

130 Treating loss in employment or office as CGT loss

A person who cannot deduct all of a loss in an employment or office under a claim for employment loss relief against general income may be able to treat the unused part as an allowable loss for capital gains tax purposes: see sections 261B and 261C of TCGA 1992.

CHAPTER 6

LOSSES ON DISPOSAL OF SHARES

Share loss relief against general income

131 Share loss relief

- (1) An individual is eligible for relief under this Chapter (“share loss relief”) if—
 - (a) the individual incurs an allowable loss for capital gains tax purposes on the disposal of any shares in any tax year (“the year of the loss”), and
 - (b) the shares are qualifying shares.This is subject to subsections (3) and (4) and section 136(2).
- (2) Shares are qualifying shares for the purposes of this Chapter if—
 - (a) EIS relief is attributable to them, or
 - (b) if EIS relief is not attributable to them, they are shares in a qualifying trading company which have been subscribed for by the individual.
- (3) Subsection (1) applies only if the disposal of the shares is—
 - (a) by way of a bargain made at arm’s length,
 - (b) by way of a distribution in the course of dissolving or winding up the company,
 - (c) a disposal within section 24(1) of TCGA 1992 (entire loss, destruction dissipation or extinction of asset), or
 - (d) a deemed disposal under section 24(2) of that Act (claim that value of the asset has become negligible).
- (4) Subsection (1) does not apply to any allowable loss incurred on the disposal if—
 - (a) the shares are the subject of an exchange or arrangement of the kind mentioned in section 135 or 136 of TCGA 1992 (company reconstructions etc), and
 - (b) because of section 137 of that Act, the exchange or arrangement involves a disposal of the shares.

132 Entitlement to claim

- (1) An individual who is eligible for share loss relief may make a claim for the loss to be deducted in calculating the individual’s net income—
 - (a) for the year of the loss,
 - (b) for the previous tax year, or
 - (c) for both tax years.(See Step 2 of the calculation in section 23.)

- (2) If the claim is made in relation to both tax years, the claim must specify the year for which a deduction is to be made first.
- (3) Otherwise the claim must specify either the year of the loss or the previous tax year.
- (4) The claim must be made on or before the first anniversary of the normal self-assessment filing date for the year of the loss.

133 How relief works

- (1) This subsection explains how the deductions are to be made.
 The amount of the loss to be deducted at any step is limited in accordance with section 25(4) and (5).

Step 1

Deduct the loss in calculating the individual's net income for the specified tax year.

Step 2

This step applies only if the claim is made in relation to both tax years.
 Deduct the part of the loss not deducted at Step 1 in calculating the individual's net income for the other tax year.

- (2) Subsection (1) is subject to sections 136(5) and 147 (which set limits on the amounts of share loss relief that may be obtained in particular cases).
- (3) If an individual—
 - (a) makes a claim for share loss relief against income (“the first claim”) in relation to the year of the loss, and
 - (b) makes a separate claim for share loss relief against income in respect of a loss made in the following tax year in relation to the same tax year as the first claim,
 priority is to be given to making deductions under the first claim.
- (4) Any share loss relief claimed in respect of any income has priority over any relief claimed in respect of that income under section 64 (deduction of losses from general income) or 72 (early trade losses relief).
- (5) A claim for share loss relief does not affect any claim for a deduction under TCGA 1992 for so much of the allowable loss as is not deducted under subsection (1).

Shares to which EIS relief is not attributable

134 Qualifying trading companies

- (1) In relation to shares to which EIS relief is not attributable (see section 131(2)(b)), 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 137),
 - (ii) the control and independence requirement (see section 139),