

Set-off of loss brought forward or terminal loss against franked investment income in the case of financial concerns. CTA76 s26; FA83 s51; FA86 s55(1)(a) and (b); FA92 s49(2) 158.—(1) Where in any accounting period a company receives franked investment income, the company, instead of or in addition to making a claim under section 157, may on making a claim for that purpose require that the franked investment income shall be taken into account for relief under section 396 (1) or 397 up to the amount of such income received in the accounting period which, if chargeable to corporation tax, would have been so taken into account by virtue of section 396 (6), and (subject to the restriction to the amount of franked investment income) subsections (2) to (7) shall apply where the company makes a claim under this section for any accounting period.

(2) For the purposes of the claim, the amount to which the claim relates shall be treated as trading income of the accounting period.

(3) (a) The reduction to be made in trading income of an accounting period shall be made as far as may be in trading income chargeable to corporation tax rather than in the amount treated as trading income so chargeable under this section.

(b) Where the claim is made under section 397, the loss in the trade shall be set primarily against income chargeable to corporation tax (exclusive of income so treated as chargeable by this section) for the accounting periods referred to in section 397 (1), and the set-off of the loss against franked investment income provided for by this section shall apply to the balance only of such loss which has not been set off under section 397 (1) and the set-off against franked investment income of such balance of the loss as is referred to above shall be effected in a later rather than an earlier accounting period falling within the 3 years mentioned in section 397 (1).

(4) Where a company has obtained payment to it of a tax credit by virtue of this section on a claim under section 396 (1) and apart from such a claim a loss could be set off against or deducted from profits of a subsequent accounting period, the company may claim that the loss shall be so set off or deducted; but in that case, to the extent to which the loss was used to obtain payment of a tax credit, such tax credit shall be recovered 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, and the time limit for a claim under this subsection shall be 2 years from the end of the subsequent accounting period.

(5) Where a company makes a claim under subsection (4) 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.

(6) Where the claim relates to section 397 and an accounting period of the company falls partly outside the 3 years mentioned in subsection (1) of that section—

(a) the restriction imposed by subsection (2) of that section on the amount of the reduction that may be

made in the trading income of that period 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 trading income of the period by virtue of 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 3 years in question.

(7) 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.