

Amount of assessment made under section 238 to be allowed as a loss for certain purposes. ITA67 s316; FA96 s132(1) and Sch5 Ptl par 1(17); FA97 s29(3), (5) and (6) 390.—(1) Subject to this section, where a person has been assessed to income tax for a year of assessment under section 238 in respect of a payment made wholly and exclusively for the purposes of a trade or profession, the amount on which income tax has been paid under that assessment shall for the purposes of sections 382 and 385 to 389 be treated as if it were a loss sustained in that trade or profession and relief in respect of such loss shall be allowed accordingly; but no relief shall be allowed under this section in respect of any such payment or any part of such payment which is not ultimately borne by the person assessed or which is charged to capital.

(2) (a) This subsection shall apply to expenditure incurred for the purposes of a trade or profession which is set up and commenced on or after the 22nd day of January, 1997.

(b) Where an individual who has set up and commenced a trade or profession has been assessed to tax for any year of assessment under section 238 in respect of a payment made—

(i) before the time the trade or profession has been set up and commenced, and

(ii) wholly and exclusively for the purposes of the trade or profession,

then, this section shall apply in relation to the payment as it would apply if the payment were made at that time.

(c) An allowance or deduction shall not be made under any provision of the Tax Acts, other than this section, in respect of any expenditure or payment which is treated under this section as incurred on the day on which a trade or profession is set up and commenced.

(3) This section shall not apply to any sum assessed under section 238 by virtue of section 246 (2), 757 or 1041 (1).