

*Status: Point in time view as at 19/07/2013.*

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## SCHEDULES

[<sup>F1</sup>SCHEDULE A1 U.K.]

Section 262A

### FIRST-YEAR TAX CREDITS

#### Textual Amendments

- F1** Sch. A1 inserted (with effect in accordance with Sch. 25 para. 9 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 25 para. 5](#)

### PART 1 U.K.

#### ENTITLEMENT TO FIRST-YEAR TAX CREDITS

##### *Entitlement to first-year tax credits*

- 1 (1) A company may claim a first-year tax credit for a chargeable period in which it has a surrenderable loss, unless it is an excluded company in relation to that chargeable period.
- (2) A company has a surrenderable loss in a chargeable period if in that chargeable period—
- (a) a first-year allowance is made to the company in respect of relevant first-year expenditure (see paragraph 3) incurred for the purposes of a qualifying activity the profits of which are chargeable to corporation tax, and
  - (b) the company incurs a loss in carrying on that qualifying activity (see paragraphs 4 to 9).
- (3) The amount of the surrenderable loss is equal to—
- (a) so much of the loss incurred in carrying on the qualifying activity as is unrelieved (see paragraphs 10 to 16), or
  - (b) if less, the amount of the first-year allowance made in respect of the relevant first-year expenditure in the chargeable period in question.
- (4) A company is an excluded company in relation to a chargeable period if at any time during that period it is [<sup>F2</sup>entitled to make—
- (a) a claim under section 642 or 643 of CTA 2010 (reliefs for co-operative housing associations),
  - (b) a claim under section 651 or 652 of CTA 2010 (reliefs for self-build societies), or
  - (c) a relevant claim under Part 11 of CTA 2010 (charitable companies etc).]

[ For the purposes of sub-paragraph (4)(c) a claim under Part 11 of CTA 2010 is a <sup>F3</sup>(5) relevant claim unless—

- (a) it is a claim for exemption under—

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- (i) section 475 or 476 (reliefs for certain heritage bodies etc),
- (ii) section 480 (exemption for profits of small-scale trades), or
- (iii) section 481 (exemption from charges under provisions to which section 1173 of CTA 2010 applies), or
- (b) the company is entitled to make it only by virtue of section 490 (application of exemptions to certain heritage bodies etc).]

#### Textual Amendments

- F2** Words in Sch. A1 para. 1(4) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(2\)\(a\)](#) (with [Sch. 2](#))
- F3** Sch. A1 para. 1(5) inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(2\)\(b\)](#) (with [Sch. 2](#))

#### *Amount of first-year tax credit*

- 2 (1) The amount of the first-year tax credit to which a company is entitled for a chargeable period in which it has a surrenderable loss is an amount equal to—
- (a) 19% of the amount of the surrenderable loss for the chargeable period, or
  - (b) if the amount mentioned in paragraph (a) exceeds the upper limit, the upper limit.
- (2) The upper limit is the greater of—
- (a) the total amount of the company's PAYE and NICs liabilities for payment periods ending in the chargeable period (see paragraph 17), and
  - (b) £250,000.
- (3) A company which is entitled to an amount of first-year tax credit may claim the whole amount or part only of the amount.
- (4) The Treasury may by order substitute for the percentage for the time being specified in sub-paragraph (1)(a) such other percentage as it thinks fit.
- (5) An order under sub-paragraph (4) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit.

#### *Meaning of “relevant first-year expenditure”*

- 3 (1) In this Schedule “relevant first-year expenditure” means expenditure which—
- (a) is first-year qualifying expenditure by virtue of section 45A (energy-saving plant or machinery) or section 45H (environmentally beneficial plant or machinery), and
  - (b) is incurred in the period beginning with 1 April 2008 and ending with [F431 March 2018],
- but does not include expenditure which is treated as first-year qualifying expenditure within paragraph (a) by virtue of section 236 (additional VAT liability treated as expenditure).
- (2) In determining whether expenditure is relevant first-year expenditure, any effect of section 12 on the time at which it is to be treated as incurred is to be disregarded.

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- (3) The Treasury may by order substitute, for the date for the time being specified in sub-paragraph (1)(b) as the date with which the period ends, such later date as it thinks fit.
- (4) An order under sub-paragraph (3) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit.

#### Textual Amendments

- F4** Words in Sch. A1 para. 3(1)(b) substituted (28.3.2013) by [The Capital Allowances \(First-year Tax Credits\) Order 2013 \(S.I. 2013/464\)](#), arts. 1, 2

#### *Incurring a loss in carrying on a qualifying activity*

- 4 Paragraphs 5 to 9 apply for the interpretation of paragraph 1(2)(b).
- 5 (1) This paragraph applies where the qualifying activity is [<sup>F5</sup>an ordinary UK property business or an ordinary overseas property business] and paragraph 7 does not apply.
- (2) References in this Schedule to a loss incurred in carrying on the qualifying activity are to a loss incurred in carrying on that part of the business (if any) to which [<sup>F6</sup>sections 62 and 63 of CTA 2010 (UK property business losses) apply (see section 64 of that Act)].

#### Textual Amendments

- F5** Words in Sch. A1 para. 5(1) substituted (with effect in accordance with Sch. 14 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 12\(16\)\(a\)](#)
- F6** Words in Sch. A1 para. 5(2) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(3\)](#) (with [Sch. 2](#))

- 6 (1) This paragraph applies where the qualifying activity is an overseas property business and paragraph 7 does not apply.
- (2) References in this Schedule to a loss incurred in carrying on the qualifying activity are to a loss incurred in carrying on that part of the business (if any) to which [<sup>F7</sup>section 66 of CTA 2010] (losses from overseas property business) applies [<sup>F8</sup>(see section 67 of that Act)].

#### Textual Amendments

- F7** Words in Sch. A1 para. 6(2) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(4\)\(a\)](#) (with [Sch. 2](#))
- F8** Words in Sch. A1 para. 6(2) inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(4\)\(b\)](#) (with [Sch. 2](#))

- 7 (1) This paragraph applies where—
- (a) the qualifying activity is a [<sup>F9</sup>UK property business] or an overseas property business, and
  - (b) the company is an insurance company.

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- (2) References in this Schedule to a loss incurred in carrying on the qualifying activity are to a loss [<sup>F10</sup>which, as a result of section 87(3) of FA 2012, is treated for the purposes of section 76 of that Act as a deemed BLAGAB management expense for an accounting period ].
- (3) Where the insurance company is treated under section [<sup>F11</sup>section 86] of that Act as carrying on more than one [<sup>F12</sup>UK property business] or overseas property business, references in this Schedule to a loss incurred in carrying on the qualifying activity are to be construed in accordance with section [<sup>F11</sup>section 87(4)] of that Act (aggregation of losses).

#### Textual Amendments

- F9** Words in Sch. A1 para. 7(1)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\)](#), **Sch. 1 para. 521(3)(a)** (with Sch. 2 Pts. 1, 2)
- F10** Words in Sch. A1 para. 7(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 106\(2\)\(a\)](#)
- F11** Words in Sch. A1 para. 7(3) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 106\(2\)\(b\)](#)
- F12** Words in Sch. A1 para. 7(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\)](#), **Sch. 1 para. 521(3)(b)** (with Sch. 2 Pts. 1, 2)

- 8 (1) This paragraph applies where the qualifying activity is managing the investments of a company with investment business.
- (2) The company incurs a loss in carrying on that activity in a chargeable period if in that chargeable period—
- <sup>F13</sup>(a) the sum of the amounts mentioned in section 1223(2) of CTA 2009, exceeds]
- (b) the amount of the profits from which those expenses and charges are deductible,
- and the amount of the loss is the amount of the excess.

#### Textual Amendments

- F13** Sch. A1 para. 8(2)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\)](#), **Sch. 1 para. 521(4)** (with Sch. 2 Pts. 1, 2)

- 9 (1) This paragraph applies where the qualifying activity is [<sup>F14</sup>basic life assurance and general annuity business] and the profits of that business are charged to tax [<sup>F14</sup>in accordance with the I - E rules].
- (2) The company incurs a loss in a chargeable period if in that chargeable period an amount falls to be carried forward to a succeeding chargeable period under [<sup>F15</sup>section 73 of FA 2012] (carrying forward unrelieved expenses).
- (3) The amount of the loss is the amount which falls to be so carried forward.

#### Textual Amendments

- F14** Words in Sch. A1 para. 9(1) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 106\(3\)\(a\)](#)
- F15** Words in Sch. A1 para. 9(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 106\(3\)\(b\)](#)

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### Unrelieved loss

- 10 Paragraphs 11 to 16 apply for the interpretation of paragraph 1(3)(a).
- 11 (1) This paragraph applies where the qualifying activity is a trade [<sup>F16</sup>, a UK furnished holiday lettings business or an EEA furnished holiday lettings business] and paragraph 14 or 16 does not apply.
- (2) The amount of the loss that is unrelieved is the amount of the loss, reduced by the amount of—
- (a) any relief that was or could have been obtained by the company making a claim under [<sup>F17</sup>section 37(3)(a) of CTA 2010 to deduct the loss from total profits] of the same chargeable period,
  - (b) any other relief obtained by the company making a claim under [<sup>F18</sup>section 37(3)(b) or 42 of that Act (losses deducted from] profits of an earlier chargeable period),
  - (c) any loss that was or could have been surrendered under [<sup>F19</sup>Part 5] of that Act (surrender of relief to group or consortium members),
  - (d) any loss surrendered under a relevant tax credit provision, and
  - (e) any amount set off against the loss under [<sup>F20</sup>Chapter 7 of Part 4] of that Act (write-off of government investment).
- (3) For this purpose no account is to be taken of any losses—
- (a) brought forward from an earlier chargeable period under [<sup>F21</sup>section 45 of CTA 2010],
  - (b) carried back from a later chargeable period under [<sup>F22</sup>section 37(3)(b) or 42] of that Act, or
  - (c) incurred on a leasing contract (within the meaning of [<sup>F23</sup>section 53] of that Act) in circumstances to which that section applies.
- (4) In sub-paragraph (2)(d) “relevant tax credit provision” means—
- [<sup>F24</sup>(a) Chapter 2 or 7 of Part 13 of CTA 2009 (tax credits for expenditure on research and development or vaccine research etc),
  - (b) Chapter 3 of Part 14 of that Act (tax credits for remediation of contaminated land), [<sup>F25</sup>and]
  - (c) Chapter 3 of Part 15 of that Act (film tax credits).]
  - [<sup>F26</sup>(d) Chapter 3 of Part 15A of that Act (television tax credits), and
  - (e) Chapter 3 of Part 15B of that Act (video game tax credits).]

#### Textual Amendments

- F16** Words in Sch. A1 para. 11(1) substituted (with effect in accordance with Sch. 14 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 12\(16\)\(b\)](#)
- F17** Words in Sch. A1 para. 11(2)(a) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(5\)\(a\)](#) (with [Sch. 2](#))
- F18** Words in Sch. A1 para. 11(2)(b) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(5\)\(b\)](#) (with [Sch. 2](#))
- F19** Words in Sch. A1 para. 11(2)(c) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(5\)\(c\)](#) (with [Sch. 2](#))
- F20** Words in Sch. A1 para. 11(2)(e) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(5\)\(d\)](#) (with [Sch. 2](#))

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- F21** Words in Sch. A1 para. 11(3)(a) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 364(5)(e)** (with [Sch. 2](#))
- F22** Words in Sch. A1 para. 11(3)(b) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 364(5)(f)** (with [Sch. 2](#))
- F23** Words in Sch. A1 para. 11(3)(c) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 364(5)(g)** (with [Sch. 2](#))
- F24** Sch. A1 para. 11(4)(a)-(c) substituted for Sch. A1 para. 11(4)(a)-(d) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 521(5)** (with [Sch. 2 Pts. 1, 2](#))
- F25** Word in Sch. A1 para. 11(4)(b) omitted (with effect in accordance with Sch. 18 para. 23 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 18 paras. 6, 22**; S.I. 2013/1817, art. 2(2); S.I. 2014/1962, art. 2(3)
- F26** Sch. A1 para. 11(4)(d)(e) inserted (with effect in accordance with Sch. 18 para. 23 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 18 paras. 6, 22**; S.I. 2013/1817, art. 2(2); S.I. 2014/1962, art. 2(3)

- 12 (1) This paragraph applies where the qualifying activity is <sup>F27</sup>an ordinary UK property business or an ordinary overseas property business] and paragraph 14 does not apply.
- (2) The amount of the loss that is unrelieved is the amount of the loss, reduced by the amount of—
- any relief that was or could have been obtained by the company making a claim under <sup>F28</sup>section 62(1) to (3) of CTA 2010 to deduct the loss from total profits] of the same chargeable period,
  - any loss that was or could have been surrendered under <sup>F29</sup>Part 5] of that Act (surrender of relief to group or consortium members),
  - any loss surrendered under <sup>F30</sup>Chapter 3 of Part 14 of CTA 2009] (tax credits for remediation of contaminated land), and
  - any amount set off against the loss under <sup>F31</sup>Chapter 7 of Part 4 of CTA 2010] (write-off of government investment).
- (3) For this purpose, no account is to be taken of any losses brought forward from an earlier chargeable period under <sup>F32</sup>section 62(5) of CTA 2010].

#### Textual Amendments

- F27** Words in [Sch. A1 para. 12\(1\)](#) substituted (with effect in accordance with Sch. 14 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 14 para. 12(16)(c)**
- F28** Words in Sch. A1 para. 12(2)(a) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 364(6)(a)** (with [Sch. 2](#))
- F29** Words in Sch. A1 para. 12(2)(b) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 364(6)(b)** (with [Sch. 2](#))
- F30** Words in Sch. A1 para. 12(2)(c) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 521(6)(b)** (with [Sch. 2 Pts. 1, 2](#))
- F31** Words in Sch. A1 para. 12(2)(d) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 364(6)(c)** (with [Sch. 2](#))
- F32** Words in Sch. A1 para. 12(3) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 364(6)(d)** (with [Sch. 2](#))

- 13 (1) This paragraph applies where the qualifying activity is an overseas property business and paragraph 14 does not apply.

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- (2) The amount of the loss that is unrelieved is the amount of the loss, reduced by any amount set off against the loss under [<sup>F33</sup>Chapter 7 of Part 4 of CTA 2010] (write-off of government investment).
- (3) For this purpose, no account is to be taken of any losses brought forward from an earlier chargeable period under [<sup>F34</sup>section 66 of CTA 2010].

#### Textual Amendments

- F33** Words in Sch. A1 para. 13(2) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 364\(7\)\(a\)](#) (with [Sch. 2](#))
- F34** Words in Sch. A1 para. 13(3) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 364\(7\)\(b\)](#) (with [Sch. 2](#))

- 14 (1) This paragraph applies where—
- (a) the qualifying activity is a [<sup>F35</sup>UK property business] or an overseas property business, and
  - (b) the company is an insurance company.
- (2) If no amount falls to be carried forward to a succeeding chargeable period under [<sup>F36</sup>section 73 of FA 2012] (carrying forward unrelieved expenses), no amount of the loss is unrelieved.
- (3) If an amount falls to be carried forward to a succeeding chargeable period under [<sup>F37</sup>section 73] of that Act, the amount of the loss that is unrelieved is equal to the lesser of—
- (a) the amount of the loss (see paragraph 7), reduced by any amount within sub-paragraph (4), and
  - (b) the total amount which so falls to be carried forward.
- (4) The amounts mentioned in sub-paragraph (3)(a) are—
- (a) the amount of any loss surrendered under [<sup>F38</sup>Chapter 3 of Part 14 of CTA 2009] (tax credits for remediation of contaminated land), and
  - (b) any amount [<sup>F39</sup>set off against the loss under Chapter 7 of Part 4 of CTA 2010] (write-off of government investment).
- (5) Sub-paragraph (6) applies for determining whether there is an amount which falls to be carried forward under [<sup>F40</sup>section 73 of FA 2012] .
- [<sup>F41</sup>(6) Disregard any amounts brought forward from an earlier chargeable period which fall to be taken into account in calculating for the purposes of section 73 of FA 2012 the amount of adjusted BLAGAB management expenses of the company for the period in question as a result of—
- (a) the previous application of section 73 or 93 of FA 2012, or
  - (b) the carry forward to the period in question of an amount under section 391(3) of CTA 2009 (loan relationship deficit carried forward).]

#### Textual Amendments

- F35** Words in Sch. A1 para. 14(1)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 521\(7\)\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))

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- F36** Words in Sch. A1 para. 14(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 106\(4\)\(a\)](#)
- F37** Words in Sch. A1 para. 14(3) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 106\(4\)\(b\)](#)
- F38** Words in Sch. A1 para. 14(4)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 521\(7\)\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F39** Words in Sch. A1 para. 14(4)(b) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(8\)](#) (with [Sch. 2](#))
- F40** Words in Sch. A1 para. 14(5) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 106\(4\)\(c\)](#)
- F41** Sch. A1 para. 14(6) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 106\(4\)\(d\)](#)

- 15 (1) This paragraph applies where the qualifying activity is managing the investments of a company with investment business.
- (2) The amount of the loss that is unrelieved is the amount of the loss (see paragraph 8), reduced by the amount of—
- (a) any loss that was or could have been surrendered under [\[<sup>F42</sup>Part 5 of CTA 2010\]](#) (surrender of relief to group or consortium members), and
  - (b) any amount set off against the loss under [\[<sup>F43</sup>Chapter 7 of Part 4\]](#) of that Act (write-off of government investment).
- (3) For this purpose, no account is to be taken of any amount brought forward from an earlier chargeable period under [\[<sup>F44</sup>section 1223 of CTA 2009\]](#).

#### Textual Amendments

- F42** Words in Sch. A1 para. 15(2)(a) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(9\)\(a\)](#) (with [Sch. 2](#))
- F43** Words in Sch. A1 para. 15(2)(b) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(9\)\(b\)](#) (with [Sch. 2](#))
- F44** Words in Sch. A1 para. 15(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 521\(8\)](#) (with [Sch. 2 Pts. 1, 2](#))

- 16 (1) This paragraph applies where the qualifying activity is [\[<sup>F45</sup>basic life assurance and general annuity business\]](#) and the profits of that business are charged to tax [\[<sup>F45</sup>in accordance with the I - E rules\]](#).
- (2) The amount of the unrelieved loss is the amount of the loss (see paragraph 9), reduced by—
- (a) any loss surrendered under [\[<sup>F46</sup>Chapter 4 of Part 14 of CTA 2009\]](#) (tax credits for remediation of contaminated land), and
  - (b) any amount set off against the loss under [\[<sup>F47</sup>Chapter 7 of Part 4 of CTA 2010\]](#) (write-off of government investment).
- [\[<sup>F48</sup>\(3\)](#) For this purpose, no account is to be taken of any amounts brought forward from an earlier chargeable period which fall to be taken into account in calculating for the purposes of section 73 of FA 2012 the amount of adjusted BLAGAB management expenses of the company for the period in question as a result of—
- (a) the previous application of section 73 or 93 of FA 2012, or
  - (b) the carry forward to the period in question of an amount under section 391(3) of CTA 2009 (loan relationship deficit carried forward).]



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#### Textual Amendments

- F45** Words in Sch. A1 para. 16(1) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 106\(5\)\(a\)](#)
- F46** Words in Sch. A1 para. 16(2)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 521\(9\)\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F47** Words in Sch. A1 para. 16(2)(b) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(10\)](#) (with [Sch. 2](#))
- F48** Sch. A1 para. 16(3) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 106\(5\)\(b\)](#)

#### *Total amount of company's PAYE and NICs liabilities*

- 17 (1) For the purposes of paragraph 2(2)(a) the total amount of the company's PAYE and NICs liabilities for a payment period is the total of—
- (a) the amount of income tax for which the company is required to account to HMRC for that period under the PAYE regulations, disregarding any deduction the company is authorised to make in respect of child tax credit or working tax credit, and
  - (b) the Class 1 national insurance contributions for which the company is required to account to HMRC for that period, disregarding any deduction the company is authorised to make in respect of payments of statutory sick pay, statutory maternity pay, child tax credit or working tax credit.
- (2) A “payment period” means a period which ends on the 5th day of a month and for which the company is liable to account for income tax and national insurance contributions to HMRC.

## PART 2 **U.K.**

### GIVING EFFECT TO FIRST-YEAR TAX CREDITS

#### *Payment in respect of first-year tax credit*

- 18 (1) Where a company is entitled to a first-year tax credit for a chargeable period and makes a claim for payment of the credit, HMRC must pay to the company the amount of the credit.
- (2) An amount payable in respect of—
- (a) a first-year tax credit, or
  - (b) interest on a first-year tax credit under section 826 of ICTA,
- may be applied in discharging any liability of the company's to pay corporation tax.
- (3) To the extent that it is so applied, HMRC's obligation under sub-paragraph (1) is discharged.
- (4) Where HMRC enquires into the company's company tax return for the chargeable period, no payment in respect of a first-year tax credit for that chargeable period need be made before HMRC's enquiries are completed (see paragraph 32 of Schedule 18 to FA 1998).

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- (5) In those circumstances HMRC may make a payment on a provisional basis of such amount as it thinks fit.
- (6) No payment need be made in respect of a first-year tax credit for a chargeable period before the company has paid to HMRC any amount that it is required to pay for payment periods (within the meaning of paragraph 17(2)) ending in that chargeable period—
- (a) under the PAYE regulations, or
  - (b) in respect of Class 1 national insurance contributions.

*Restriction on losses carried forward*

- 19 (1) For the purposes of the relieving provisions (see paragraph 20), the company's loss from the qualifying activity for a chargeable period in which it claims a first-year tax credit is treated as reduced by the amount of the loss surrendered.
- (2) For the purposes of this Schedule, the amount of the loss surrendered is—
- (a) where the amount of first-year tax credit mentioned in paragraph 2(1)(a) is claimed, the whole of the surrenderable loss for that period, and
  - (b) where less than that amount is claimed, a corresponding proportion of the surrenderable loss for that period.
- 20 The relieving provisions are—
- (a) where the qualifying activity is a trade [<sup>F49</sup>, a UK furnished holiday lettings business or an EEA furnished holiday lettings business] and paragraph 21 or 22 does not apply, [<sup>F50</sup>section 45 of CTA 2010] (relief of trading losses against future profits),
  - (b) where the qualifying activity is managing the investments of a company with investment business, [<sup>F51</sup>section 1223 of CTA 2009 (carrying expenses forward)],
  - (c) where the qualifying activity is [<sup>F52</sup>an ordinary UK property business or an ordinary overseas property business] and paragraph 21 does not apply, [<sup>F53</sup>section 62(5) of CTA 2010] (relief of [<sup>F54</sup>UK property business losses] against future profits), and
  - (d) where the qualifying activity is an overseas property business and paragraph 21 does not apply, [<sup>F55</sup>section 66 of CTA 2010] (relief of overseas property losses against future profits).

**Textual Amendments**

- F49** Words in [Sch. A1 para. 20\(a\)](#) substituted (with effect in accordance with Sch. 14 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 12\(16\)\(d\)\(i\)](#)
- F50** Words in Sch. A1 para. 20(a) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(11\)\(a\)](#) (with [Sch. 2](#))
- F51** Words in Sch. A1 para. 20(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 521\(10\)\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F52** Words in [Sch. A1 para. 20\(c\)](#) substituted (with effect in accordance with Sch. 14 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 12\(16\)\(d\)\(ii\)](#)
- F53** Words in Sch. A1 para. 20(c) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 364\(11\)\(b\)](#) (with [Sch. 2](#))

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- F54** Words in Sch. A1 para. 20(c) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 521\(10\)\(b\)\(ii\)](#) (with Sch. 2 Pts. 1, 2)
- F55** Words in Sch. A1 para. 20(d) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 364\(11\)\(c\)](#) (with Sch. 2)

- 21 (1) This paragraph applies if the qualifying activity is [<sup>F56</sup>[<sup>F57</sup>an ordinary UK] property business] or an [<sup>F58</sup>ordinary overseas] property business, and in a chargeable period—
- (a) the company's loss in carrying on that activity is a loss [<sup>F59</sup>which, as a result of section 87(3) of FA 2012, is treated for the purposes of section 76 of that Act as a deemed BLAGAB management expense for the chargeable period],
  - (b) an amount falls to be carried forward to a succeeding chargeable period under [<sup>F60</sup>section 73 of FA 2012] (carrying forward unrelieved expenses on income), and
  - (c) the company claims a first-year tax credit for the chargeable period.
- (2) The total amount which falls to be carried forward to a succeeding chargeable period under [<sup>F61</sup>section 73 of FA 2012] is treated as reduced by the amount of the loss surrendered.

#### Textual Amendments

- F56** Words in Sch. A1 para. 21(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 521\(11\)](#) (with Sch. 2 Pts. 1, 2)
- F57** Words in Sch. A1 para. 21(1) substituted (with effect in accordance with Sch. 14 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 14 para. 12\(16\)\(e\)\(i\)](#)
- F58** Words in Sch. A1 para. 21(1) substituted (with effect in accordance with Sch. 14 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 14 para. 12\(16\)\(e\)\(ii\)](#)
- F59** Words in Sch. A1 para. 21(1)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 106\(6\)\(a\)](#)
- F60** Words in Sch. A1 para. 21(1)(b) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 106\(6\)\(b\)](#)
- F61** Words in Sch. A1 para. 21(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 106\(6\)\(c\)](#)

- 22 (1) This paragraph applies where the qualifying activity is [<sup>F62</sup>basic life assurance and general annuity business] and the profits of that business are charged to tax [<sup>F62</sup>in accordance with the I - E rules].
- [<sup>F63</sup>(2) For the purposes of those rules, the total amount which may—
- (a) be carried forward under section 73 of FA 2012 from a chargeable period in which the company claims a first-year tax credit, and
  - (b) be brought into account for the next chargeable period in accordance with step 5 in section 76 of FA 2012,
- is treated as reduced by the amount of the loss surrendered.]

#### Textual Amendments

- F62** Words in Sch. A1 para. 22(1) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 106\(7\)\(a\)](#)
- F63** Sch. A1 para. 22(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 106\(7\)\(b\)](#)

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*Payment in respect of first-year tax credit not income*

- 23 A payment in respect of a first-year tax credit is not income of the company for any tax purposes.

**PART 3 U.K.**

CLAWBACK OF FIRST-YEAR TAX CREDIT

*Circumstances in which first-year tax credit clawed back*

- 24 (1) This paragraph applies where—
- (a) a company to which a first-year tax credit is paid for a chargeable period disposes of an item of tax-relieved plant or machinery before the end of the clawback period in relation to that item, and
  - (b) after the disposal the amount (or the aggregate of the amounts) of the original expenditure on the retained tax-relieved plant and machinery is less than the amount of loss surrendered under this Schedule in the chargeable period for which the first-year tax credit was paid.
- (2) The appropriate part (“the restored loss”) of the loss surrendered under this Schedule in that chargeable period is to be treated as if it were not a surrenderable loss in that chargeable period.
- (3) The amount of the restored loss is to be calculated in accordance with paragraph 26.
- (4) The amount of first-year tax credit paid to the company in respect of the restored loss is to be treated as if it ought never to have been paid.
- (5) The amount of first-year tax credit paid to the company in respect of the restored loss is the relevant percentage of the restored loss.
- (6) “Relevant percentage” means the percentage specified in paragraph 2(1)(a) for the chargeable period for which the first-year tax credit is paid.
- (7) This Part of this Schedule applies to an amount of first-year tax credit which is payable for a chargeable period but not yet paid, as it applies to an amount of first-year tax credit which is paid.

*Interpretation*

- 25 (1) This paragraph applies for the interpretation of this Part of this Schedule.
- (2) References to a first-year tax credit being paid include the case where an amount payable in respect of first-year tax credit is applied in discharging any liability of the company's to pay corporation tax.
  - (3) An item of plant or machinery is tax-relieved if any expenditure on the item was relevant first-year expenditure in respect of which a first-year allowance was made for the chargeable period for which the first-year tax credit was paid.
  - (4) The original expenditure on the item is the amount of the relevant first-year expenditure on the item.
  - (5) A company disposes of an item of tax-relieved plant or machinery if—

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- (a) an event listed in section 61(1) occurs in relation to the item, or
  - (b) there is a change in the ownership of the item in relation to which a continuity of business provision applies.
- (6) The disposal value of the item is the disposal value required to be brought into account by the company in respect of the item.
- (7) But where—
- (a) the company disposes of the item to a person connected with the company for less than its market value, or
  - (b) there is a change in the ownership of the item in relation to which a continuity of business provision applies,
- the disposal value of the item is its market value (whether or not the company is required to bring that value into account).
- (8) A “continuity of business provision” is an enactment under which anything done to or by the company which ceases to be the owner of the item is treated, for the purpose of making allowances and charges under this Act, as having been done to or by the person who becomes the owner of the item.
- (9) The retained tax-relieved plant and machinery is the tax-relieved plant and machinery which the company has not disposed of.
- (10) The clawback period, in relation to an item of tax-relieved plant and machinery—
- (a) begins when the relevant first-year expenditure on the item is incurred, and
  - (b) ends 4 years after the end of the chargeable period for which the tax credit was paid.

*Amount of restored loss*

- 26 (1) The amount of the restored loss is—

$$(\text{LSOERPM})(\text{OEDV})\text{ARL}$$

but where the amount given by that formula is less than nil, the amount of the restored loss is nil.

- (2) In sub-paragraph (1)—

LS is the amount of loss surrendered under this Schedule in the chargeable period for which the first-year tax credit was paid,

OERPM is the amount (or the aggregate of the amounts) of the original expenditure on the retained tax-relieved plant and machinery after the item is disposed of,

OE is the aggregate of the amount of the original expenditure on the item disposed of, and the amounts of the original expenditure on any items of tax-relieved plant and machinery which the company has previously disposed of,

DV is the aggregate of the disposal value of the item disposed of, and the disposal values of any items of tax-relieved plant and machinery which the company has previously disposed of, and

ARL is the amount of the restored loss (or the aggregate of the amounts of the restored loss) on any previous application of this paragraph.

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*Clawback of first-year tax credits: administrative provision*

- 27 (1) Where paragraph 24 applies, all such assessments and adjustments of assessments are to be made as are necessary.
- (2) If a company which has made a tax return becomes aware that, as a result of that paragraph applying after the return was made, the return has become incorrect, it must give notice to HMRC specifying how the return needs to be amended.
- (3) The notice must be given within 3 months beginning with the day on which the company became aware that anything in the tax return had become incorrect because of paragraph 24.

**PART 4 U.K.**

SUPPLEMENTARY

*Artificially inflated claims*

- 28 (1) To the extent that a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it shall be disregarded in determining for a chargeable period the amount of any first-year tax credit to which a company is entitled under this Schedule.
- (2) Arrangements are entered into wholly or mainly for a disqualifying purpose if their main object, or one of their main objects, is to enable a company to obtain a first-year tax credit—
- (a) to which it would not otherwise be entitled, or
- (b) of a greater amount than that to which it would otherwise be entitled.
- (3) “Arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

*Interpretation*

- 29 In this Schedule—
- “HMRC” means the Commissioners for Her Majesty's Revenue and Customs;
- “national insurance contributions” means contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.]

**Status:**

Point in time view as at 19/07/2013.

**Changes to legislation:**

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