



# Finance Act 1965

## 1965 CHAPTER 25

### PART IV

#### TAXATION OF COMPANIES AND OF COMPANY DISTRIBUTIONS.

##### *Corporation tax.*

#### **58 Relief for trading losses, other than terminal losses.**

- (1) Where in any accounting period a company carrying on a trade incurs a loss in the trade, the company may claim to set the loss off for purposes of corporation tax against any trading income from the trade in succeeding accounting periods ; and (so long as the company continues to carry on the trade) its trading income from the trade in any succeeding accounting period shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot, on that claim or on a claim (if made) under subsection (2) below, be relieved against income or profits of an earlier accounting period.
- (2) Where in any accounting period a company carrying on a trade incurs a loss in the trade, then (subject to subsection (4) below) the company may claim to set the loss off for purposes of corporation tax against profits (of whatever description) of that accounting period and, if the company was then carrying on the trade and the claim so requires, of preceding accounting periods ending within the time specified in subsection (3) below; and, subject to that subsection and to any relief for an earlier loss, the profits of any of those periods shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against profits of a later accounting period.
- (3) The time referred to in subsection (2) above is a time equal in length to the accounting period in which the loss is incurred ; but the amount of the reduction which may be made under that subsection in the profits of an accounting period falling partly before that time shall not exceed a part of those profits proportionate to the part of the period falling within that time.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (4) Subsection (2) above shall not apply to trades falling within Case V of Schedule D; and, except in so far as it represents an excess in respect of expenditure incurred before the year 1960-61 of capital allowances over balancing charges, a loss incurred in a trade in any accounting period shall not be relieved under that subsection, unless the trade is one carried on in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act), or it is shown that for that accounting period the trade was being carried on on a commercial basis and with a view to the realisation of gain in the trade or in any larger undertaking of which the trade formed part.
- (5) For purposes of subsection (4) above, the fact that a trade was being carried on at any time so as to afford a reasonable expectation of gain shall be conclusive evidence that it was then being carried on with a view to the realisation of gain; and where in an accounting period there is a change in the manner in which a trade is being carried on, it shall for those purposes be treated as having throughout the accounting period been carried on in the way in which it was being carried on by the end of that period.
- (6) The amount of a loss incurred in a trade in an accounting period shall be computed for purposes of this section in like manner as trading income from the trade in that period would have been computed.
- (7) For purposes of this section " trading income " means, in relation to any trade, the income which falls or would fall to be included in respect of the trade in the total profits of the company ; but where in an accounting period a company incurs a loss in a trade in respect of which it is within the charge to corporation tax under Case I or V of Schedule D, and in any later accounting period to which the loss or any part of it is carried forward under subsection (1) above relief in respect thereof cannot be given, or cannot wholly be given, because the amount of the trading income of the trade is insufficient, any interest or dividends on investments which would fall to be taken into account as trading receipts in computing that trading income but for the fact that they have been subjected to tax under other provisions shall be treated for purposes of subsection (1) above as if they were trading income of the trade.
- (8) Where in an accounting period the charges on income paid by a company—
- (a) exceed the amount of the profits against which they are deductible; and
  - (b) include payments made wholly and exclusively for the purposes of a trade carried on by the company ;
- then, up to the amount of that excess or of those payments, whichever is the less, the charges on income so paid shall in computing a loss for purposes of subsection (1) above be deductible as if they were trading expenses of the trade.
- (9) In this section references to a company carrying on a trade refer to the company carrying it on so as to be within the charge to corporation tax in respect of it.