



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XI

COMPANY TAXATION

CHAPTER I

MAIN PROVISIONS

Franked investment income

254 Set-off of losses etc. against surplus of franked investment income

- (1) Where a company has a surplus of franked investment income for any year of assessment, the company may on making a claim for the purpose require that the amount of the surplus shall for all or any of the purposes mentioned in subsection (2) below be treated as if it were a like amount of profits chargeable to corporation tax, and subject to subsection (4) below the provisions mentioned in subsection (2) below shall apply in accordance with this section to reduce the amount of the surplus for purposes of section 240 of this Act so that income tax shall be repayable accordingly.
- (2) The purposes for which a claim may be made under subsection (1) above are those of—
 - (a) the setting of trading losses against total profits under section 177(2) of this Act;
 - (b) the deduction of charges on income under section 248 of this Act;
 - (c) the deduction of expenses of management under section 304 or 305 of this Act;
 - (d) the setting of certain capital allowances against total profits under section 74(3) of the Capital Allowances Act 1968.
- (3) Where a company makes a claim under this section for any year of assessment, then—

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- (a) the amount to which the claim relates shall for purposes of the claim be treated as profits of the accounting period or periods comprising or together comprising that year, and shall be apportioned between them (if more than one) in proportion to the parts of the year respectively comprised in them ;
 - (b) the reduction falling to be made in profits of an accounting period shall be made as far as may be in profits chargeable to corporation tax rather than in the amount treated as profits so chargeable under this section.
- (4) Where a claim under this section relates to section 177(2) of this Act or to section 74(3) of the Capital Allowances Act 1968 and an accounting period of the company falls partly before and partly within the time mentioned in that subsection, then—
- (a) the restriction imposed by section 177(3) of this Act or by section 74(4) of the Capital Allowances Act 1968 on the amount of the relief shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as profits of the period under this section ; but
 - (b) relief under this section shall be given only against so much (if any) of the amount so treated as would under subsection (3)(a) above be apportioned to the part of the period falling within the said time if that part were a separate accounting period.
- (5) Where—
- (a) on a claim made under this section for any year of assessment relief is given in respect of the whole or part of any loss incurred in a trade, or of any amount which could be treated as a loss under section 177(8) of this Act; and
 - (b) in a later year of assessment the distributions on which the company pays the income tax under section 232(2) of this Act exceed its franked investment income ;
- then (unless the company has ceased to carry on the trade or to be within the charge to corporation tax in respect of it) the company shall, for purposes of section 177(1) of this Act, be treated as having, in the accounting period ending at or last before the beginning of the later year of assessment, incurred a loss equal to whichever is the lesser of—
- (i) the excess referred to in paragraph (b) above ; and
 - (ii) the amount in respect of which relief was given as aforesaid, or so much of that amount as remains after deduction of any part of it dealt with under this subsection in relation to an earlier year of assessment.
- (6) Subsection (5) above shall apply, with the necessary adaptations.—
- (a) in relation to relief given in respect of management expenses; and
 - (b) in relation to relief given in respect of capital allowances ;
- as it applies in relation to relief given in respect of a loss (the reference to the company ceasing to be within the charge to corporation tax in respect of the trade being construed as a reference to its ceasing to be within that charge at all):
- Provided that any amount which may be dealt with under subsection (5) as a loss shall be so dealt with rather than under this subsection, except in so far as the company concerned otherwise elects.
- (7) The time limits for claims under this section shall be as follows—
- (a) if and so far as the purpose for which the claim is made is the setting of trading losses against total profits under section 177(2) of this Act, two years from the

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- end of the year of assessment in which falls the end of the accounting period in which the trading loss is incurred,
- (b) if and so far as the purpose for which the claim is made is the deduction of charges on income under section 248 of this Act or of expenses of management under section 304 or 305 of this Act, six years from the end of the accounting period in which the charges were paid or the expenses of management were incurred,
 - (c) if and so far as the purpose for which the claim is made is the setting of capital allowances against total profits under section 74(3) of the Capital Allowances Act 1968, two years from the end of the year of assessment in, which falls the end of the accounting period for which the capital allowances fall to be made.
- (8) For the purposes of a claim under this section for any year of assessment the surplus of franked investment income for any year of assessment shall be calculated without regard to the part, if any, carried forward from an earlier year of assessment.

255 Set-off of loss brought forward, or terminal loss

- (1) Where a company has a surplus of franked investment income in any year of assessment, the company, instead of or in addition to making a claim under section 254 above, may on making a claim for the purpose require that the surplus shall be taken into account for relief under section 177(1) or under section 178 of this Act, up to the amount of franked investment income for the year which, if chargeable to corporation tax, would have been so taken into account by virtue of section 177(7) of this Act; and (subject to the restriction to the said amount of franked investment income) the following subsections shall have effect where the company makes a claim under this section for any year of assessment.
- (2) The amount to which the claim relates shall for the purposes of the claim be treated as trading income of the accounting period or periods comprising or together comprising the year of assessment, and shall be apportioned between them (if more than one) in proportion to the parts of the year respectively comprised in them.
- (3) The reduction falling to be made in trading income of an accounting period shall be made as far as may be in trading income chargeable to corporation tax rather than in the amount treated as trading income so chargeable under this section.
- (4) If the claim relates to section 177(1) of this Act, section 254(5) above shall apply in relation to it.
- (5) If the claim relates to section 178 of this Act and an accounting period of the company falls partly outside the three years mentioned in subsection (1) of that section, then—
- (a) the restriction imposed by subsection (2) of that section on the amount of the reduction that may be made in the trading income of that period shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as trading income of the period by virtue of this section, but
 - (b) relief under this section shall be given only against so much (if any) of the amount so treated as would under subsection (2) above be apportioned to the part of the period falling within the three years in question if that part were a separate accounting period.
- (6) The time limits for claims under this section shall be as follows—

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- (a) if and so far as the purpose for which the claim is made is the allowance of relief under section 177(1) of this Act, six years from the end of the year of assessment for which the claim is made,
 - (b) if and so far as the purpose for which the claim is made is the allowance of relief under section 178 of this Act, six years from the time when the company ceases to carry on the trade.
- (7) For the purposes of a claim under this section for any year of assessment the surplus of franked investment income for any year of assessment shall be calculated without regard to the part, if any, carried forward from an earlier year of assessment.