



Income Tax Act 2007

2007 CHAPTER 3

PART 4

LOSS RELIEF

CHAPTER 2

TRADE LOSSES

Restrictions on sideways relief for certain capital allowances

75 Trade leasing allowances given to individuals

- (1) Sideways relief is not available to an individual for so much of a loss as derives from a trade leasing allowance unless the individual meets the time commitment test.
- (2) A trade leasing allowance is an allowance made under Part 2 of CAA 2001 in respect of—
 - (a) expenditure incurred on the provision of plant or machinery for leasing in the course of a trade, or
 - (b) expenditure incurred on the provision for the purposes of a trade of an asset which is not to be leased but which is fee-producing.
- (3) An asset is fee-producing if payments in the nature of—
 - (a) royalties, or
 - (b) licence fees,are to arise from rights granted by the individual in connection with the asset.
- (4) To meet the time commitment test conditions A and B must be met.
- (5) Condition A is that the individual must carry on the trade for a continuous period of at least 6 months beginning or ending in the basis period for the tax year in which the loss was made (“the loss-making basis period”).

Status: Point in time view as at 22/07/2020.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Restrictions on sideways relief for certain capital allowances. (See end of Document for details)

- (6) Condition B is that substantially the whole of the individual's time must be given to carrying on the trade—
- (a) for a continuous period of at least 6 months beginning or ending in the loss-making basis period (if the individual starts or permanently ceases to carry on the trade in the tax year (or does both)), or
 - (b) throughout the loss-making basis period (in any other case).

Modifications etc. (not altering text)

C1 Ss. 75-79 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 6 para. 1\(11\)\(c\)](#)

76 First-year allowances [^{F1}and annual investment allowances]: introduction

Sideways relief is not available to an individual for so much of a loss as derives from [^{F2}an annual investment allowance or] a first-year allowance under Part 2 of CAA 2001 if either section 77 or 78 applies.

Textual Amendments

- F1** Words in s. 76 heading inserted (21.7.2008 with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 21\(b\)](#)
- F2** Words in s. 76 inserted (21.7.2008 with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 21\(a\)](#)

Modifications etc. (not altering text)

C1 Ss. 75-79 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 6 para. 1\(11\)\(c\)](#)

77 First-year allowances: partnerships with companies

- (1) This section applies if—
- (a) the first-year allowance is in respect of expenditure incurred at any time on the provision of plant or machinery for leasing in the course of a qualifying activity, and
 - (b) either the qualifying activity was at that time carried on by the individual in partnership with a company or arrangements have been made with a view to the activity being so carried on.
- (2) It does not matter—
- (a) if the firm includes other partners, or
 - (b) when the arrangements were made.
- (3) For the purposes of this section—
- (a) letting a ship on charter is treated as leasing the ship, and
 - (b) references to making arrangements include effecting schemes.

Modifications etc. (not altering text)

C1 Ss. 75-79 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 6 para. 1\(11\)\(c\)](#)

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78 First-year allowances [^{F3}and annual investment allowances]: arrangements to reduce tax liabilities

- (1) This section applies if—
 - (a) the [^{F4}annual investment allowance or] first-year allowance is made in connection with a relevant qualifying activity or a relevant asset (see subsections (2) and (3)), and
 - (b) arrangements within subsection (4) have been made.
- (2) A qualifying activity is a relevant one if—
 - (a) at the time when the expenditure was incurred, the activity was carried on by the individual as a partner in a firm, or
 - (b) at a later time, it has been carried on by the individual as a partner in a firm or transferred to a person connected with the individual.
- (3) An asset is a relevant one if, after the time when the expenditure was incurred, the asset was transferred by the individual—
 - (a) to a person connected with the individual, or
 - (b) to a person at a price lower than its market value.
- (4) Arrangements are within this subsection if as a result of them—
 - (a) the sole benefit, or
 - (b) the main benefit,that might be expected to arise to the individual from the transaction under which the expenditure was incurred is the obtaining of a reduction in tax liability by means of sideways relief.
- (5) It does not matter when the arrangements were made.
- (6) References to making arrangements include effecting schemes.

Textual Amendments

- F3** Words in s. 78 heading inserted (21.7.2008 with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 22\(b\)](#)
- F4** Words in s. 78(1)(a) inserted (21.7.2008 with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 22\(a\)](#)

Modifications etc. (not altering text)

- C1** Ss. 75-79 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 6 para. 1\(11\)\(c\)](#)

79 Capital allowances restrictions: supplementary

- (1) If relief is given in a case to which section 75 or 76 applies, the relief is withdrawn by the making of an assessment to income tax under this section.
- (2) Expressions which are used—
 - (a) in any of sections 75 to 78, and
 - (b) in Part 2 of CAA 2001,have the same meaning in those sections as in that Part.

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Modifications etc. (not altering text)

C1 Ss. 75-79 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 6 para. 1\(11\)\(c\)](#)

Status:

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