



HM Revenue
& Customs

Company Losses Toolkit

2016-17 Company Tax Returns

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Introduction

Tax agents and advisers play an important role in helping their clients to get their tax returns correct. This toolkit is aimed at helping and supporting tax agents and advisers by providing guidance on the errors we find commonly occur in relation to company losses. It may also be helpful to anyone who is completing a Company Tax Return.

This version of the Toolkit was published in May 2017 and is applicable for financial year commencing 1 April 2016 for Company Tax Returns. Its use is entirely voluntary.

There will be substantial changes to the use of losses which will apply from 1 April 2017 due to new legislation being brought in from that date. These changes are not shown in this year's toolkit as they are not relevant to 2016-17, however for future years the use of losses will be different to the treatment contained here.

The content of this toolkit is based on our view of how tax law should be applied. Its application to specific cases will depend on the law at the relevant time and on the precise facts.

For further information on using this toolkit and reasonable care under our penalty system see [Toolkits to help reduce errors - essential information](#).

For guidance on matters not dealt with in this toolkit you should refer to our [Company Taxation Manual \(CTM\)](#).

Areas of risk within company losses

Areas of risk relating to company losses fall broadly into the following categories:

Record keeping

Good record keeping is essential as poorly kept records can mean that information used in drawing up accounts, computations and subsequent claims may not be accurate. This may result in non-allowable expenditure being incorrectly claimed or calculated. Conversely justifiable business expenditure may not be claimed, or may be quantified inaccurately, so that the availability of losses for relief may be reduced or overlooked altogether.

Keeping accurate records of the losses brought forward from previous accounting periods will also help to ensure that any relief claimed in subsequent periods is correct.

Availability and use of losses

Although all company profits will be subject to Corporation Tax the manner in which each allowable loss can be relieved varies according to the nature of the loss involved, for example trade loss, property business loss, capital loss etc. Each type of loss has its own requirements and order of set off in relation to other losses and claims.

Trade losses

Trade losses are computed in the same way as trade profits. Accounts drawn up in accordance with generally accepted accounting practice form the starting point for the computation of taxable profits/losses. Thereafter adjustments to those profits/ losses may then be required in order to conform to tax law. For example adjustments are normally required for expenditure that is capital or not incurred wholly and exclusively for business purposes.

Basic requirements for a trade loss to be set off against other income sources include:

- being within the charge to Corporation Tax
- the trade must be carried on a commercial basis and with a view to the realisation of profit
- at least some of the trade must be carried out within the UK

A company not resident in the UK but trading in the UK through a permanent establishment may only get relief for losses attributed to that permanent establishment.

Loan relationships

The statutory definition of a loan relationship is at **S302 Corporation Tax Act 2009** and applies where a company stands in the position of a creditor or debtor as respects any 'money debt', and the debt arises from a transaction for the 'lending of money'. Both these conditions must be present for there to be a loan relationship - see **Corporate Finance Manual (CFM) CFM31010+**.

A company will have a non-trading loan relationship if it is not a party to that loan relationship for the purposes of its trade. Any credits and debits that are not brought into account as trading income and expenses are termed 'non-trading' profits and deficits. Non-trading credits and debits from non-trade loan relationships are aggregated to arrive at the amount to be brought into account. Where this results in a deficit that deficit can only be relieved in accordance with specific rules - see **CFM32030+**.

Management expenses in companies with investment business

Companies with investment business, defined in legislation as 'any company whose business consists wholly or partly in the making of investments', qualify for relief for management expenses incurred in managing their investment business. The relief is mandatory and must be set off in the correct order. Whether expenses constitute management expenses for Corporation Tax purposes and the identification of the consequent allowable relief can be complex. For further guidance see **CTM08000+**.

Property business losses

Corporation Tax relief is given differently for the losses of a UK property business and losses of an overseas property business, and also for losses of any part of those businesses which constitutes a UK furnished holiday lettings business or an EEA furnished holiday lettings business respectively. However for either business, any property business losses cannot be carried back to an earlier accounting period than that in which they arose. See **Property Income Manual (PIM) PIM4230**.

Group Relief

Companies can transfer losses and certain other deficits to companies within the same group relationship by means of Group or Consortium Relief.

It is essential to ensure that companies attempting to either surrender losses for Group Relief or claim Group Relief meet the required conditions.

For Group Relief purposes companies have a group relationship when either of the following conditions is met:

- one company is a 75 per cent subsidiary of the other
- both are 75 per cent subsidiaries of a third company. For groups of companies the Group Relief position for any losses surrendered or claimed should be reconciled and each group member must set out the details of all claims and surrenders within the appropriate section of the Company Tax Return. For further guidance on general Group Relief claims see **CTM97000+**

Simplified arrangements for the authorisation of Group Relief across a group, which can assist in reducing the amount of documentation required, can be arranged. For further guidance on the simplified arrangements see **CTM97600+**.

For further guidance on Group Relief see **CTM80100+** and Consortium Relief see **CTM80502+**.

Using links within this document

[Blue underlined text](#) are links within this document.

Green bold text are hyperlinks to external documents on the internet (access to the internet is necessary to view these).

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Dealing with HMRC if you have additional needs

Giving HMRC feedback on Toolkits

HMRC would like to hear about your experience of using the toolkits to help develop and prioritise future changes and improvements. HMRC is also interested in your views of any recent interactions you may have had with the department.

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Client Name:

Period Ended:

Checklist for company losses

Availability and use of losses

Yes No N/A N/K

- 1 Has the [profit or loss](#) from each income source been separately computed?

- 2 Have any losses arising in the accounting period been [set off against other profits](#) of the same period in the correct order?

- 3 Have [trade losses brought forward](#) only been set against profits of the same trade?

- 4 Where [trade losses are carried back](#) to an earlier accounting period have they first been set against other profits in the loss-making period?

- 5 Where losses are incurred in the final twelve months of trading has the [Terminal Loss Relief](#) claim been calculated and utilised correctly?

Loan relationships

- 6 Has any [non-trade loan relationships deficit](#) been utilised correctly?

Loan relationships continued

- 7 If an election has been made to treat a [non-trade deficit](#) arising from pre-trading activity as a trading expense have the necessary conditions been met?

- 8 Where there [are connected parties](#) in a loan relationship has relief for impairment losses been restricted appropriately?

Other non-trade losses

- 9 If the company is a company with investment business has it utilised any [management expenses](#) correctly?

- 10 Have any [losses arising from a property business](#) been utilised correctly?

- 11 Have any allowable [capital losses](#) been utilised correctly?

Group Relief

- 12 Are both the claimant and surrendering companies [in a group relationship for Group Relief purposes](#) for the period covered by the claim?

Group Relief continued

- 13 Have Group Relief claims been [correctly restricted](#) where the claimant and surrendering companies have differing accounting periods or where they do not have a group relationship throughout the accounting period?

- 14 Has all of the [necessary documentation](#) for a Group Relief claim been submitted?

Explanation and mitigation of risks

Availability and use of losses

1. Has the profit or loss from each income source been separately computed?

Risk

Company profits include its income from various sources and chargeable gains. Although these profits are all chargeable to Corporation Tax, income from each source (trading income, interest, capital gains, property income, loan relationships etc) should be computed separately for each accounting period as each income source is subject to specific legislation. Any losses arising can only be utilised against profits in a particular manner. For example:

- losses arising from capital gains should not be included with trade losses or set against trade or any other income - see [Q11](#)
- non-trade loan relationships deficits carried forward can only be set against future non trade profits - see [Q6](#)

Mitigation

Identify each income source and compute the profit or loss separately for each source. Ensure each profit or loss is shown separately in both the Company Tax Return and Corporation Tax computation and that any losses are relieved in accordance with the loss relief rules particular to the income source.

For further guidance see [CTM02030+](#).

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2. Have any losses arising in the accounting period been set off against other profits of the same period in the correct order?

Risk

Certain losses arising in the accounting period can be set off against other profits of the same period; this is sometimes known as 'sideways relief'. However there are specific rules as to the order in which these losses can be utilised.

For example where a company makes a trade loss, sideways relief for that loss is given after relief for:

- management expenses (for companies with investment business) - see [Q9](#)
- non-trading deficit brought forward (against non-trade profits) - see [Q6](#)
- losses from a UK property business other than any part of that loss arising from a UK furnished holiday letting (against property income) - see [Q10](#)
- non-trading deficit in the current year - see [Q6](#)
- but before
- relief for non-trading deficit carried back - see [Q6](#)
- relief for qualifying charitable donations
- Group Relief - see [Q12](#)

Mitigation

Ensure that any losses arising in the period are utilised in the correct order.

Any trade loss relief claim to set off trade losses arising in the accounting period against other profits of the same or an earlier period must first set off the available losses fully against all

profits including chargeable gains of the same period. Only the remaining unused loss after sideways relief, if specified in the claim, can be carried back to previous accounting periods, - see [Q4](#). Any further unrelieved trade loss is carried forward to subsequent accounting periods so long as the trade continues - see [Q3](#).

Explanation

For further guidance on relief for losses arising in the accounting period see:

- management expenses [CTM08610](#)
- non-trading deficits [CFM32030+](#)
- losses from a UK property business and UK furnished holiday lettings business [PIM4230](#)
- trading losses [CTM04500+](#)
- qualifying charitable donations [S189 Corporation Tax Act 2010](#)
- Group Relief [CTM80100+](#)

It is also important to note that trade losses brought forward must be set off against profits of the same trade and cannot be added to a trade loss arising in the current period for the purposes of sideways relief. Losses of an earlier accounting period, where these are claimed, are relieved before losses of a later accounting period. There is an example at [CTM04550](#).

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3. Have trade losses brought forward only been set against profits of the same trade?

Risk

Trading losses brought forward can only be set against profits from the same trade. Where there are losses from a particular trading activity these cannot be carried forward and set against the profits of a new or different trading activity. For example a company that has a construction business and a retail business cannot set off brought forward losses of one business against profits of the other.

These rules will be different from 1 April 2017.

In addition where, within any period of three years there is **both** a change in the company ownership and a major change in the nature or conduct of a trade carried on by the company, or there is a change in ownership of a company at a time when the scale of its trading activities has become small or negligible, all the company's unused trading losses as at the date of the change of ownership are cancelled.

Mitigation

Ensure brought forward trading losses are separately identified and only set against profits of the same trade.

Where the conditions at [S673 Corporation Tax Act 2010](#) are met the unused trading losses as at the date of the change of ownership are cancelled. It is important to consider the facts where there has been a change of activity or ownership within the business and to establish whether this constitutes a major change in the nature or conduct of the trade before considering whether the brought forward loss can be set off against the profits of the trade. A change in ownership does not automatically prevent utilising brought forward trade losses, it is the nature of the continuing trading activity that determines the validity of utilising the trade losses in future accounting periods.

For further guidance about the disallowance under [S673 Corporation Tax Act 2010](#) of trading losses following a change in ownership of a company see [CTM06300+](#).

Explanation

The loss available for carry-forward is:

- the loss sustained, less
- any part of that amount for which relief has already been given (**CTM04500+**) or surrendered as Group Relief (**CTM80100+**)

A company does not have to make a claim to carry forward trade losses for set-off against future trading income of the same trade. Relief is given against available trading income of subsequent accounting periods in order and without omission.

For further guidance see **CTM04100+**.

If a company is unable to use loss relief brought forward because it has insufficient trading income it is possible to treat interest or dividends, which would have been treated as trading receipts but for the fact that they are charged to Corporation Tax under other provisions, as trading income. This extension to the meaning of trading income applies only to dividends and interest within the charge to Corporation Tax, it therefore does not normally apply to dividends which are exempt from UK tax.

For further guidance see **CTM04250**.

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4. Where trade losses are carried back to an earlier accounting period have they first been set against other profits in the loss-making period?

Risk

Only once a company has fully set its trading losses against other profits of the same period can it then claim to carry back any remaining unused losses against profits of preceding accounting periods. The preceding period is usually the 12 months ending immediately before the loss-making period. However in certain specific circumstances the normal 12 month carry back period is extended, see [Q5](#) below.

The company must be carrying on the same trade at some time during both the loss-making period and the preceding period. It is not necessary for the same trade to have been carried on for the whole of the previous accounting period. Where trade has ceased see [Q5](#).

See the explanation below where the preceding accounting period is shorter than 12 months.

Mitigation

Before a claim is made to carry back trade losses against an earlier period ensure the loss has first been set as far as possible against any other profits including chargeable gains of the loss-making period. Thereafter ensure the claim for the remaining losses is made with respect to the applicable accounting periods, normally those within the preceding 12 months.

Losses of an earlier accounting period, where these are claimed, are relieved before losses of the later accounting period.

For further guidance on losses carried back to an earlier period see **CTM4505+**.

Explanation

Trading losses may be set against total profits in the **12 month** period immediately preceding the loss-making period.

If the accounting period preceding the loss-making period is less than 12 months the loss is set against the profits of the short accounting period and any balance is set against a proportion of the profits of the preceding accounting period up to 12 months before the beginning of the loss-making period.

5. Where losses are incurred in the final twelve months of trading has the Terminal Loss Relief claim been calculated and utilised correctly?

Risk

When a company permanently ceases to trade, any loss made in the final twelve months of trading, the 'terminal loss', can be set against profits arising in the three year period immediately preceding the loss-making period.

It is important to note that the terminal loss is the loss that arises in the final twelve months of trading and not necessarily the final accounting period (which can often be less than 12 months). Where the accounting period is less than 12 months a proportion of losses made in the previous accounting period can be included as terminal loss. Note that a loss can be carried back for three years preceding the beginning of the **accounting period** in which the loss was incurred, provided part of that accounting period falls within the 12 months prior to cessation. So it is possible for part of the loss to be carried back for more than 4 years prior to the date of cessation. See example below.

Mitigation

Ensure any claim for terminal loss relief is calculated with reference to the correct periods and corresponding amounts. Identify the extent of trade losses in the final twelve months of trading and identify the accounting periods to which these losses can be carried back.

For further guidance see **CTM04520+**.

Example

Example 1:

Company A runs its accounting periods to 30 April each year. It permanently ceased trading on 30 April 2010. The unrelieved loss for that accounting period could be set against profits chargeable to Corporation Tax for the accounting periods ending 30 April 2009, 30 April 2008 and 30 April 2007, with the losses being set against profits of the most recent accounting period first.

Example 2:

Company B permanently ceases trading on 30 September 2011.

APE 30 September 2011	Loss £60,000
APE 30 June 2011	Loss £228,000

The terminal loss includes the final three month accounting period (£60,000) and (£170,531) ($273/365 \times £228,000$) of the previous accounting period, as this is an apportioned amount to reflect the remaining period of 9 months within 12 months of the trade ceasing. Any profits within the final 12 months must be covered by the loss first before any claim to carry back the balance.

In this case a total of £230,531 could be carried back three years as follows:

- (£170,531) can be carried back to APE 30 June 2008
- (£60,000) can be carried back to APE 30 June 2009

However relief is given in the order in which the losses are made starting with the earliest loss, in this case:

- the proportion of the loss arising in the year ended 30 June 2011 (£170,531)

then

- the loss arising in the final APE 30 September 2011 (£60,000)

For examples of terminal loss claims see [CTM04530](#).

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Loan relationships

6. Has any non-trade loan relationships deficit been utilised correctly?

Risk

The debits and credits from non-trading loan relationships are aggregated, a net debit is relieved as a non-trade deficit. An example of a non-trade debit is where a company takes out an interest bearing loan and purchases an investment property, the interest paid on the loan is a non-trade debit. An example of a non-trade credit is where a company deposits surplus funds in an investment account and receives interest. The interest received is a non-trade credit.

Unless a claim is made to set the non-trade deficit against total profits of the period or to carry back against non-trade profits arising from loan relationships or derivative contracts in the previous 12 months, net non-trade deficits are carried forward against non-trading profits of later accounting periods. Non-trade deficits can be surrendered as group relief, subject to the Group Relief rules. See [Q12+](#).

Mitigation

Identify any non-trade debits and credits. Aggregate the debits and credits and enter the net deficit or profit in the appropriate box on the Company Tax Return. Ensure any deficit on loan relationships is utilised correctly.

For further guidance on non-trade loan relationships see [CFM32030+](#).

Explanation

In the absence of any claim, for example to set against other profits in the same accounting period, a non-trading deficit is carried forward and set off against the non-trading profits for successive accounting periods. Non-trading profits of successive accounting periods cover any company profits which are not trading income. Therefore a company can set the non-trading deficit against chargeable gains, property income, foreign income etc. However, non-trading deficits cannot be set against trading income of succeeding periods.

The maximum level of non-trading deficits that can be set off against non-trading profits of a succeeding year is the lower of;

- the non-trading deficit that has been brought forward
- the total non-trading profits of the subsequent accounting period after relief for any management expenses (investment companies only)

But before any relief for either

- property income losses set against profits of the same accounting period
- non-trading deficits of the same or later period

Whilst the full amount of the non-trading deficit is automatically carried forward to the next accounting period and no special claim is needed it is not mandatory to use this deficit in this way. A company can claim to carry forward some or all of the deficit to a later accounting period, known as 'skipping' - see [CFM32040](#).

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7. If an election has been made to treat a non-trade deficit arising from pre-trading activity as a trading expense have the necessary conditions been met?

Risk

A company intending to carry on a trade may incur expenses, such as interest on a bank loan, before it begins to trade. The interest and other expenses relating to the finance are **non-trading** debits, because no trade is yet carried on.

Where the aggregated non-trading loan relationship debits result in an overall non-trade deficit a company can elect to treat the non-trade deficit which arises prior to trade commencing as if it were a trading expense in the first year of trading where all of the following conditions are satisfied:

- an election is made within two years of the end of the accounting period in which the non-trade deficit arose
- the company begins to trade within seven years of that period
- the debit would have been treated as a trading loan relationship debit if it had been incurred in the period since trading commenced

Mitigation

Where an election to treat a pre-trading non-trade deficit as a trading expense has been made, ensure all necessary conditions have been met. Treat the non-trade deficit as a trading expense in the first accounting period after trade commences.

Explanation

A company may incur some expenses prior to commencing its trade. For example a loan may be taken to purchase stock, recruit staff or refurbish premises. Any resulting interest charges would under normal circumstances therefore be non-trade loan relationships (as there is no trade yet) debits. If there is an overall deficit after aggregating the debits with any non-trading credits, the company is entitled to claim to set the non-trading deficit against any other income of that period (such as property or foreign profits). However, it is more likely that the company has not got enough income to fully relieve the deficit. If it carries the deficit forward to when trading starts, relief may be limited, because a non-trading deficit carried forward under **S457(2) Corporation Tax Act 2009** cannot be set against trading profits.

However **S330 Corporation Tax Act 2009** permits a company to elect to treat the deficit as a trading expense of the first year of trading. For further guidance see **CFM32100+**.

The parallel relief for ordinary pre-trading expenditure is at **S61 Corporation Tax Act 2009**.

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8. Where there are connected parties in a loan relationship has relief for impairment losses been restricted appropriately?

Risk

Although the computation of profits and losses under the loan relationships legislation normally follows generally accepted accounting practice, special rules apply to loan relationships held by connected parties. **Part 5 Corporation Tax Act 2009** sets out the special rules on the taxation of loan relationships between connected parties.

Tax relief is normally available for trade debts which are irrecoverable or considered to be irrecoverable, known as an 'impairment loss'. However this relief is not normally due where the debt arises in respect of a transaction between connected parties.

Mitigation

Consider whether the parties to the transaction are connected. Where a connection exists ensure that relief is restricted accordingly.

For further guidance on connected parties for loan relationship purposes see **CFM35300+**.

Example

Company A lends Company B £30,000 for three years, at 5 per cent interest each year. Company A Ltd owns 100 per cent of the ordinary shares of Company B, so the companies are connected under S348 Corporation Tax Act 2009.

In year one, Company A receives the interest due of £1,500 from Company B.

At the end of year two, Company B's trading position has deteriorated and it is unable to pay the interest due for year two. There are also serious doubts that it will be able to repay the loan. Company A therefore regards the interest due for Year two as 'bad' and provides for the debt in the accounts, it also formally releases half of the loan.

Under **S354 Corporation Tax Act 2009** Company A cannot bring in any debit for tax purposes in respect of the £15,000 loan released (impairment loss). **S358 Corporation Tax Act 2009** correspondingly excludes any credit for the £15,000 loan released being brought in by the debtor company, Company B.

Although the interest is unpaid it has not been formally released, the amount is therefore accrued in the accounts of Company A as a credit and Company B as a debit. Any bad debt provision made for the interest by Company A is not allowed for tax purposes. The interest of £1,500 is therefore a credit for tax purposes for Company A in each of the two years and a debit in each of the two years for Company B because this has not been formally released.

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Other non-trade losses

9. If the company is a company with investment business has it utilised any management expenses correctly?

Risk

Broadly, for a company with investment business, management expenses will be allowable only if they are incurred for the purpose of managing the investment business. Expenses incurred managing another business of the company or the business of a different company (for example a subsidiary) and any that are capital in nature are not normally allowable.

Management expenses in the accounting period must be set off against other income in the correct order, see [Q2](#). As the deduction of management expenses is mandatory they must be deducted before any trade losses, qualifying charitable donations or excess management expenses brought forward.

Excess management expenses of the accounting period can be surrendered and claimed as Group Relief. Any remaining excess management expenses are carried forward and should not be included within any subsequent Group Relief surrender.

Mitigation

Ensure the management expenses are valid and that any Group Relief claims for management expenses only include those expenses deductible in that accounting period, that is excluding those brought forward to that period.

Explanation

Management expenses are not specifically defined. Therefore the scope of what counts as a management expense can be complex. The general exclusions are within **S1219 Corporation Tax Act 2009** and the specific restrictions are set out in **part 16, chapter 4 Corporation Tax Act 2009**.

For further guidance on management expenses see **CTM08000+**.

Generally the timing of management expenses follows the accountancy treatment, so that the expenses are deductible in the accounting period in which they are debited to profit or loss provided that those accounts are drawn up in accordance with generally accepted accounting practice.

Excess management expenses are carried forward and treated as management expenses of the next accounting period. Any excess qualifying charitable donations paid for the purposes of the company's investment business which are not relieved against total profits of the period in which they are paid can also be carried forward and treated as management expenses of the next accounting period.

For further guidance see **CTM08620**.

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10. Have any losses arising from a property business been utilised correctly?

Risk

Depending on the nature of the property business and whether it is based in the UK or overseas, the provisions for utilising loss relief differ. See explanation below.

Mitigation

Establish the nature of the property business and where it is based. Thereafter any losses should be utilised following the appropriate statute. See explanation below.

Explanation

UK Property Business

Where a company which carries on a UK property business makes a loss in that business, that loss (other than any part arising from a UK furnished holiday lettings business) is automatically set against total profits of the loss-making period and there is no need for a claim. To the extent that the loss cannot be set off, it is carried forward and treated as a property loss in the following accounting period and can be set against total profits, as long as the company continues to carry on the UK property business. These losses cannot be carried back to previous accounting periods.

For an investment business with a UK property business that ceases to carry on that UK property business, but carries on having investment business, any unrelieved UK property business loss is treated as an expense of management deductible in succeeding accounting periods. The loss can be set against the profits of that or a subsequent period as long as the company has an investment business available for relief.

Where a company carries on a UK furnished holiday lettings (FHL) business, for accounting periods beginning on or after 1 April 2011, losses of the UK FHL may only be set against UK FHL profits of later periods.

Overseas Property Business

A loss from any overseas property business is carried forward and set against profits of that business for the succeeding accounting period. Any excess of the loss over such profits is carried forward for set off against profits of the overseas property business for the next

succeeding accounting period, until they have been utilised. This relief is given automatically and there is no need to make a claim.

Where a company carries on an EEA furnished holiday lettings (FHL) business, for accounting periods beginning on or after 1 April 2011, losses of the EEA FHL may only be set against FHL profits of later periods.

For further guidance see [PIM4230](#).

For Group Relief the amount that can be surrendered is the excess of losses in the accounting period over all the other profits of the accounting period. It does not include losses brought forward from an earlier accounting period or losses attributable to a property business not carried on with a view to achieving a commercial profit, see [PIM4240](#).

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11. Have any allowable capital losses been utilised correctly?

Risk

In any accounting period where a company has an excess of allowable capital losses over chargeable gains the excess should be carried forward against chargeable gains in future accounting periods. Companies cannot set the excess losses against other income sources when computing the Corporation Tax profits of the period or carry the capital loss back against a chargeable gain in an earlier period.

Mitigation

Calculate the chargeable gains or losses for the accounting period and ensure that any surplus losses are carried forward to set against future capital gains.

For further guidance on chargeable gains for companies see [Capital Gains Manual CG40200c+](#).

For further information on common errors HMRC find see [Chargeable Gains for Companies Toolkit](#).

Explanation

Any allowable capital losses which arise to a company in an accounting period are to be set against chargeable gains arising in the same accounting period. To the extent they cannot be utilised in this way, the capital losses of an accounting period can only be carried forward and deducted from chargeable gains of future accounting periods

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Group Relief

12. Have Are both the claimant and surrendering companies in a group relationship for Group Relief purposes for the period covered by the claim?

Risk

In order for two companies to claim or surrender losses as Group Relief, there are specific conditions that must be met. Group Relief can only be claimed or surrendered when the companies have a group relationship for Group Relief purposes. See explanation below.

In addition both the claimant and surrendering companies should, in the majority of cases, be either UK resident, or non-resident but carrying on a trade in the UK through a permanent establishment.

Mitigation

Ensure that the claimant and surrendering companies meet the criteria for being members of the same group for Group Relief purposes.

Where certain strict conditions are met, Group Relief rules are extended to allow a UK resident group company to claim relief for losses incurred by a foreign 75 per cent subsidiary of a UK resident group parent company if that subsidiary is either resident in a country within the European Economic Area (EEA) or has incurred the losses in a permanent establishment in such a country - see [CTM81500+](#).

Explanation

For the purposes of group relief, companies have a group relationship if one is a 75 per cent subsidiary of the other or both are 75 per cent subsidiaries of a third company. Furthermore the parent company in that relationship must also be beneficially entitled to at least 75 per cent of the profits available for distribution to equity holders and at least 75 per cent of the assets available for distribution to equity holders in the event of a winding up of the subsidiary.

For large groups with multiple Group Relief claims simplified arrangements can be put in place where an authorised company, often a parent or holding company, acts on behalf of other companies in the group for the purposes of amending Company Tax Returns of companies claiming Group Relief.

For further guidance see [CTM97600+](#).

Where Group Relief cannot be claimed because the shareholding is below the necessary 75 per cent, Consortium Relief may be available. The amount of Consortium Relief which may be claimed against profits depends on the percentage of the consortium company owned by the consortium member for the period concerned. The company owned by the consortium may be either a claimant or surrenderer of the relief and relief may be claimed or surrendered by either a consortium member or a company which has a group relationship with a consortium company in a country within the EEA.

For further guidance see [CTM80502+](#).

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13. Have Group Relief claims been correctly restricted where the claimant and surrendering companies have differing accounting periods or where they do not have a group relationship throughout the accounting period?

Risk

Where the claimant and surrendering companies do not have a group relationship throughout the accounting period, for example when a company leaves or joins the group or where their respective accounting periods differ, the profits and losses included in the Group Relief claim should be apportioned to the period of overlap. The method for apportionment is a time apportionment except where that would lead to an unjust or unreasonable result, in which case some other method of apportionment which gives a just and reasonable result should be used.

Mitigation

Ensure the loss claimed and/or surrendered is apportioned appropriately.

Establish the period of overlap, which is the part of each accounting period common to both the claimant and surrendering companies and/or the period for which the companies were in a group relationship. Identify the profits of the claimant company and the losses of the surrendering company that fall into the overlapping period. There are special rules where any previous claims or surrenders have been made for the overlapping period (see steps one and two below).

Explanation

The amount of loss which can be surrendered or claimed for Group Relief purposes is the smaller of the unused part of the surrenderable losses of the surrendering company, and the unrelieved part of the claimant's profits for the overlapping period. Broadly the steps to follow are:

Step 1

- work out the surrenderable amount for the overlapping period - see [CTM80230](#)
- reduce this amount by the amount of any prior surrenders attributable to the overlapping period - see [CTM80240](#)

The result of step 1 is the 'unused part of the surrenderable amount for the overlapping period'.

Step 2

- work out the claimant company's total profits for the overlapping period - see [CTM80230](#)
- reduce this amount by the amount of any previously claimed Group Relief attributable to the overlapping period - see [CTM80245](#)

The result of step 2 is the 'unrelieved part of the claimant company's total profits for the overlapping period'.

The amount of the Group Relief claim must not exceed the smaller of the results of **step 1** and **step 2**.

For further guidance see [CTM80210+](#).

An example of Group Relief and overlapping periods can be seen at [CTM80255](#).

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14. Has all of the necessary documentation for a Group Relief claim been submitted?

Risk

Except where a company is a member of a simplified arrangement (see explanation below), every claim to Group Relief requires the consent of the surrendering company. Group Relief claims are only valid if consent is given by both the claimant and the surrendering companies in the required form. The consent to surrender must meet a number of formal conditions. Unless all of the conditions are met, the group relief claim is not valid.

Surrendering companies must give notice in writing to the Tax Office to which they make returns, of consents to surrender Group Relief. They must do this at or before the time the claim is made. A copy of the notice of consent to surrender must accompany any claim for Group Relief.

Mitigation

A claim for Group Relief by a company must be made in its Company Tax Return or in an amendment to its Company Tax Return. Ensure that the relevant section of the Company Tax Return sets out the name, accounting period and tax reference of each surrendering company, and the amount claimed from each of them. The amount claimed should be clearly quantified. Ensure that a copy of each surrendering company's consent to the claim is enclosed with the return.

For further guidance on making a claim and specifying the amount see [CTM97005+](#).

Similarly, a company surrendering losses as Group Relief must provide a notice consenting to do so as part of its return. Again, ensure that the relevant section of the Company Tax Return is completed and that it sets out the name, accounting period and tax reference of each claimant company to which relief is being surrendered, and in what amount.

For further guidance on notification of consent to surrender see [CTM97020](#).

Explanation

Simplified arrangements allow an authorised company to act on behalf of all members of a group. An application to adopt simplified arrangements should be made to HMRC and is accepted by default if it is not rejected by HMRC within three months. Where simplified arrangements are in place a claimant company does not have to provide a copy of a notice of surrender from another company when submitting its return. Instead the authorised company should set out which companies it is authorising are surrendering relief and in what amounts.

For further guidance on Group Relief generally see [CTM97000+](#) and [CTM97600+](#) for simplified arrangements.

For Consortium Relief the consent of each member of the consortium, in addition to the consent of the surrendering company is necessary. A copy of the notice of consent to surrender given by each member of the consortium must accompany a consortium claim.

For further guidance on consortia see [CTM80500+](#).

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