was a company with investment business immediately before the beginning of the deficit period) that its investment business became small or negligible in the deficit period.
- (4) Condition C is that (if the company is a Solvency 2 insurance company) it is not the case that the whole of the deficit is a shock loss.
- (5) Condition D is that (if the company is a general insurance company) the first accounting period after the deficit period is not an excluded accounting period.
- (6) The unrelieved amount is carried forward to the first accounting period after the deficit period.
- (7) The company may make a claim for the whole or part of the unrelieved amount to be set off against the company's total profits for the first accounting period after the deficit period.
- (8) If a claim is made under subsection (7)—
  - (a) the unrelieved amount, or the part of it to which the claim relates, must be set off against the company's total profits for the first accounting period after the deficit period, and
  - (b) those profits are reduced accordingly.
- (9) No claim may be made under subsection (7) in respect of so much of the unrelieved amount as is surrendered under Part 5A of CTA 2010 (group relief for carried-forward losses).
- (10) A claim under subsection (7) must be made within—
  - (a) the period of two years after the end of the first accounting period after the deficit period, or
  - (b) such further period as an officer of Revenue and Customs allows.

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- (11) No relief may be given under this section against ring fence profits of the company within the meaning of Part 8 of CTA 2010 (oil activities) or contractor's ring fence profits of the company within the meaning of Part 8ZA of that Act (oil contractors).
- (12) If —
- (a) the company is a Solvency 2 insurance company, and
  - (b) the deficit is partly (but not wholly) a shock loss,
- subsections (6) to (9) have effect as if references to the unrelieved amount were to the eligible amount (see subsection (13)).
- (13) In this section “the eligible amount” means so much of the unrelieved amount as is not a shock loss; and for the purpose of determining how much of the unrelieved amount is, or is not, a shock loss, it is to be assumed that in setting off or surrendering amounts as mentioned in subsection (2)(a)(i) and (ii) the company uses shock losses before other amounts.
- (14) In this Chapter—
- “company with investment business” has the same meaning as in Part 16 (see section 1218B);
  - “excluded accounting period” has the meaning given by section 269ZG of CTA 2010;
  - “general insurance company” is to be interpreted in accordance with section 269ZG of CTA 2010;
  - “shock loss” has the meaning given by section 269ZK of CTA 2010;
  - “Solvency 2 insurance company” means an insurance company as defined in section 269ZP(2) of CTA 2010.
- (15) In this Chapter references to a company's investment business are to be construed in accordance with section 1219(2).

#### **463H Carry forward of unrelieved deficit against non-trading profits**

- (1) Subsections (4) to (8) apply if—
- (a) section 463G would apply but for the fact that the company's investment business became small or negligible in the accounting period mentioned in subsection (3)(b) of that section,
  - (b) section 463G would apply but for condition D in that section (no carry-forward to an excluded accounting period of a general insurance company), or
  - (c) the company is a Solvency 2 insurance company and any amount of the deficit would be eligible to be carried forward under section 463G(6) were that amount not a shock loss (see section 463G(4), (12) and (13)).
- (2) Subsections (4) to (8) also apply if—
- (a) subsections (6) to (10) of section 463G would apply but for the fact that the company's investment business became small or negligible in the accounting period mentioned in section 463I(1)(c)(ii), or
  - (b) subsections (6) to (10) of section 463G would apply but for section 463I(1)(d) (no carry-forward under those subsections to an excluded accounting period of a general insurance company).
- (3) In this section the “unrelieved amount”—

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- (a) in a case within paragraph (a) or (b) of subsection (1), is to be interpreted in accordance with section 463G(2);
  - (b) in a case within paragraph (c) of subsection (1), means the amount mentioned in that paragraph;
  - (c) in a case within subsection (2), means so much of the deficit mentioned in section 463I(1)(a) as is not set off as mentioned in section 463I(1)(b)(i) or surrendered as mentioned in section 463I(1)(b)(ii).
- (4) The unrelieved amount is carried forward to the first accounting period (“period 2”) after—
- (a) (in a case within subsection (1)) the deficit period, or
  - (b) (in a case within subsection (2)) the period mentioned in section 463I(1)(a).
- (5) So much of the unrelieved amount as is not the subject of a claim under subsection (7) must be set off against the non-trading profits of the company for period 2.
- (6) Those profits are reduced accordingly.
- (7) The company may make a claim for relief under subsection (5) not to be given in period 2 for the unrelieved amount or so much of it as is specified in the claim.
- (8) A claim under subsection (7) is effective if, and only if, it is made—
- (a) within the period of two years after the end of period 2, or
  - (b) within such further period as an officer of Revenue and Customs may allow.
- (9) Subsection (10) applies if any amount is carried forward under subsection (4) to an accounting period (“the carry forward period”) and—
- (a) cannot be set off under subsection (5) against non-trading profits of that period, or
  - (b) is the subject of a claim under subsection (7).
- (10) If the company continues to be a company with investment business throughout the carry forward period, subsections (4) to (8) have effect as if—
- (a) references to the unrelieved amount were to the amount mentioned in subsection (9), and
  - (b) references to—
    - (i) the deficit period, or
    - (ii) the period mentioned in section 463I(1)(a),
 were to the carry forward period.
- (11) In this section “non-trading profits”, in relation to a company, means so much of the company's profits as does not consist of trading income for the purposes of section 37 of CTA 2010 (deduction of trading losses from total profits of the same or an earlier period).

#### **463I Re-application of section 463G if any deficit remains after previous application**

- (1) This section applies if—
- (a) any amount of the deficit is carried forward to an accounting period (“the later period”) of the company under section 463G(6),
  - (b) any of that amount is not—

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- (i) set off against the company's total profits for the later period on a claim under section 463G(7), or
    - (ii) surrendered as group relief for carried-forward losses under Part 5A of CTA 2010,
  - (c) it is not the case—
    - (i) that the company ceased to be a company with investment business in the later period, or
    - (ii) (if the company was a company with investment business immediately before the beginning of the later period) that its investment business became small or negligible in the later period, and
  - (d) it is not the case that the first accounting period after the later period is an excluded accounting period of a general insurance company.
- (2) Subsections (6) to (10) of section 463G apply as if—
  - (a) references to the unrelieved amount were to so much of the amount of the deficit carried forward to the later period as is not set off or surrendered as mentioned in subsection (1)(b), and
  - (b) references to the deficit period were to the later period.]

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