
Changes to legislation: Finance Act 2016, Cross Heading: *Value of counteracted advantage: losses for purposes of direct tax* is up to date with all changes known to be in force on or before 06 August 2023. 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) [View outstanding changes](#)

SCHEDULES

SCHEDULE 18

SERIAL TAX AVOIDANCE

Modifications etc. (not altering text)

- C1** Sch. 18 modified (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by 1994 c. 23, Sch. 9ZA para. 79 (as inserted by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 2](#) (with s. 3(4), [Sch. 2 para. 7\(7\)-\(10\)](#)); S.I. 2020/1642, reg. 9)

PART 5

PENALTY

Value of counteracted advantage: losses for purposes of direct tax

- 33 (1) This paragraph has effect in relation to relevant defeats incurred by virtue of Condition A, B or C.
- (2) To the extent that the counteracted advantage (see paragraph 35) has the result that a loss is wrongly recorded for the purposes of direct tax and the loss has been wholly used to reduce the amount due or payable in respect of tax, the value of the counteracted advantage is determined in accordance with paragraph 32.
- (3) To the extent that the counteracted advantage has the result that a loss is wrongly recorded for purposes of direct tax and the loss has not been wholly used to reduce the amount due or payable in respect of tax, the value of the counteracted advantage is—
- (a) the value under paragraph 32 of so much of the counteracted advantage as results from the part (if any) of the loss which is used to reduce the amount due or payable in respect of tax, plus
 - (b) 10% of the part of the loss not so used.
- (4) Sub-paragraphs (2) and (3) apply both—
- (a) to a case where no loss would have been recorded but for the counteracted advantage, and
 - (b) to a case where a loss of a different amount would have been recorded (but in that case sub-paragraphs (2) and (3) apply only to the difference between the amount recorded and the true amount).
- (5) To the extent that a counteracted advantage creates or increases an aggregate loss recorded for a group of companies—
- (a) the value of the counteracted advantage is calculated in accordance with this paragraph, and

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- (b) in applying paragraph 32 in accordance with sub-paragraphs (2) and (3), group relief may be taken into account (despite paragraph 32(3)).
- (6) To the extent that the counteracted advantage results in a loss, the value of it is nil where, because of the nature of the loss or the person's circumstances, there is no reasonable prospect of the loss being used to support a claim to reduce a tax liability (of any person).

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)