

SCHEDULES

SCHEDULE 6

Section 23

TEMPORARY EXTENSION OF CARRY BACK OF LOSSES

Income tax

- 1 (1) A person who has made a loss in a trade in the tax year 2008-09 or 2009-10 may make a claim for relief under this paragraph if—
- (a) relief is available to the person under section 64 of ITA 2007 (trade loss relief against general income) in relation to an amount of the loss (“the section 64 amount”), and
 - (b) condition A or B is met.
- (2) Condition A is that the person makes a claim under that section for relief in respect of the section 64 amount—
- (a) where it is a loss made in the tax year 2008-09, for either or both of the tax years 2007-08 and 2008-09, or
 - (b) where it is a loss made in the tax year 2009-10, for either or both of the tax years 2008-09 and 2009-10.
- (3) Condition B is that—
- (a) where it is a loss made in the tax year 2008-09, for the tax years 2007-08 and 2008-09, or
 - (b) where it is a loss made in the tax year 2009-10, for the tax years 2008-09 and 2009-10,
- the person’s total income is nil or does not include any income from which a deduction could be made in pursuance of a claim under that section for relief in respect of the section 64 amount.
- (4) The amount of the loss that may be relieved under this paragraph (“the deductible amount”) is—
- (a) in a case where condition A is met, so much of the section 64 amount as cannot be relieved pursuant to the claim under section 64 of ITA 2007, and
 - (b) in a case where condition B is met, the whole of the section 64 amount,
- (but see sub-paragraph (12)).
- (5) A claim for relief under this paragraph is for the deductible amount to be deducted (in accordance with sub-paragraph (6) and with whichever is applicable of sub-paragraphs (7), (8), (9) and (10))—
- (a) where it is a loss made in the tax year 2008-09, in either or both of the following ways—
 - (i) in computing the person’s total income for either or both of the tax years 2005-06 and 2006-07 in accordance with section 835 of ICTA, and

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- (ii) in calculating the person's net income for the tax year 2007-08 in accordance with Step 2 of the calculation in section 23 of ITA 2007 (which applies as if this paragraph were a provision listed in section 24 of that Act), or
 - (b) where it is a loss made in the tax year 2009-10, in either or both of the following ways—
 - (i) in computing the person's total income for the tax year 2006-07 in accordance with section 835 of ICTA, and
 - (ii) in calculating the person's net income for either or both of the tax years 2007-08 and 2008-09 in accordance with Step 2 of the calculation in section 23 of ITA 2007 (which applies as if this paragraph were a provision listed in section 24 of that Act).
- (6) A deduction is to be made only from profits of the trade (and accordingly, in relation to the tax years 2007-08 and 2008-09, subsection (2) of section 25 of ITA 2007 has effect as if this sub-paragraph were included in subsection (3) of that section).
- (7) This sub-paragraph explains how the deductions are to be made in a case where the loss is made in the tax year 2008-09 and the person makes a claim under section 64 of ITA 2007 for relief in respect of the section 64 amount for the tax year 2007-08.
- Step 1*
- Deduct the deductible amount from the profits of the trade for the tax year 2006-07.
- Step 2*
- Deduct from the profits of the trade for the tax year 2005-06 so much of the deductible amount as has not been deducted under Step 1.
- (8) This sub-paragraph explains how the deductions are to be made in any other case where the loss is made in the tax year 2008-09.
- Step 1*
- Deduct the deductible amount from the profits of the trade for the tax year 2007-08.
- Step 2*
- Deduct from the profits of the trade for the tax year 2006-07 so much of the deductible amount as has not been deducted under Step 1.
- Step 3*
- Deduct from the profits of the trade for the tax year 2005-06 so much of the deductible amount as has not been deducted under Step 1 or 2.
- (9) This sub-paragraph explains how the deductions are to be made in a case where the loss is made in the tax year 2009-10 and the person makes a claim under section 64 of ITA 2007 for relief in respect of the section 64 amount for the tax year 2008-09.
- Step 1*
- Deduct the deductible amount from the profits of the trade for the tax year 2007-08.
- Step 2*
- Deduct from the profits of the trade for the tax year 2006-07 so much of the deductible amount as has not been deducted under Step 1.
- (10) This sub-paragraph explains how the deductions are to be made in any other case where the loss is made in the tax year 2009-10.

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Step 1

Deduct the deductible amount from the profits of the trade for the tax year 2008-09.

Step 2

Deduct from the profits of the trade for the tax year 2007-08 so much of the deductible amount as has not been deducted under Step 1.

Step 3

Deduct from the profits of the trade for the tax year 2006-07 so much of the deductible amount as has not been deducted under Step 1 or 2.

- (11) The provision made by the preceding provisions means that the following sections of ITA 2007 apply in relation to relief under this paragraph as in relation to relief under section 64 of that Act—
- (a) section 66 to 70 (restrictions on relief under section 64),
 - (b) sections 74B to 74D (general restrictions on relief),
 - (c) sections 75 to 79 (restrictions on relief under section 64 and early trade losses relief in relation to capital allowances),
 - (d) section 80 (restrictions on those reliefs in relation to ring fence income), and
 - (e) section 81 (restrictions on those reliefs in relation to dealings in commodity futures).
- (12) The total amount that may be deducted in accordance with sub-paragraph (7), or in accordance with Steps 2 and 3 in sub-paragraph (8), is limited to £50,000; and the total amount that may be deducted in accordance with sub-paragraph (9), or in accordance with Steps 2 and 3 in sub-paragraph (10), is also limited to £50,000.
- 2 (1) A claim for relief under paragraph 1 must be made—
- (a) where the relief is in respect of a loss made in the tax year 2008-09, on or before the first anniversary of the normal self-assessment filing date for that tax year, and
 - (b) where the relief is in respect of a loss made in the tax year 2009-10, on or before the first anniversary of the normal self-assessment filing date for that tax year.
- (2) Paragraph 1 applies to professions and vocations as it applies to trades.
- (3) Paragraph 1 is subject to paragraph 2 of Schedule 1B to TMA 1970 (claims for loss relief involving 2 or more years).
- (4) Sections 61 to 63 of ITA 2007 (meaning of “making a loss in a tax year” etc and prohibition against double counting) have effect as if paragraph 1 were included in Chapter 2 of Part 4 of that Act.
- (5) Subsections (1) to (3) of section 127 of that Act (UK furnished holiday lettings business treated as trade) have effect as if paragraph 1 were included in Part 4 of that Act.
- (6) The reference in paragraph 3(1) of Schedule 2 to the Social Security Contributions and Benefits Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (levy of Class 4 contributions with income tax) to section 64 of ITA 2007 includes paragraph 1.

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Corporation tax

- 3 (1) Section 393A of ICTA (losses: set off against profits of same or earlier accounting period) has effect in relation to any loss to which this paragraph applies as if, in subsection (2) of that section, “3 years” were substituted for “twelve months” (but subject as follows).
- (2) This paragraph applies to any loss incurred by a company in a trade in a relevant accounting period (but subject to sub-paragraph (3)); and a relevant accounting period is one ending after 23 November 2008 and before 24 November 2010.
- (3) The maximum amount of loss to which this paragraph applies in the case of any company is—
- (a) £50,000 in relation to losses incurred in relevant accounting periods ending after 23 November 2008 and before 24 November 2009, and
 - (b) £50,000 in relation to losses incurred in relevant accounting periods ending after 23 November 2009 and before 24 November 2010;
- and the overall limit or limits apply whether a loss is incurred by the company in only one relevant accounting period or losses are so incurred in more than one such period.
- (4) Subject to that, if in the case of the company the length of a relevant accounting period is less than one year, the maximum amount of the loss incurred in that period that may be set off under section 393A of ICTA by virtue of this paragraph is the relevant proportion of £50,000.
- (5) “The relevant proportion” is—
- $$\frac{\text{RAP}}{\text{Y}}$$
- where—
- RAP is the number of days in the relevant accounting period, and
- Y is 365.
- (6) The reference in subsection (2C) of section 393A of ICTA to so much of the loss referred to in that subsection not falling within subsection (2B) of that section as does not exceed the amount of the allowance mentioned in subsection (2C)(b) (“the subsection (2C) loss”) has effect in relation to a relevant accounting period as a reference to so much of the subsection (2C) loss as exceeds that which can be set off under section 393A of ICTA by virtue of this paragraph.