



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IV

PROVISIONS RELATING TO THE SCHEDULE D CHARGE

CHAPTER VII

PARTNERSHIPS AND SUCCESSIONS

Limited partners

117 Restriction on relief: individuals

(1) An amount which may be given or allowed to an individual under section 353, 380 or 381 below or section 71 of the 1968 Act—

- (a) in respect of a loss sustained by him in a trade, or of interest paid by him in connection with the carrying on of a trade, in a relevant year of assessment; or
- (b) as an allowance falling to be made to him for a relevant year of assessment either in taxing a trade or by way of discharge or repayment of tax to which he is entitled by reason of his participation in a trade,

may be given or allowed otherwise than against income consisting of profits or gains arising from the trade only to the extent that the amount given or allowed or (as the case may be) the aggregate amount does not exceed the relevant sum.

(2) In this section—

“limited partner” means—

- (i) a person who is carrying on a trade as a limited partner in a limited partnership registered under the Limited Partnerships Act 1907;
- (ii) a person who is carrying on a trade as a general partner in a partnership, who is not entitled to take part in the management of the trade and who is entitled to have his liabilities, or his liabilities beyond a certain limit,

Status: This is the original version (as it was originally enacted).

for debts or obligations incurred for the purposes of the trade discharged or reimbursed by some other person; or

- (iii) a person who carries on a trade jointly with others and who, under the law of any territory outside the United Kingdom, is not entitled to take part in the management of the trade and is not liable beyond a certain limit for debts or obligations incurred for the purposes of the trade;

“relevant year of assessment” means a year of assessment at any time during which the individual carried on the trade as a limited partner;

“the aggregate amount” means the aggregate of any amounts given or allowed to him at any time under section 353, 380 or 381 below or section 71 of the 1968 Act—

- (a) in respect of a loss sustained by him in the trade, or of interest paid by him in connection with carrying it on, in a relevant year of assessment; or
 (b) as an allowance falling to be made to him for a relevant year of assessment either in taxing the trade or by way of discharge or repayment of tax to which he is entitled by reason of his participation in the trade;

“the relevant sum” means the amount of his contribution to the trade as at the appropriate time; and

“the appropriate time” is the end of the relevant year of assessment in which the loss is sustained or the interest paid or for which the allowance falls to be made (except that where he ceased to carry on the trade during that year of assessment it is the time when he so ceased).

- (3) A person’s contribution to a trade at any time is the aggregate of—
- (a) the amount which he has contributed to it as capital and has not, directly or indirectly, drawn out or received back (other than anything which he is or may be entitled so to draw out or receive back at any time when he carries on the trade as a limited partner or which he is or may be entitled to require another person to reimburse to him), and
- (b) the amount of any profits or gains of the trade to which he is entitled but which he has not received in money or money’s worth.
- (4) To the extent that an allowance is taken into account in computing profits or gains or losses in the year of the loss by virtue of section 383(1) it shall, for the purposes of this section, be treated as falling to be made in the year of the loss (and not the year of assessment for which the year of loss is the basis year).

118 Restriction on relief: companies

- (1) An amount which may be given or allowed under section 338, 393(2) or 403(1) to (3) and (7) below or section 74 of the 1968 Act—
- (a) in respect of a loss incurred by a company in a trade, or of charges paid by a company in connection with the carrying on of a trade, in a relevant accounting period; or
- (b) as an allowance falling to be made to a company for a relevant accounting period either in taxing a trade or by way of discharge or repayment of tax to which it is entitled by reason of its participation in a trade,

may be given or allowed to that company (“the partner company”) otherwise than against profits or gains arising from the trade, or to another company, only to the extent that the amount given or allowed or (as the case may be) the aggregate amount does not exceed the relevant sum.

Status: This is the original version (as it was originally enacted).

(2) In this section—

“relevant accounting period” means an accounting period of the partner company at any time during which it carried on the trade as a limited partner (within the meaning of section 117(2));

“the aggregate amount” means the aggregate of any amounts given or allowed to the partner company or another company at any time under section 338, 393(2) or 403(1) to (3) and (7) below or section 74 of the 1968 Act—

- (a) in respect of a loss incurred by the partner company in the trade, or of charges paid by it in connection with carrying it on, in any relevant accounting period; or
- (b) as an allowance falling to be made to the partner company for any relevant accounting period either in taxing the trade or by way of discharge or repayment of tax to which it is entitled by reason of its participation in the trade;

“the relevant sum” means the amount of the partner company’s contribution (within the meaning of section 117(3)) to the trade as at the appropriate time; and

“the appropriate time” is the end of the relevant accounting period in which the loss is incurred or the charges paid or for which the allowance falls to be made (except that where the partner company ceased to carry on the trade during that accounting period it is the time when it so ceased).