



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### [<sup>F1</sup>PART 7A

#### BANKING COMPANIES]

### [<sup>F1</sup>CHAPTER 4

#### SURCHARGE ON BANKING COMPANIES

##### *Non-banking or pre-2016 loss relief*

#### [<sup>F1</sup>269DC] Meaning of “non-banking or pre-2016 loss relief”

- (1) In section 269DA(2), “non-banking or pre-2016 loss relief” means the aggregate of—
- (a) any amounts that are deducted in determining the taxable total profits of the company of the chargeable accounting period, in respect of—
    - (i) a non-banking or pre-2016 carried-forward trading loss,
    - (ii) a non-banking or pre-2016 carried-forward non-trading deficit,
    - (iii) non-banking or pre-2016 carried-forward management expenses,
    - (iv) a non-banking or pre-2016 carried-forward UK property loss,
    - (v) a non-banking or pre-2016 carried-forward overseas property loss,
    - (vi) a non-banking or pre-2016 carried-forward excess capital allowance on special leasing,
    - (vii) a non-banking or pre-2016 carried-forward miscellaneous loss, or
    - (viii) a non-banking or pre-2016 carried-forward capital loss, and
  - (b) any used amount, for the chargeable accounting period, in respect of a non-banking or pre-2016 non-trading loss on intangible fixed assets.
- (2) For the purposes of this section—
- (a) a “non-banking” accounting period is an accounting period in relation to which the company was not a banking company, and

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- (b) a “pre-2016” accounting period is an accounting period of the company ending before 1 January 2016.
- (3) “A non-banking or pre-2016 carried-forward trading loss” means a loss which—
  - (a) was made in a trade of the company in a non-banking or pre-2016 accounting period, and
  - (b) is carried forward to the chargeable accounting period under section 45<sup>F2</sup>, 45A or 45B] (carry forward of trade loss against subsequent <sup>F3</sup>... profits).
- (4) “A non-banking or pre-2016 carried-forward non-trading deficit” means a non-trading deficit—
  - (a) which the company had from its loan relationships under section 301(6) of CTA 2009 for a non-banking or pre-2016 accounting period, and
  - (b) which is carried forward under section 457 [<sup>F4</sup>, 463G or 463H] of that Act (carry forward of deficits to accounting periods after deficit period) to be set off against <sup>F5</sup>... profits of the chargeable accounting period.
- <sup>F6</sup>(5) .....
- (6) “Non-banking or pre-2016 management expenses” means amounts that fall within subsection (7) or (8).
- (7) The amounts within this subsection are amounts—
  - (a) which fall within subsection (2) of section 1223 of CTA 2009 (carry forward of expenses of management and other amounts),
  - (b) which—
    - (i) for the purposes of Chapter 2 of Part 16 of CTA 2009 are referable to a non-banking or pre-2016 accounting period, or
    - (ii) in the case of qualifying charitable donations, were made in such an accounting period, and
  - (c) which are treated by section 1223(3) of CTA 2009 as expenses of management deductible for the chargeable accounting period.
- (8) The amounts within this subsection are amounts of loss which—
  - (a) were made in a non-banking or pre-2016 accounting period, and
  - (b) are treated by section 63(3) (carry forward of certain losses made by company with investment business which ceases to carry on UK property business) as expenses of management deductible for the chargeable accounting period for the purposes of Chapter 2 of Part 16 of CTA 2009.
- (9) “A non-banking or pre-2016 carried-forward UK property loss” means a loss which—
  - (a) was made by the company in a UK property business in a non-banking or pre-2016 accounting period, and
  - (b) is carried forward to the chargeable accounting period under section 62(5) (carry forward of UK property business loss to be treated as loss of subsequent accounting period).
- (10) “A non-banking or pre-2016 carried-forward overseas property loss” means a loss which—
  - (a) was made by the company in an overseas property business in a non-banking or pre-2016 accounting period, and

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- (b) is carried forward to the chargeable accounting period under section 66(3) (carry forward of overseas property business loss against subsequent losses of that kind).
- (11) “A non-banking or pre-2016 carried-forward excess capital allowance on special leasing” means an amount of capital allowance—
- (a) to which the company was entitled for a non-banking or pre-2016 accounting period, and
  - (b) which must be deducted under section 260 of CAA 2001 (special leasing: corporation tax, excess allowance) from income of the company for the chargeable accounting period.
- (12) “A non-banking or pre-2016 carried-forward miscellaneous loss” means a loss which—
- (a) was made by the company in a transaction within subsection (2) of section 91 (relief for losses from miscellaneous transactions) in a non-banking or pre-2016 accounting period, and
  - (b) is carried forward to the chargeable accounting period under subsection (6) of that section (carry forward of miscellaneous losses against miscellaneous income).
- (13) “A non-banking or pre-2016 carried-forward capital loss” means an allowable loss which—
- (a) accrued to the company in a non-banking or pre-2016 accounting period <sup>F7</sup>..., and
  - (b) is to be deducted under section [<sup>F8</sup>2A(1)(b)] of TCGA 1992 (deduction of allowable losses from previous accounting periods) from the total amount of chargeable gains accruing to the company in the chargeable accounting period.
- <sup>F9</sup>(14) .....
- <sup>F10</sup>(15) .....
- (16) The company has “a non-banking or pre-2016 non-trading loss on intangible fixed assets” if it had a non-trading loss under section 751 of CTA 2009 (non-trading gains and losses) on intangible fixed assets in the relevant accounting period.
- (17) The “relevant accounting period” is—
- (a) if in relation to any accounting period beginning on or after 1 January 2016 the company was not a banking company, its most recent non-banking accounting period, and
  - (b) in any other case, the company's last pre-2016 accounting period (if any).
- (18) If all or part of the non-banking or pre-2016 non-trading loss on intangible fixed assets is carried forward as a non-trading debit to the accounting period following the relevant accounting period under section 753(3) of CTA 2009 (“the initially carried-forward debit”), there is a “used amount”, for the chargeable accounting period, in respect of that loss if—
- (a) the initially carried-forward debit exceeds the aggregate of any used amounts, for any previous chargeable accounting periods, in respect of that loss, and
  - (b) there are any non-trading credits for the chargeable accounting period or a non-trading loss on intangible fixed assets is to be set off against the company's total profits for that period under section 753(1) of that Act.

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- (19) If there is a used amount for the chargeable accounting period in respect of the non-banking or pre-2016 non-trading loss on intangible fixed assets it is to be calculated in accordance with subsections (20) and (21).
- (20) If the remaining carried-forward debit for the chargeable accounting period (see subsection (22)) does not exceed the aggregate of—
- (a) any non-trading credits for that period, and
  - (b) any amount of non-trading loss on intangible fixed assets that is to be set off against the profits of the company for that period under section 753(1) of CTA 2009,
- the used amount, for that period, in respect of the non-banking or pre-2016 non-trading loss on intangible fixed assets is equal to the remaining carried-forward debit for that period.
- (21) If the remaining carried-forward debit for the chargeable accounting period exceeds the aggregate of any amounts within paragraph (a) or (b) of subsection (20), the used amount, for that period, in respect of the non-banking or pre-2016 non-trading loss on intangible fixed assets is equal to the aggregate of those amounts.
- (22) In subsections (18) to (21)—
- “non-trading credit” means a non-trading credit in respect of intangible fixed assets for the purposes of Part 8 of CTA 2009;
- “the remaining carried-forward debit”, in relation to the chargeable accounting period, means the amount of the excess referred to in subsection (18)(a).]

#### Textual Amendments

- F1** Pt. 7A Ch. 4 inserted (with effect in accordance with Sch. 3 Pt. 3 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 3 para. 1](#)
- F2** Words in s. 269DC(3)(b) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 4 para. 163\(2\)\(a\)](#)
- F3** Word in s. 269DC(3)(b) omitted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 4 para. 163\(2\)\(b\)](#)
- F4** Words in s. 269DC(4)(b) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 4 para. 163\(3\)\(a\)](#)
- F5** Words in s. 269DC(4)(b) omitted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 4 para. 163\(3\)\(b\)](#)
- F6** S. 269DC(5) omitted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 4 para. 163\(4\)](#)
- F7** Words in s. 269DC(13)(a) omitted (with effect in accordance with s. 33(6) of the amending Act) by virtue of [Finance Act 2020 \(c. 14\), s. 33\(4\)\(a\)\(i\)](#)
- F8** Word in s. 269DC(13)(b) substituted (with effect in accordance with s. 33(6) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 33\(4\)\(a\)\(ii\)](#)
- F9** S. 269DC(14) omitted (with effect in accordance with s. 33(6) of the amending Act) by virtue of [Finance Act 2020 \(c. 14\), s. 33\(4\)\(b\)](#)
- F10** S. 269DC(15) omitted (with effect in accordance with s. 33(6) of the amending Act) by virtue of [Finance Act 2020 \(c. 14\), s. 33\(4\)\(b\)](#)

**Changes to legislation:**

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