

Status: Point in time view as at 11/05/2001. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Income and Corporation Taxes Act 1988, Cross Heading: Relief for losses on unquoted shares in trading companies is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XIII

MISCELLANEOUS SPECIAL PROVISIONS

[^{F1}CHAPTER 5A

SHARE LOSS RELIEF

VALID FROM 06/04/2007

[^{F1}Relief for losses on unquoted shares in trading companies]

Textual Amendments

F1 Pt. 13 Ch. 5A created (6.4.2007 with effect in accordance with s. 1034(1) of the affecting Act) by virtue of [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 117\(3\)](#) (with [Sch. 2](#))

573 Relief for companies.

- (1) ^{M1}Subsection (2) below has effect where a company which has subscribed for shares in a qualifying trading company incurs an allowable loss (for the purpose of corporation tax on chargeable gains) on the disposal of the shares in any accounting period and the company disposing of the shares—
- (a) is an investment company on the date of the disposal and either—
- (i) has been an investment company for a continuous period of six years ending on that date; or
 - (ii) has been an investment company for a shorter continuous period ending on that date and has not before the beginning of that period been a trading company or an excluded company; and

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- (b) was not associated with, or a member of the same group as, the qualifying trading company at any time in the period beginning with the date when it subscribed for the shares and ending with the date of the disposal.
- (2) The company disposing of the shares may, within two years after the end of the accounting period in which the loss was incurred, make a claim requiring that the loss be set off for the purposes of corporation tax against income—
- (a) of that accounting period; and
 - (b) if the company was then an investment company and the claim so requires, of preceding accounting periods ending within the time specified in subsection (3) below;
- and, subject to any relief for an earlier loss, the income of any of those periods shall then be treated as reduced by the amount of the loss or by so much of it as cannot be relieved under this subsection against income of a later accounting period.
- (3) The time referred to in subsection (2) above is the period of 12 months ending immediately before the accounting period in which the loss is incurred; but the amount of the reduction which may be made under that subsection in the income of an accounting period falling partly before that time shall not exceed a part of that income proportionate to the part of the accounting period falling within that time.
- (4) [^{F2}Where relief is claimed under subsection (2) above, it must be claimed before any deduction is made for] charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of any description; and where relief [^{F3}is obtained] under that subsection [^{F4}for an amount] of a loss no deduction shall be made in respect of that amount for the purposes of corporation tax on chargeable gains.
- [^{F5}This subsection is subject to subsection (4A) below.]
- [^{F6}(4A) Paragraph 70 of Schedule 15 to the Finance Act 2000 (priority of loss relief) provides that where relief under Part VII of that Schedule (relief for losses on disposals of shares to which investment relief is attributable) is claimed it must be claimed in priority to relief under subsection (2) above.]
- (5) For the purposes of subsection (1)(b) above companies are associated with each other if one controls the other or both are under the control of the same person or persons; and section 416(2) to (6) shall apply for the purposes of this subsection.
- (6) ^{M2}For the purposes of this section a company subscribes for shares in another company if they are issued to it by that other company in consideration of money or money's worth.

Textual Amendments

- F2** Words in s. 573(4) substituted (with effect in accordance with s. 63(3)(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 16 para. 3(2)(a)(i)**
- F3** Words in s. 573(4) substituted (with effect in accordance with s. 63(3)(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 16 para. 3(2)(a)(ii)**
- F4** Words in s. 573(4) substituted (with effect in accordance with s. 63(3)(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 16 para. 3(2)(a)(iii)**
- F5** Words in s. 573(4) inserted (with effect in accordance with s. 63(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 16 para. 3(2)(a)(iv)**

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F6 S. 573(4A) inserted (with effect in accordance with s. 63(4) of the amending Act) by Finance Act 2000 (c. 17), Sch. 16 para. 3(2)(b)

Modifications etc. (not altering text)

C1 S. 573(2) restricted (with effect in accordance with s. 63(4) of the affecting Act) by Finance Act 2000, Sch. 15 para. 70(2)

Marginal Citations

M1 Source-1981 s.36(1)-(5)

M2 Source-1981 s.36(6); 1980 s.37(3)

575 Exclusion of relief under section 573 or 574 in certain cases.

^{M3}(1) Sections 573 and 574 do not apply unless the disposal is—

- (a) by way of a bargain made at arm's length for full consideration; or
- (b) by way of a distribution in the course of dissolving or winding up the company; or

[^{F7}(ba) a disposal within section 24(1) of the 1992 Act (entire loss, destruction, dissipation or extinction of asset); or]

- (c) a deemed disposal under section [^{F8}24(2) of the 1992 Act] (claim that value of asset has become negligible).

(2) Where a person disposes of shares (“the new shares”) which by virtue of section [^{F9}127 of the 1992 Act] (reorganisation etc. treated as not involving disposal) are identified with other shares (“the old shares”) previously held by him, relief shall not be given under section 573 or 574 on the disposal of the new shares unless—

- (a) relief under section 573 or 574 could (or if this section had been in force could) have been given on a disposal of the old shares if he had incurred an allowable loss in disposing of them as mentioned in subsection (1)(a) above on the occasion of the disposal that would have occurred but for section [^{F9}127 of the 1992 Act]; or
- (b) he gave new consideration for the new shares;

but in a case within paragraph (b) above the amount of relief under section 573 or 574 on the disposal of the new shares shall not exceed the amount or value of the new consideration taken into account as a deduction in computing the loss incurred on their disposal.

(3) Where the shares are the subject of an exchange or arrangement of the kind mentioned in section [^{F10}135 or 136 of the 1992 Act] (company reconstructions etc.) which by reason of section [^{F10}137] of that Act involves a disposal of the shares, section 573 or 574 shall not apply to any allowable loss incurred on the disposal.

Textual Amendments

F7 S. 575(1)(ba) inserted (with effect in accordance with s. 63(3)(4) of the amending Act) by Finance Act 2000 (c. 17), Sch. 16 para. 3(3)

F8 Words in s. 575(1)(c) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation and Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 14(34)(a) (with ss. 60, 101(1), 171, 201(3))

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- F9** Words in s. 575(2) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by **Taxation and Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), Sch. 10 para. 14(34)(b)** (with ss. 60, 101(1), 171, 201(3))
- F10** Words in s. 575(3) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by **Taxation and Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), Sch. 10 para. 14(34)(c)** (with ss. 60, 101(1), 171, 201(3))

Modifications etc. (not altering text)

- C2** Ss. 574-576 applied (with effect in accordance with s. 93(11) of the affecting Act) by **Finance Act 1994 (c. 9), Sch. 12 para. 3(3)**

Marginal Citations

- M3** Source-1980 s.37(6)-(8); 1981 s.36(6)

576 Provisions supplementary to sections 573 to 575.

- (1) [^{F11}Subject to subsections (1A) [^{F12}to (1C)] below,] where a person holds shares in a company which constitute a holding and comprise—
- (a) shares for which he has subscribed (“qualifying shares”); and
 - (b) shares which he has acquired otherwise than by subscription,
- any question whether a disposal by him of shares forming part of the holding is of qualifying shares shall be determined by treating that and any previous disposal by him out of the holding as relating to shares acquired later rather than earlier; and if a disposal by him is of qualifying shares forming part of a holding and he makes a claim under section 573 or 574 in respect of a loss incurred on their disposal, the amount of relief under that section on the disposal shall not exceed the sums that would be allowed as deductions in computing the loss if the shares had not been part of the holding.
- [^{F13}(1A) Subsection (1B) below applies where the holding mentioned in subsection (1) above comprises any of the following, namely—
- (a) shares issued before 1st January 1994 in respect of which relief has been given under Chapter III of Part VII and has not been withdrawn;
 - (b) shares issued on or after that date to which relief under that Chapter is attributable; and
 - (c) shares to which deferral relief (within the meaning of Schedule 5B to the 1992 Act) is attributable.
- (1B) Any such question as is mentioned in subsection (1) above shall not be determined as provided by that subsection, but shall be determined instead—
- (a) in the case of shares issued before 1st January 1994, as provided by subsections (3) to (4C) of section 299 as it has effect in relation to such shares; and
 - (b) in the case of shares issued on or after that date, as provided by subsections (6) to (6D) of that section as it has effect in relation to such shares.]

[^{F14}(1C) Where the holding mentioned in subsection (1) above comprises any shares—

 - (a) to which investment relief is attributable under Schedule 15 to the Finance Act 2000 (corporate venturing scheme), and
 - (b) which have been held continuously (within the meaning of paragraph 97 of that Schedule) from the time they were issued until the disposal,

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any such question as is mentioned in that subsection shall not be determined as provided by that subsection, but shall be determined instead as provided by paragraph 93 of that Schedule (identification of shares on a disposal of part of a holding where investment relief is attributable to any shares in the holding held continuously by the disposing company).

For this purpose paragraph 93 of that Schedule shall have effect as if the references in it to a disposal had the same meaning as in subsection (1) above.]

- (2) Where a claim is made under section 573 or 574 in respect of a loss accruing on the disposal of shares, section [F15]30 of the 1992 Act] (value-shifting) shall have effect in relation to the disposal as if for the references in subsections (1)(b) and [F15](5)] to a tax-free benefit there were substituted references to any benefit whether tax-free or not.
- (3) There shall be made all such adjustments of corporation tax on chargeable gains or capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of relief being given under section 573 or 574 in respect of an allowable loss or in consequence of the whole or part of such a loss in respect of which a claim is made not being relieved under that section.
- [F16](4) For the purposes of sections 573 to 575 and this section a qualifying trading company is a company which F17 . . . —
 - (a) either—
 - (i) is an eligible trading company on the date of the disposal; or
 - (ii) has ceased to be an eligible trading company at a time which is not more than three years before that date and has not since that time been an excluded company, an investment company or a trading company that is not an eligible trading company; and
 - (b) either—
 - (i) has been an eligible trading company for a continuous period of six years ending on that date or at that time; or
 - (ii) has been an eligible trading company for a shorter continuous period ending on that date or at that time and has not before the beginning of that period been an excluded company, an investment company or a trading company that is not an eligible trading company; and
 - (c) has carried on its business wholly or mainly in the United Kingdom throughout the relevant period.
- (4A) A company is an eligible trading company for the purposes of subsection (4) above at any time when, or in any period throughout which, it would comply with the requirements of section 293 if—
 - (a) the provisions mentioned in subsection (4B) below were omitted;
 - [F18](ab) the reference in subsection (1A) of section 293 to the beginning of the relevant period were a reference to the time at which the shares in respect of which relief is claimed under section 573 or 574 were issued;]
 - (b) the references in subsection (6) of section 293 to dissolution were omitted [F19]and after paragraph (a) of that subsection there were inserted— and
 - (b) the company continues, during the winding up, to be a trading company within the meaning of section 576(5).];
 - (c) the reference in section 293(6A) to the eligible shares were a reference to the shares in respect of which relief is claimed under section 573 or 574;

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- (d) any reference in section 293 [F20(except subsection (1A))], 297 or 308 to the relevant period were a reference to the time that is relevant for the purposes of subsection (4)(a) above or, as the case may require, the continuous period that is relevant for the purposes of subsection (4)(b) above;
 - (e) the reference in section 304A(1)(e)(i) to eligible shares were a reference to shares in respect of which relief is claimed under section 573 or 574;
 - (f) references in section 304A(3) to an individual were references to a person;
 - (g) the reference in section 304A(4) to section 304 were a reference to section 574(3)(b); and
 - (h) the reference in section 304A(6) to the expressions “eligible shares” and “subscriber shares” were a reference to the expression “subscriber shares”.
- (4B) The provisions are—
- (a) in section 293, the words “Subject to section 294,” in subsection (1)^{F21}. . . and subsections (8A) and (8B);
 - (b) sections 294 to 296;
 - (c) in section 298(5), the words “and section 312(1A)(b) shall apply to determine the relevant period for the purposes of that section”;
 - (d) in section 304A, subsections (1)(e)(ii) and (2)(b), in subsection (3), the words “to which relief becomes so attributable” and paragraphs (c) and (d), in subsection (4), the words “to which relief becomes so attributable” and paragraphs (c) and (d), and subsection (5); and
 - (e) section 308(5A).]
- (5)^{M4}In sections 573 to 575 and this section—
- “excluded company” means a company—
- (a) which has a trade which consists wholly or mainly of [F22dealing in land, in commodities or futures or in shares, securities or other financial instruments,] or is not carried on on a commercial basis and in such a way that profits in the trade can reasonably be expected to be realised; or
 - (b) which is the holding company of a group other than a trading group; or
 - (c) which is a building society or a registered industrial and provident society as defined in section 486(12);
- “group” means a company which has one or more 51 per cent. subsidiaries together with that or those subsidiaries;
- [F23“holding” means any number of shares of the same class held by one person in one capacity, growing or diminishing as shares of that class are acquired or disposed of, but shares shall not be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange, and subsection (4) of section 104 of the 1992 Act shall apply for the purposes of this definition as it applies for the purposes of subsection (1) of that section;]
- “holding company” means a company whose business consists wholly or mainly in the holding of shares or securities of one or more companies which are its 51 per cent. subsidiaries;
- “investment company” has the meaning given by section 130 except that it does not include the holding company of a trading group;

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“new consideration” means consideration in money or money’s worth other than consideration of the kind excluded by [^{F24}paragraph (a) or (b) of section 128(2)] [^{F25}of the 1992 Act];

“relevant period” means the period ending with the date on which the shares in question are disposed of and beginning with the incorporation of the company, or, if later, one year before the date on which the shares were [^{F26}issued];

[^{F27}“shares”—

- (a) except in subsections (1A) and (1B) above, includes stock; but
- (b) except in the definition of “excluded company”, does not include shares or stock not forming part of a company’s ordinary share capital;]

“spouse” refers to one of two spouses who are living together (construed in accordance with section [^{F28}288(3) of the 1992 Act]);

“trading company” means a company other than an excluded company which is—

- (a) [^{F29}a company whose business consists wholly or mainly of the carrying on of a trade or trades]; or
- (b) the holding company of a trading group;

“trading group” means a group the business of whose members, taken together, consists wholly or mainly in the carrying on of a trade or trades, but for the purposes of this definition any trade carried on by a subsidiary which is an excluded company ^{F30}. . . shall be treated as not constituting a trade.

Textual Amendments

- F11** Words in s. 576(1) inserted (with effect in accordance with s. 80(5)(a) of the amending Act) by Finance Act 1998 (c. 36), s. 80(1)
- F12** Words in s. 576(1) substituted (with application in accordance with s. 63(4) of the amending Act) by Finance Act 2000 (c. 17), Sch. 16 para. 3(4)(a)
- F13** S. 576(1A)(1B) inserted (with effect in accordance with s. 80(5)(a) of the amending Act) by Finance Act 1998 (c. 36), s. 80(2)
- F14** S. 576(1C) inserted (with application in accordance with s. 63(4) of the amending Act) by Finance Act 2000 (c. 17), Sch. 16 para. 3(4)(b)
- F15** Words in s. 576(2) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation and Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), Sch. 10 para. 14(35)(a) (with ss. 60, 101(1), 171, 201(3))
- F16** S. 576(4)-(4B) substituted for s. 576(4) (with effect in accordance with s. 80(5)(b) of the amending Act) by Finance Act 1998 (c. 36), s. 80(3)
- F17** Words in s. 576(4) repealed (with effect in accordance with Sch. 15 para. 38(5)(6) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 15 para. 38(2), Sch. 33 Pt. 2(3), Note 3
- F18** S. 576(4A)(ab) inserted (with effect in accordance with Sch. 15 para. 38(5)(6) of the amending Act) by Finance Act 2001 (c. 9), Sch. 15 para. 38(3)(a)
- F19** Words in s. 576(4A)(b) substituted (with effect in accordance with Sch. 15 para. 38(4) of the amending Act) by Finance Act 2001 (c. 9), Sch. 15 para. 38(3)(b)
- F20** Words in s. 576(4A)(d) inserted (with effect in accordance with Sch. 15 para. 38(5)(6) of the amending Act) by Finance Act 2001 (c. 9), Sch. 15 para. 38(3)(c)
- F21** Words in s. 576(4B)(a) repealed (with effect in accordance with Sch. 15 para. 38(5)(6) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 33 Pt. 2(3), Note 3
- F22** Words in s. 576(5) substituted (with effect in accordance with s. 80(5)(b) of the amending Act) by Finance Act 1998 (c. 36), s. 80(4)(a)

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- F23** Definition in s. 576(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290(1), **Sch. 10 para. 14(35)(b)(i)** (with ss. 60, 101(1), 171, 201(3))
- F24** Words in s. 576(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290(1), **Sch. 10 para. 14(35)(b)(ii)** (with ss. 60, 101(1), 171, 201(3))
- F25** Words in s. 576(5) inserted (retrospectively) by [Finance Act 1994 \(c. 9\)](#), **Sch. 17 para. 6**
- F26** Word in s. 576(5) substituted (with effect in accordance with s. 80(5)(b) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **s. 80(4)(b)**
- F27** S. 576(5): definition of "shares" substituted (with effect in accordance with s. 80(5)(b) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **s. 80(4)(c)**
- F28** Words in s. 576(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290(1), **Sch. 10 para. 14(35)(b)(iii)** (with ss. 60, 101(1), 171, 201(3))
- F29** 1989 s.107 and Sch.12 para.14 in relation to disposals made after 31 March 1989. Previously “(a) a trading company within the meaning of paragraph 7 of Schedule 19”.
- F30** Words in s. 576(5) repealed (with effect in accordance with s. 80(5)(b), Sch. 27 Pt. 3(16) Note of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), s. 80(4)(d), **Sch. 27 Pt. 3(16)**

Modifications etc. (not altering text)

- C3** Ss. 574-576 applied (with effect in accordance with s. 93(11) of the affecting Act) by [Finance Act 1994 \(c. 9\)](#), **Sch. 12 para. 3(3)**

Marginal Citations

- M4** Source-1980 s.37(12); 1981 s.36(6), (7); 1987 (No.2) s.71

^{F31} 576A Qualifying trading companies

- (1) For the purposes of this Chapter a qualifying trading company is a company which meets each of conditions A to D.
- (2) Condition A is that the company either—
 - (a) meets each of the following requirements on the date of the disposal—
 - (i) the trading requirement (see section 576B),
 - (ii) the control and independence requirement (see section 576D),
 - (iii) the qualifying subsidiaries requirement (see section 576E), and
 - (iv) the property managing subsidiaries requirement (see section 576F),
 or
 - (b) has ceased to meet any of those requirements at a time which is not more than 3 years before that date and has not since that time been an excluded company, an investment company or a trading company.
- (3) Condition B is that the company either—
 - (a) has met each of the requirements mentioned in condition A for a continuous period of 6 years ending on that date or at that time, or
 - (b) has met each of those requirements for a shorter continuous period ending on that date or at that time and has not before the beginning of that period been an excluded company, an investment company or a trading company.
- (4) Condition C is that the company—

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- (a) met the gross assets requirement (see section 576G) both immediately before and immediately after the issue of the shares in respect of which the relief is claimed under this Chapter, and
 - (b) met the unquoted status requirement (see section 576H) at the relevant time within the meaning of that section.
- (5) Condition D is that the company has carried on its business wholly or mainly in the United Kingdom throughout the period—
- (a) beginning with the incorporation of the company or, if later, 12 months before the shares in question were issued, and
 - (b) ending with the date of the disposal.]

Textual Amendments

- F31** S. 576A inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 121** (with Sch. 2)

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Changes to legislation:

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