HMRC - OT26098 - Pools Of Qualifying E&A Losses And Non Qualifying Losses

ICTA88\Sch19B\para 19, ICTA88\Sch19B\para 20 & ICTA88\Sch19B\para 21

A company’s ring fence trade losses may consist of two elements - qualifying E&A losses, and losses arising from other expenditure. These are kept in separated pools to determine which losses are set against which profits where losses are carried back under ICTA88\S393A, or forwards under ICTA88\S393. The scheme aims to ensure that losses which do not qualify for EES are set against profits before any losses that qualify for EES. This maximises the potential claim for EES.

A company is deemed to have two continuous pools

the qualifying pool (ICTA88\Sch19B\para 21(1)) contains qualifying E&A losses plus any EES claimed and allowed

the non-qualifying pool (ICTA88\Sch19B\para 20(1)) contains any ring fence losses arising in periods prior to 1 January 2004 brought forward under ICTA88\S393 to later periods, plus losses arising from 1 January 2004 to 31 December 2005 from expenditure that is not qualifying E&A expenditure.

A pool remains even if it contains a nil amount, but the amount in a pool cannot be reduced below nil.

Transition to RFES

With the introduction of RFES, effective from 1 January 2006, the amounts remaining in the pools are re-designated - see OT26170.

The amount in the qualifying pool becomes the ‘carried forward qualifying Schedule 19B amount’ and is included in the RFES ‘ring fence pool’. The ring fence pool is the amount on which post-commencement RFES is calculated.

The amount in the non-qualifying pool is called the ‘carried forward non-qualifying Schedule 19B amount’ and forms the RFES ‘non-qualifying pool’. As with EES, RFES cannot be claimed on amounts in that non-qualifying pool. The ring fence pool is the amount on which post-commencement RFES is calculated.

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