

Status: Point in time view as at 26/03/2015.

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Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 7A

BANKING COMPANIES

CHAPTER 3

RESTRICTIONS ON OBTAINING CERTAIN DEDUCTIONS

[^{F1}Losses to which restrictions do not apply

Textual Amendments

F1 Pt. 7A inserted (with effect in accordance with Sch. 2 para. 7-9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 2 para. 1](#)

269CE Losses arising before company began banking activity

- (1) In this section “the first banking accounting period”, in relation to a company, means the accounting period in which the company first begins to carry on a relevant regulated activity.
- (2) References in this Chapter to a pre-2015 carried-forward trading loss do not include a loss which was made in a trade of a company in an accounting period ending before the first banking accounting period.
- (3) References in this Chapter to a pre-2015 carried-forward non-trading deficit do not include a non-trading deficit which a company had from its loan relationships under section 301(6) of CTA 2009 for an accounting period ending before the first banking accounting period.
- (4) References in this Chapter to pre-2015 carried-forward management expenses, in relation to a company, do not include—

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- (a) any amounts falling within section 269CC(5) which—
 - (i) for the purposes of Chapter 2 of Part 16 of CTA 2009 are referable to an accounting period ending before the first banking accounting period, or
 - (ii) in the case of qualifying charitable donations, were made in an accounting period ending before the first banking accounting period, or
 - (b) any amounts of loss falling within section 269CC(6) which were made in an accounting period ending before the first banking accounting period.
- (5) Section 269CL contains provision for determining when a company first begins to carry on a relevant regulated activity.

269CF Losses arising in company's start-up period

- (1) References in this Chapter to a pre-2015 carried-forward trading loss do not include a loss which was made in a trade of a company in an accounting period ending in the company's start-up period.
- (2) References in this Chapter to a pre-2015 carried-forward non-trading deficit do not include a non-trading deficit which a company had from its loan relationships under section 301(6) of CTA 2009 for an accounting period ending in the company's start-up period.
- (3) References in this Chapter to pre-2015 carried-forward management expenses, in relation to a company, do not include—
 - (a) any amounts falling within section 269CC(5) which—
 - (i) for the purposes of Chapter 2 of Part 16 of CTA 2009 are referable to an accounting period ending in the company's start-up period, or
 - (ii) in the case of qualifying charitable donations, were made in such an accounting period, or
 - (b) any amounts of loss falling within section 269CC(6) which were made in an accounting period ending in the company's start-up period.
- (4) For the purposes of this Chapter any amounts which, by virtue of subsections (1) to (3), are not relevant carried-forward losses of a company are to be regarded as having been taken into account in determining the taxable total profits of the company for accounting periods ending before 1 April 2015 before any amounts which are relevant carried-forward losses of the company.
- (5) Subsection (6) applies where a company has an accounting period (“the straddling period”) beginning before, and ending after, the last day of its start-up period.
- (6) For the purposes of this section—
 - (a) so much of the straddling period as falls within the start-up period, and so much of the straddling period as falls outside the start-up period, are treated as separate accounting periods, and
 - (b) any relevant carried-forward losses of the company for the straddling period are apportioned to the two separate accounting periods—
 - (i) in accordance with section 1172 (time basis), or
 - (ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

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- (7) In subsection (6)(b) the reference to any relevant carried-forward losses of the company “for” the straddling period is a reference to—
- (a) any pre-2015 carried-forward trading loss which was made in a trade of the company in the straddling period,
 - (b) any pre-2015 carried-forward non-trading deficit which the company had from its loan relationships for the straddling period, and
 - (c) any pre-2015 carried-forward management expenses which are referable to, or were made in, the straddling period (as the case may be).
- (8) For provision about determining a company's start-up period, see section 269CG.

269CG The “start-up period”

- (1) In this Chapter the “start-up period”, in relation to a company (“company C”), means the period of 5 years beginning with the day on which company C first begins to carry on a relevant regulated activity (“the start-up day”).

This is subject to the following provisions of this section.

- (2) If on the start-up day—
- (a) company C is a member of a group,
 - (b) there are one or more other members of the group that have carried on a relevant regulated activity while a member of the group, and
 - (c) none of those members first began to carry on such an activity more than 5 years before the start-up day,

company C's start-up period is the period beginning with the start-up day and ending with the relevant group period.

- (3) The “relevant group period”, in relation to a group, means the period of 5 years beginning with the earliest day on which any member of the group first began to carry on a relevant regulated activity.

- (4) If on the start-up day—
- (a) company C is a member of a group,
 - (b) there are one or more other members of the group that have carried on a relevant regulated activity while a member of the group, and
 - (c) any of those members first began to carry on such an activity more than 5 years before the start-up day,

company C does not have a start-up period.

- (5) This subsection applies if—
- (a) on a day falling within company C's start-up period (“the relevant day”), company C becomes a member of a group,
 - (b) one or more of the members of the group which on the relevant day carry on a relevant regulated activity first began to do so before the beginning of company C's start-up period, and
 - (c) the relevant regulated activities carried on by company C do not form a significant proportion of the relevant regulated activities carried on immediately after the relevant day by the members of the group as a whole.

- (6) Where subsection (5) applies, company C's start-up period—

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- (a) in the case where any of the members of the group first began to carry on a relevant regulated activity more than 5 years before the relevant day, ends immediately before the relevant day;
 - (b) in any other case, ends with the relevant group period.
- (7) This subsection applies if—
- (a) on a day falling within company C's start-up period (“the relevant day”), another company that carries on a relevant regulated activity (“the new member”) becomes a member of a group of which company C is a member,
 - (b) the new member first began to carry on a relevant regulated activity before the beginning of company C's start-up period, and
 - (c) the relevant regulated activities carried on by the new member form a significant proportion of the relevant regulated activities carried on immediately after the relevant day by the members of the group as a whole.
- (8) Where subsection (7) applies, company C's start-up period—
- (a) in the case where the new member first began to carry on a relevant regulated activity more than 5 years before the relevant day, ends immediately before the relevant day;
 - (b) in any other case, ends with the relevant group period.
- (9) Any reference in this section to being, or becoming, a member of a group includes a reference to being, or becoming, a member of a partnership; and references to the “relevant group period” are to be read accordingly.
- (10) Section 269CL contains provision for determining when a company first begins to carry on a relevant regulated activity.

269CH Losses covered by carried-forward loss allowance

- (1) This section applies to a banking company if—
 - (a) it is a building society, or
 - (b) an amount of carried-forward loss allowance is allocated to the company by a building society in accordance with section 269CI or 269CJ.
- (2) If a banking company to which this section applies has an amount of carried-forward loss allowance (see subsection (5)), the company may designate as unrestricted losses any losses which, in relation to any accounting period, would (in the absence of this section) be relevant carried-forward losses.
- (3) A loss designated under this section as an unrestricted loss is to be treated for the purposes of this Chapter as if it were not a relevant carried-forward loss.
- (4) The amount of losses which a company may designate at any time must not exceed the amount of carried-forward loss allowance which the company has at that time.
- (5) The amount of carried-forward loss allowance which a company has at any time is the difference between the company's maximum available carried-forward loss allowance and the total amount of losses designated by the company under this section before that time.
- (6) The “maximum available carried-forward loss allowance” is—
 - (a) in the case of a building society which has not made an allocation under section 269CI, £25,000,000;

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- (b) in the case of a building society which has made an allocation under section 269CI, the amount given by—

$$(A-B)+C$$

where—

A is £25,000,000,

B is the sum of—

- (a) any amounts which it has allocated to another company under section 269CI, and
- (b) any amounts allocated to another company under section 269CJ which immediately before the allocation were amounts of carried-forward loss allowance which the building society had, and

C is the sum of any amounts allocated to the building society under section 269CJ;

- (c) in the case of any other company, the total amount of carried-forward loss allowance allocated to the company under section 269CI or 269CJ.
- (7) References in this Chapter to an amount of carried-forward loss allowance allocated to a company are references to an amount allocated to the company under section 269CI or 269CJ.
- (8) For the meaning of “relevant carried-forward loss”, see section 269CN.
- (9) For information about the procedure for making a designation under this section, see Schedule 18 to FA 1998, in particular Part 9E of that Schedule.

269CI Allocation of carried-forward loss allowance within a group

- (1) This section applies where a building society—
 - (a) is a member of a group, and
 - (b) has an amount of carried-forward loss allowance (see section 269CH(5)).
- (2) The building society may allocate some or all of that amount of carried-forward loss allowance to any other member of the group which is a banking company.
- (3) Where a building society makes an allocation under subsection (2), it must give HMRC a statement (a “statement of allocation”) which specifies—
 - (a) the amount of carried-forward loss allowance which the building society had immediately before it made the allocation,
 - (b) the companies (“the relevant companies”) to which an amount of carried-forward loss allowance has been allocated,
 - (c) the amount of carried-forward loss allowance allocated to each of the relevant companies, and
 - (d) the total amount of carried-forward loss allowance allocated by the building society.
- (4) The statement of allocation must be given to HMRC on or before—
 - (a) the first day after the allocation on which the building society, or any of the relevant companies, delivers a company tax return which includes a designation made under section 269CH, or

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- (b) if earlier, the first day after the allocation on which a company tax return of the building society, or any of the relevant companies, is amended so as to include such a designation.

This is subject to subsection (5).

- (5) An officer of Revenue and Customs may provide that the statement of allocation may be given to HMRC on or before a later day specified by the officer.
- (6) An allocation made under subsection (2) is not effective unless the requirements of this section have been complied with.
- (7) A statement of allocation that has been given to HMRC under this section may not be amended or withdrawn.

This is subject to section 269CJ.

269CJ Re-allocation of carried-forward loss allowance

- (1) This section applies where—
 - (a) a building society is a member of a group,
 - (b) the building society has given HMRC a statement of allocation in accordance with section 269CI,
 - (c) the building society, or any other member of the group that is a banking company, (the “designating company”) would, if it had an amount (or an additional amount) of carried-forward loss allowance, be able to designate an amount of losses under section 269CH equal to that amount, and
 - (d) that amount is greater than the amount of carried-forward loss allowance which the building society could allocate under section 269CI.
- (2) In this section the “available carried-forward loss allowance” means the total of any amounts of carried-forward loss allowance which any member of the group, other than the designating company, has (see section 269CH(5)).
- (3) The building society may—
 - (a) allocate some or all of the available carried-forward loss allowance to the designating company, and
 - (b) provide that, to the extent that any of the amount allocated to the designating company under this subsection is an amount of carried-forward loss allowance which, immediately before the allocation, was an amount allocated to another company, that amount is no longer allocated to that other company.
- (4) Where a building society makes an allocation under subsection (3), it must give HMRC a statement (a “revised statement of allocation”) which specifies—
 - (a) the amount of the available carried-forward loss allowance immediately before the allocation,
 - (b) the companies which had an amount of carried-forward loss allowance immediately before the allocation, and the amount of carried-forward loss allowance which each of those companies had at that time, and
 - (c) the companies which have an amount of carried-forward loss allowance immediately after the allocation (“the relevant companies”), and the amount of carried-forward loss allowance which each of those companies has.
- (5) The revised statement of allocation must be given to HMRC on or before—

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- (a) the first day after the allocation on which any of the relevant companies delivers a company tax return which includes a designation made under section 269CH, or
- (b) if earlier, the first day after the allocation on which a company tax return of any of the relevant companies is amended so as to include such a designation.

This is subject to subsection (6).

- (6) An officer of Revenue and Customs may provide that the revised statement of allocation may be given to HMRC on or before a later day specified by the officer.
- (7) An allocation made under subsection (3) is not effective unless the requirements of this section have been complied with.
- (8) Except as provided for by this section, a revised statement of allocation that has been given to HMRC under this section may not be amended or withdrawn.]

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