



Finance (No. 2) Act 1997

1997 CHAPTER 58

PART III

INCOME TAX AND CORPORATION TAX

Relief for losses etc

39 Carry-back of trading losses

- (1) Section 393A of the Taxes Act 1988 (set-off of trading losses against profits of previous three years) shall be amended in accordance with subsections (2) to (6) below.
- (2) In subsection (2) (three year carry-back period), for “is the period of three years” there shall be substituted “is (subject to subsection (2A) below) the period of twelve months”.
- (3) After that subsection there shall be inserted the following subsections—
 - “(2A) This section shall have effect in relation to any loss to which this subsection applies as if, in subsection (2) above, the words “three years” were substituted for the words “twelve months”.
 - (2B) Where a company ceases to carry on a trade at any time, subsection (2A) above applies to the following—
 - (a) the whole of any loss incurred in that trade by that company in an accounting period beginning twelve months or less before that time; and
 - (b) the part of any loss incurred in that trade by that company in an accounting period ending, but not beginning, in that twelve months which is proportionate to the part of that accounting period falling within those twelve months.
 - (2C) Where—
 - (a) a loss is incurred by a company in a ring fence trade carried on by that company, and

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- (b) the accounting period in which the loss is incurred is an accounting period for which an allowance under section 62A of the 1990 Act (demolition costs relating to offshore machinery or plant) is made to that company,
- subsection (2A) above applies to so much of the amount of that loss not falling within subsection (2B) above as does not exceed the amount of that allowance.”
- (4) In subsection (7) (application of section 393(9))—
- (a) at the beginning there shall be inserted “Subject to subsection (7A) below,”; and
- (b) for “the accounting period in which the cessation occurs” there shall be substituted “an accounting period ending with the cessation, or ending at any time in the twelve months immediately preceding the cessation,”.
- (5) After that subsection there shall be inserted the following subsection—
- “(7A) For the purposes of this section where—
- (a) subsection (7) above has effect for computing the loss for any accounting period, and
- (b) that accounting period is one beginning before the beginning of the twelve months mentioned in that subsection,
- the part of that loss that is not the part falling within subsection (2B)(b) above shall be treated as reduced (without any corresponding increase in the part of the loss that does fall within subsection (2B)(b) above) by an amount equal to so much of the aggregate of the charges on income treated as expenses by virtue of subsection (7) above as is proportionate to the part of the accounting period that does not fall within those twelve months.”
- (6) After subsection (11) there shall be inserted the following subsection—
- “(12) In this section “ring fence trade” has the same meaning as in section 62A of the 1990 Act.”
- (7) In section 343 of that Act (company reconstructions without a change of ownership), the following subsection shall be inserted after subsection (4)—
- “(4A) Subsection (2A) of section 393A shall not apply to any loss which (but for this subsection) would fall within subsection (2B) of that section by virtue of the predecessor’s ceasing to carry on the trade, and subsection (7) of that section shall not apply for the computation of any such loss.”
- (8) Subject to subsection (9) below, this section applies to any loss incurred in an accounting period ending on or after 2nd July 1997.
- (9) Where a loss in any trade is incurred by a company in an accounting period ending on or after 2nd July 1997 but beginning before that date, section 393A of the Taxes Act 1988 shall have effect as if subsection (2A) of that section applied to the pre-commencement part of any amount of that loss to which that subsection would not apply apart from this subsection.
- (10) In subsection (9) above “the pre-commencement part”, in relation to the amount of the whole or any part of a loss in an accounting period, means the part of that amount which, on an apportionment in accordance with subsection (11) or, as the case may

be, (12) below, is attributable to the part of that accounting period falling before 2nd July 1997.

- (11) Except in a case where subsection (12) below applies, an apportionment for the purposes of subsection (10) above shall be made on a time basis according to the respective lengths of the part of the accounting period falling before 2nd July 1997 and the remainder of that accounting period.
- (12) Where the circumstances of a particular case are such that the making of an apportionment on the time basis mentioned in subsection (11) above would work in a manner that would be unjust or unreasonable in relation to any person, the apportionment shall be made instead (to the extent only that is necessary in order to avoid injustice and unreasonableness) in such other manner as may be just and reasonable.

40 Carry-back of loan relationship deficits

- (1) Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be amended as follows.
- (2) In paragraph 3(7) of Schedule 8 (permitted period of three years for carry-back of deficits), for “three years” and “three year” there shall be substituted, in each case, “twelve months”.
- (3) In sub-paragraph (3) of paragraph 4 of Schedule 11 (carry-back of deficit by insurance companies)—
 - (a) for paragraph (a) there shall be substituted the following paragraph—
 - “(a) carried back to accounting periods falling wholly or partly within the period of twelve months immediately preceding the deficit period; and”;
 - (b) in paragraph (b), for “those periods” there shall be substituted “up to three such periods”.
- (4) In sub-paragraph (5) of that paragraph (mechanism for carry-back in the case of insurance companies), for “the three accounting periods preceding the deficit period” there shall be substituted “accounting periods falling wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above”.
- (5) In sub-paragraph (8) of that paragraph (which defines the set-off periods), in each of paragraphs (b) and (c), for “immediately preceding” there shall be substituted “(if any) which falls wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above and immediately precedes”.
- (6) In sub-paragraph (9) of that paragraph (adjusted amount of a company’s eligible profit), after “is” there shall be inserted “(subject to sub-paragraph (9A) below)”; and after that sub-paragraph there shall be inserted the following sub-paragraph—

“(9A) Where a set-off period falls only partly within the period of twelve months mentioned in sub-paragraph (3)(a) above, the adjusted amount of a company’s eligible profit for that period shall be taken to be confined to the part of the amount computed under sub-paragraph (9) above which is proportionate to the part of the set-off period that falls within that period of twelve months.”
- (7) Subject to subsection (8) below, this section has effect in relation to any deficit for a deficit period ending on or after 2nd July 1997.

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- (8) Paragraph 3 of Schedule 8 to the Finance Act 1996 shall have effect in relation to any deficit for a deficit period beginning before but ending on or after 2nd July 1997 as if the permitted period in relation to the pre-commencement part of the deficit were the period beginning with 1st April 1996 and ending immediately before the beginning of the deficit period.
- (9) Where for the purposes of paragraph 23 of Schedule 15 to the Finance Act 1996 (transitional provision in connection with the carrying back of exchange losses) there is a relievable amount for an accounting period ending on or after 2nd July 1997, that paragraph shall have effect, except in relation to any pre-commencement part of that amount, as if, in section 131(10)(b) of the Finance Act 1993 (the permitted period) as applied by that paragraph, the words “twelve months” were substituted for the words “three years”.
- (10) In this section “pre-commencement part”, in relation to the deficit for any deficit period or the relievable amount for any accounting period, means the part (if any) of that deficit or relievable amount which, on an apportionment in accordance with subsection (11) or, as the case may be, (12) below, is attributable to such part (if any) of that period as falls before 2nd July 1997.
- (11) Except in a case where subsection (12) below applies, an apportionment for the purposes of subsection (10) above shall be made on a time basis according to the respective lengths of the part of the deficit period or, as the case may be, accounting period falling before 2nd July 1997 and the remainder of that period.
- (12) Where the circumstances of a particular case are such that the making of an apportionment on the time basis mentioned in subsection (11) above would work in a manner that would be unjust or unreasonable in relation to any person, the apportionment shall be made instead (to the extent only that is necessary in order to avoid injustice and unreasonableness) in such other manner as may be just and reasonable.

41 Restrictions on group relief

Schedule 7 to this Act (which imposes new restrictions on the giving of group relief) shall have effect.