

Set-off of losses, etc. against franked investment income. CTA76 s25(1) to (7); FA86 s55(1)(a); FA92 s49(1) 157.—(1) Where in any accounting period a company receives franked investment income, the company may on making a claim for the purpose require that the franked investment income or part of the franked investment income shall for all or any of the purposes mentioned in subsection (2) be treated as if it were a like amount of profits chargeable to corporation tax and, subject to subsections (4) and (5), the company shall be entitled to have paid to it the value of the tax credit comprised in the income or in the part of the income so treated.

(2) The purposes for which a claim may be made under subsection (1) shall be—

- (a) the deduction of charges on income under section 243;
- (b) the setting of certain capital allowances against total profits under section 308 (4);
- (c) the setting of trading losses against total profits under section 396 (2).

(3) Where a company makes a claim under this section for any accounting period, the reduction to be made in profits of that accounting period shall be made as far as may be in profits chargeable to corporation tax rather than in the amount treated as profits so chargeable under this section.

(4) Where a claim under this section relates to section 308 (4) or 396 (2) and an accounting period of the company falls partly before and partly within the time mentioned in section 308 (4) or 396 (2), as the case may be, then—

(a) the restriction imposed by section 308 (4) or 396 (3) on the amount of the relief shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as profits of the accounting period under this section; but

(b) relief under this section shall be given only against a part of the amount so treated proportionate to the part of the accounting period falling within the time mentioned in section 308 (4) or 396 (2), as the case may be.

(5) (a) Subject to paragraph (b), where a company has obtained payment of a tax credit on a claim under this section or under section 83 (5) and apart from such a claim any amount could be set off against or deducted from profits of a subsequent accounting period, the company may claim that the amount shall be so set off or deducted; but in that case, to the extent to which the amount was used to obtain payment of a tax credit, such tax credit shall be recoverable from the company by an assessment on it to income tax under Case IV of Schedule D for the year of assessment in which the subsequent accounting period ends on an amount the income tax on which at the standard rate for that year of assessment is equal to the amount of such tax credit.

(b) Relief under this subsection shall not be given against the profits of an accounting period if such relief could be given against the profits of an earlier accounting period.

(6) Where a company makes a claim under subsection (5) in respect of an accounting period, any income tax payable by virtue of that subsection shall, for the purposes of the charge, assessment, collection and recovery from the company of that tax and of any interest or penalties on that tax, be treated and described as corporation tax payable by that company for that accounting period, notwithstanding that for the other purposes of the Tax Acts it is income tax.

(7) The time limits for claims under this section shall be—

(a) if and in so far as the purpose for which the claim is made is the deduction of charges on income under section 243 or the setting of capital allowances against total profits under section 308 (4), 2 years from the end of the accounting period in which the charges were paid or the capital allowances were to be made;

(b) if and in so far as the purpose for which the claim is made is the setting of trading losses against total profits under section 396 (2), 2 years from the end of the accounting period in which the trading loss is incurred;

(c) if the claim is a claim under subsection (5), 2 years from the end of the accounting period in respect of which the claim is made.

(8) Any amount on which by virtue of this section income tax is charged on a company by an assessment under Case IV of Schedule D shall not be regarded as income of the company for any purpose of the Tax Acts.