



Corporation Tax Act 2010

2010 CHAPTER 4

PART 11

CHARITABLE COMPANIES ETC

CHAPTER 4

RESTRICTIONS ON EXEMPTIONS

Non-charitable expenditure

496 Meaning of “non-charitable expenditure”

- (1) For the purposes of this Part a charitable company’s non-charitable expenditure for an accounting period is—
- (a) any loss made in the accounting period in a trade carried on by the charitable company unless—
 - (i) the trade is a charitable trade, or
 - (ii) the trade is not a charitable trade but profits of the trade arising in the period would be exempt from corporation tax as a result of one of the exemptions in section 480, 483 or 484,
 - (b) any loss made in the accounting period in a trade, or in a UK property business or an overseas property business, carried on by the charitable company, if—
 - (i) the loss relates to land, and
 - (ii) profits of the trade, or income of the business, generated from the land in the period would not be exempt from corporation tax as a result of the exemptions in section 485,
 - (c) any loss made in the accounting period in a miscellaneous transaction entered into by the charitable company otherwise than in the course of carrying out a charitable purpose,

Status: This is the original version (as it was originally enacted).

- (d) any expenditure incurred by the charitable company in the accounting period which is not incurred for charitable purposes only and is not required to be taken into account in calculating—
 - (i) the profits of, or losses made in, any trade, UK property business or overseas property business carried on by the charitable company, or
 - (ii) the profit or loss made in any miscellaneous transaction entered into by the charitable company,
- (e) any payment made in the accounting period by the charitable company to a substantial donor which is treated under section 504(1) or (5) as non-charitable expenditure,
- (f) any non-charitable expenditure treated as incurred under section 504(2) as a result of a transaction between the charitable company and a substantial donor,
- (g) the amount of any of the charitable company's funds that is invested in the accounting period in an investment which is not an approved charitable investment (see section 511), and
- (h) any amount lent in the accounting period by the charitable company, if the loan is neither an investment nor an approved charitable loan (see section 514).

But anything which falls within more than one of the above paragraphs counts as non-charitable expenditure only once.

- (2) An amount may also be non-charitable expenditure for an accounting period as a result of section 515 (excess expenditure treated as non-charitable expenditure of earlier periods).
- (3) This section needs to be read with—
 - section 479 (meaning of “charitable trade”),
 - sections 497 to 501 (supplementary provision in relation to this section, in particular in relation to subsection (1)(d), (g) and (h)),
 - sections 502 to 510 (transactions with substantial donors),
 - section 511 (approved charitable investments), and
 - section 514 (approved charitable loans).

497 Section 496: supplementary

- (1) This section applies for the purposes of section 496.
- (2) A transaction is a miscellaneous transaction if it is of such a nature that, if income or gains had arisen from it (ignoring section 481 (exemption from charges under provisions to which section 1173 applies)), it would have been charged to corporation tax under or by virtue of any provision to which section 1173 applies.
- (3) For rules about the calculation of losses, see—
 - (a) section 47 of CTA 2009 (losses of a trade calculated on same basis as profits),
 - (b) section 210 of that Act (which applies section 47 of that Act, so that losses of a UK property business or overseas property business are calculated on the same basis as profits), and
 - (c) section 1306 of that Act (losses from miscellaneous transactions calculated on same basis as miscellaneous income).

498 Section 496(1)(d): meaning of expenditure

- (1) For the purposes of section 496(1)(d) “expenditure” includes expenditure of a capital nature.
- (2) None of the following is “expenditure” for those purposes—
 - (a) the investment of any of the charitable company’s funds,
 - (b) the making of a loan by the charitable company, or
 - (c) the repayment by the charitable company of the whole or a part of a loan made to it.

499 Section 496(1)(d): accounting period in which certain expenditure treated as incurred

- (1) This section applies for the purposes of section 496(1)(d).
- (2) Subsection (3) applies to expenditure which is referable to commitments (whether or not of a contractual nature) that the charitable company has entered into before or during an accounting period.
- (3) The expenditure is treated as incurred in the accounting period if, had the charitable company been required to draw up accounts that met the requirements mentioned in subsection (4), the expenditure would have been required to be taken into account in preparing those accounts.
- (4) The requirements referred to in subsection (3) are—
 - (a) that the accounts are drawn up for the accounting period, and
 - (b) that UK generally accepted accounting practice applies with respect to them.

500 Section 496(1)(d): payment to body outside the UK

A payment made, or to be made, to a body situated outside the United Kingdom is non-charitable expenditure under section 496(1)(d) if—

- (a) it is incurred for charitable purposes only, but
- (b) the charitable company has not taken such steps as are reasonable in the circumstances to ensure that the payment will be applied for charitable purposes.

501 Section 496(1)(g) and (h): investments and loans

- (1) Subsection (2) applies if in an accounting period a charitable company—
 - (a) realises the whole or part of an investment which was made in the period and is not an approved charitable investment (see section 511), or
 - (b) is repaid the whole or part of a loan which was made in the period and is neither an investment nor an approved charitable loan (see section 514).
- (2) Any further investment or lending in the accounting period of the sum realised or repaid, so far as it does not exceed the sum originally invested or lent, is not non-charitable expenditure as a result of section 496(1)(g) or (h).