



Income Tax Act 2007

2007 CHAPTER 3

PART 13

TAX AVOIDANCE

CHAPTER 5

AVOIDANCE INVOLVING TRADING LOSSES

Individuals in partnership: recovery of excess relief

792 Partners claiming excess sideways or capital gains relief

- (1) This section applies if—
- an individual carrying on a trade (“the relevant trade”) as a partner in a firm makes post-1 December 2004 losses in the relevant trade for which the individual claims relief within subsection (2),
 - any of sections 104, 107 and 110 applies in relation to the relief (whether or not any of those sections restricts the amount of the relief), and
 - after the individual makes the claim or claims, a chargeable event occurs.
- (2) The relief within this subsection is—
- sideways relief but only if the whole or part of the relief is claimed against income of the individual apart from profits of the relevant trade, and
 - capital gains relief.
- (3) A chargeable event occurs whenever—
- the amount of the individual's contribution to the firm is reduced as a result of the application of regulations made under section 114, and
 - that reduction in the individual's contribution to the firm immediately results in—

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Section 792. (See end of Document for details)

- (i) the total amount of trade losses claimed (less any reclaimed relief) becoming greater than the contribution, or
 - (ii) an increase in the amount by which the total amount of trade losses claimed (less any reclaimed relief) exceeds the contribution.
- (4) The individual is treated as receiving an amount of income every time a chargeable event occurs.

The income is treated as arising otherwise than as profits of a trade.

- (5) The amount of the income is calculated in accordance with section 793.
- (6) If—
- (a) the firm is carrying on, or has carried on, more than one trade, and
 - (b) subsection (1)(a) and (b) applies in relation to losses made by the individual in one or more of those trades as a partner in the firm,

the firm's trades are taken together for the purpose of determining whether a chargeable event occurs at any time after a claim in relation to any of those losses has been made and, if one does occur, the amount of income treated as received by the individual at that time.

See section 794(6) for modifications giving effect to this.

- (7) References in this section to an individual being a partner in a firm include a reference to an individual being a limited partner within the meaning of section [F1103A] as a result of subsection (1)(c) of that section.
- (8) And, accordingly, in the case of an individual who is such a limited partner, in this section and in sections 793 to 795 references to the individual's firm are references to the relationship between the individual and the other persons mentioned in section [F2103A(3)(a)].

Textual Amendments

- F1** Word in s. 792(7) substituted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 4 paras. 17\(a\), 21](#)
- F2** Word in s. 792(8) substituted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 4 paras. 17\(b\), 21](#)

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