



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART X

LOSS RELIEF AND GROUP RELIEF

CHAPTER II

LOSS RELIEF: CORPORATION TAX

Trade etc. losses

[393A ^{F1} Losses: set off against profits of the same, or an earlier, accounting period.

- (1) Subject to section 492(3), where in any accounting period ending on or after 1st April 1991 a company carrying on a trade incurs a loss in the trade, then, subject to subsection (3) below, the company may make a claim requiring that the loss be set off for the purposes of corporation tax against profits (of whatever description)—
- of that accounting period, and
 - if the company was then carrying on the trade and the claim so requires, of preceding accounting periods falling wholly or partly within the period specified in subsection (2) below;

and, subject to that subsection and to any relief for an earlier loss, the profits of any of those accounting periods shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against profits of a later accounting period.

- (2) The period referred to in paragraph (b) of subsection (1) above is the period of three years immediately preceding the accounting period in which the loss is incurred; but the amount of the reduction that may be made under that subsection in the profits of an accounting period falling partly before the beginning of that period shall not exceed a part of those profits proportionate to the part of the accounting period falling within that period.

Status: Point in time view as at 01/10/1996. This version of this provision has been superseded.

Changes to legislation: Income and Corporation Taxes Act 1988, Section 393A is up to date with all changes known to be in force on or before 12 September 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)

- (3) Subsection (1) above shall not apply to trades falling within Case V of Schedule D; and a loss incurred in a trade in any accounting period shall not be relieved under that subsection unless—
- (a) the trade is one carried on in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act), or
 - (b) [^{F2}for]that accounting period the trade was being carried on on a commercial basis and with a view to the realisation of gain in the trade or in any larger undertaking of which the trade formed part;
- but this subsection is without prejudice to section 397.
- (4) For the purposes of subsection (3) above—
- [^{F3}(a) where at any time a trade is carried on so as to afford a reasonable expectation of gain, it shall be treated as being carried on at that time with a view to the realisation of gain; and]
 - (b) where in an accounting period there is a change in the manner in which a trade is being carried on, it shall be treated as having throughout the accounting period been carried on in the way in which it was being carried on by the end of that period.
- (5) A claim under subsection (1) above may require that capital allowances in respect of the trade, being allowances that fall—
- (a) to be made to the company by way of discharge or repayment of tax, and
 - (b) to be so made for an accounting period ending on or after 1st April 1991,
- shall (so far as they cannot be otherwise taken into account so as to reduce or relieve any charge to corporation tax in respect of that, or any earlier, accounting period) be added to the loss incurred by the company in that accounting period or, if the company has not incurred a loss in the period, shall be treated as a loss so incurred.
- (6) For the purposes of subsection (5) above, the allowances for any period shall not be treated as including amounts carried forward from an earlier period.
- (7) Where a company ceases to carry on a trade, subsection (9) of section 393 shall apply in computing for the purposes of this section a loss in the trade in the accounting period in which the cessation occurs as it applies in computing a loss in an accounting period for the purposes of subsection (1) of that section.
- (8) Relief shall not be given by virtue of subsection (1)(b) above in respect of a loss incurred in a trade so as to interfere with any relief under section 338 in respect of payments made wholly and exclusively for the purposes of that trade.
- (9) For the purposes of this section—
- (a) the amount of a loss incurred in a trade in an accounting period shall be computed in the same way as trading income from the trade in that period would have been computed;
 - (b) “trading income” means, in relation to any trade, the income which falls or would fall to be included in respect of the trade in the total profits of the company; and
 - (c) references to a company carrying on a trade refer to the company carrying it on so as to be within the charge to corporation tax in respect of it.

Status: Point in time view as at 01/10/1996. This version of this provision has been superseded.

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(10) A claim under subsection (1) above may only be made within the period of two years immediately following the accounting period in which the loss is incurred or within such further period as the Board may allow.

(11) In any case where—

- (a) by virtue of section 62B of the 1990 Act (post-cessation abandonment expenditure related to offshore machinery or plant) the qualifying expenditure of the company for the chargeable period related to the cessation of its ring fence trade is treated as increased by any amount, or
- (b) by virtue of section 109 of that Act (restoration expenditure incurred after cessation of trade of mineral extraction) any expenditure is treated as qualifying expenditure incurred by the company on the last day on which it carried on the trade,

then, in relation to any claim under subsection (1) above to the extent that it relates to an increase falling within paragraph (a) above or to expenditure falling within paragraph (b) above, subsection (10) above shall have effect with the substitution of “five years” for “two years”.]

Textual Amendments

- F1** S. 393A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 73(1)(4)(5)
- F2** Word in s. 393A(3)(b) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 26(a)
- F3** S. 393A(4)(a) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 26(b)

Status:

Point in time view as at 01/10/1996. This version of this provision has been superseded.

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