



# Finance Act 1981

## 1981 CHAPTER 35

### PART IV

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

#### **48 Write-off of government investment: restriction of tax losses**

- (1) This section has effect where on or after 10th March 1981 any amount of government investment in a body corporate is written-off.
- (2) An amount equal to the amount written-off shall be set off against the body's tax losses as at the end of the accounting period ending last before the write-off date and, to the extent to which that amount exceeds those losses, against the body's tax losses as at the end of the next accounting period and so on.
- (3) For the purposes of subsection (2) above a body's tax losses as at the end of an accounting period are—
  - (a) any losses which under subsection (1) of section 177 of the Taxes Act are or, if a claim had been made under that subsection, would be available for relief against its trading income for the next accounting period;
  - (b) in the case of an investment company, any expenses of management or charges on income which under section 304(2) of that Act are available for carry forward to the next accounting period;
  - (c) any allowances which under section 74(2) of the Capital Allowances Act 1968 are available for carry forward to the next accounting period;
  - (d) any amount paid by way of charges on income so far as it exceeds the company's profit for the period and is not taken into account under section 177(8) or 304(2) of the Taxes Act; and

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- (e) any allowable losses available under section 265 of the Taxes Act so far as not allowed in that or a previous accounting period.
- (4) The set off to be made under subsection (2) above for any accounting period shall be made first against the amounts in paragraphs (a) to (d) of subsection (3) above and, so far as it cannot be so made, against the amount in paragraph (e) of that subsection.
- (5) For the purposes of subsection (2) above there shall be excluded from a body's tax losses as at the end of the accounting period ending last before the write-off date any amounts in respect of which a claim has been made before the write-off date under section 177(2) or 258 of the Taxes Act or section 74(3) of the Capital Allowances Act 1968 but the body's tax losses as at the end of any subsequent accounting period shall be determined as if no such claim had been made on or after that date.
- (6) Any amount that could be set off under subsection (2) above against a body's tax losses as at the end of an accounting period (or could be so set off if that body then had any such losses) may be set off against the tax losses of any other body corporate which at the end of that period is a member of the same group as the first-mentioned body, or partly against the tax losses of one member of that group and partly against those of the other or any of the others, as may be just and reasonable.
- (7) Expenditure shall not be treated for the purposes of section 84 of the Capital Allowances Act 1968 or section 42 of the Capital Gains Tax Act 1979 as met by the Crown by reason only of the writing-off of any government investment in the body in question and a sum shall not by reason only of any such writing-off be treated as not having been deductible in computing the profits or gains of that body for the purposes of Case I or Case II of Schedule D.
- (8) For the purposes of this section an amount of government investment in a body corporate is written-off—
- (a) if its liability to repay any money lent to it out of public funds by a Minister of the Crown is extinguished ;
  - (b) if any of its shares for which a Minister of the Crown has subscribed out of public funds are cancelled; or
  - (c) if its commencing capital debt is reduced otherwise than by being paid off or its public dividend capital is reduced otherwise than by being repaid (including, in either case, a reduction to nil);
- and the amount written-off and the write-off date are the amount in respect of which the liability is extinguished and the date on which it is extinguished, the amount subscribed for the shares that are cancelled and the date of cancellation or the amount of reduction in the commencing capital debt or public dividend capital and the date of the reduction, as the case may be.
- (9) In subsection (8) above " commencing capital debt" means any debt to a Minister of the Crown assumed as such under an enactment and " public dividend capital " means any amount paid by a Minister of the Crown under an enactment in which that amount is so described or under an enactment corresponding to an enactment in which a payment made on similar terms to another body is so described.
- (10) This section shall not have effect in relation to any amount written-off if and to the extent to which it is replaced by money lent, or a subscription for shares or a payment made, out of public funds by a Minister of the Crown.
- (11) In this section "body corporate" means any body corporate which is a company for the purposes of corporation tax, " group " means a company having one or more 51

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per cent, subsidiaries and that or those subsidiaries, and " Minister of the Crown " includes a Northern Ireland department.