

Restriction of certain losses. CTA76 s16A; FA92 s46(1)(c) 455.—(1) (a) In this section—

“trade”, “income from the sale of goods” and “the sale of goods and merchandise” have the same meanings respectively as in section 454;

“a loss from the sale of goods” in the course of a trade in an accounting period shall be such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 448 (4), “the company’s income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise” for the purposes of section 448 (3) were the amount of so much of the loss, computed as for the purposes of section 396 (2), from the trade in the period as appears to the inspector or on appeal to the Appeal Commissioners to be referable to a loss incurred in the sale of goods and merchandise, but a loss such as is mentioned in section 407 (4)(b) shall not be a loss from the sale of goods.

(b) Section 454 (1)(b) shall apply for the purposes of this section as it applies for the purposes of section 454.

(2) Notwithstanding section 396 (2) but subject to subsections (6) and (7), for the purposes of that section the amount of a loss in a trade incurred by a company in an accounting period shall be deemed to be reduced by the amount of a loss from the sale of goods, if any, incurred in the trade by the company in the accounting period.

(3) Subject to subsections (6) and (7), where in an accounting period a company carrying on a trade incurs a loss from the sale of goods, the company may make a claim requiring that the loss be set off for the purposes of corporation tax against its income from the sale of goods—

(a) of that accounting period, and

(b) if it was then carrying on the trade and if the claim so requires, of preceding accounting periods ending within the time specified in subsection (4),

and, subject to any relief for an earlier loss, to the extent that the trading income of any of those accounting periods consists of or includes income from the sale of goods, that trading income shall then be reduced by so much of the loss as cannot be relieved against trading income of a later accounting period.

(4) For the purposes of subsection (3), the time referred to in paragraph (b) of that subsection shall be the time immediately preceding the accounting period first-mentioned in subsection (3) equal in length to that accounting period; but the amount of the reduction which may be made under subsection (3) in the trading income of an accounting period falling partly before that time shall not exceed such part of the income from the sale of goods included in that trading income as bears to the income from the sale of goods the same proportion as the part of the accounting period falling within that time bears to the whole of that accounting period.

(5) (a) In section 448 (3) and for the purposes of determining “the amount” in the expression “the amount of the company's income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise”, it shall be determined in accordance with section 448 (4) as if no relief for a loss in a trade had been claimed under this section.

(b) Notwithstanding section 448 (3), for the purposes of determining “the income” in the expression “the income from the sale of those goods” in an accounting period for the purposes of section 448 (2), it shall be the sum determined by section 448 (3) for that period reduced by any relief for a loss in a trade allowed under this section against income of the trade mentioned in section 448 (2) in that period.

(6) This section shall not apply to so much of a company's loss from the sale of goods in the course of a trade in an accounting period as does not exceed the amount of the capital allowances under Part 9 or Chapter 1 of Part 29 which are to be made for the accounting period in taxing the trade, and for the purposes of this subsection no account shall be taken of capital allowances other than capital allowances in respect of machinery or plant or an industrial building or structure—

(a) provided for the purposes of a project approved within the period of 2 years ending on the 31st day of December, 1988, by the Industrial Development Authority,

(b) the expenditure on the provision of which was incurred on or before the 31st day of March, 1995, and

(c) more than 50 per cent of the expenditure on the provision of which was incurred, or was the subject of a binding contract entered into, before the 1st day of April, 1992.

(7) This section shall not apply to so much of a company's loss from the sale of goods in the course of a trade in an accounting period as does not exceed the amount of the capital allowances under section 323 (2) deducted by the company in computing the loss which the company has incurred in that period in carrying on trading operations specified in a certificate given to it, and not subsequently revoked, by the Minister for Finance under section 446.