



Finance Act 1960

1960 CHAPTER 44

PART II

INCOME TAX

20 Restriction of relief for losses

- (1) Losses (including amounts in respect of allowances which by virtue of section twenty of the Finance Act, 1954, are to be treated as losses, being allowances in respect of expenditure incurred after the fifth day of April, nineteen hundred and sixty) in respect of which, apart from this section and on the assumption that the applicant's aggregate income was sufficient, relief could be given for the year 1960-61 or any subsequent year of assessment under section three hundred and forty-one of the Act of 1952 (relief from tax by deducting losses of a trade from aggregate income of same year) as originally enacted shall not be available for relief under that section, or that section as extended by subsection (3) of section fifteen of the Finance Act, 1953 (relief under section three hundred and forty-one for losses of previous year), unless it is shown that the trade was being carried on for that year of assessment on a commercial basis and with a view to the realisation of profits in the trade or, where the carrying on of the trade formed part of a larger undertaking, in the undertaking as a whole:

Provided that this subsection shall not apply to a loss made, or an allowance in respect of expenditure incurred, by a local authority (within the meaning of section one hundred and seventy-one of the Act of 1952) or by any person in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act).

- (2) Losses shall be disregarded in computing deficit or surplus for tax purposes under section twenty of the Finance Act, 1953 (subvention payments) for any accounting period ending in the year 1960-61 or in any subsequent year of assessment unless it is shown that the trade was being carried on for that accounting period on a commercial basis and with a view to the realisation of profits by the company carrying on the trade, or that company and its associated company or companies taken together.

Status: This is the original version (as it was originally enacted).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

The foregoing provisions of this subsection shall apply to allowances under Part X (except Chapter IV thereof) or Part XI of the Act of 1952 in respect of expenditure incurred after the fifth day of April, nineteen hundred and sixty, as they apply to losses.

- (3) Where during a year of assessment or accounting period there is a change in the manner in which a trade is being carried on, it shall be treated for the purposes of this section as having been carried on throughout the year or period, as the case may be, in the way in which it was being carried on by the end of the year or period.
- (4) Subject to the following subsection, where a trade is, or falls to be treated as being, carried on for part only of a year of assessment or accounting period by reason of its being, or falling to be treated as being, set up and commenced, or discontinued, or both, in that year or period, the foregoing provisions of this section shall have effect in relation to that trade as regards that part of that year or period as if any reference to the manner of carrying on the trade for or by the end of that year or period were a reference to the manner of carrying it on for or by the end of the said part thereof.
- (5) Where in any year of assessment or accounting period there is a change in the persons engaged in carrying on a trade, then, for the purposes of the application of the foregoing provisions of this section in the case of any person who, being engaged in carrying on the trade immediately before the change, continues to be so engaged immediately after it, the trade carried on by that person immediately before the change shall be treated as continuing to be carried on by him notwithstanding the change, whether or not it falls to be treated for any other purpose as having been discontinued on the change.
- (6) For the purposes of this section the fact that a trade was being carried on at any time so as to afford a reasonable expectation of profit shall be conclusive evidence that it was then being carried on with a view to the realisation of profits.
- (7) The foregoing provisions of this section shall apply to professions and vocations as they apply to trades, and references to a commercial basis shall be construed accordingly.
- (8) Section one hundred and forty-two of the Act of 1952 (setting off of losses against profits of another business) shall not have effect as respects losses of any accounting period ending after the fifth day of April, nineteen hundred and sixty.