

## Clause 1: Losses on disposal of shares: abolition of requirement to be UK business

### Summary

1. This clause extends share loss relief for Income Tax (IT) and Corporation Tax (CT) purposes so that from 24 January 2019 the relief will apply to disposals of shares in companies which have conducted their business wholly or mainly outside of the United Kingdom.

### Details of the clause

2. Subsection (1) repeals section 134(5) Income Tax Act 2007 and section 78(5) Corporation Tax Act 2010.
3. Subsection (2) makes changes in consequence of the repeals made by subsection 1.
4. Subsection (3) introduces these changes for disposals of qualifying shares made on or after 24 January 2019.

### Background note

5. Share loss relief is an IT relief for individuals and a CT relief for investment companies. It gives relief where an individual or investment company subscribes for qualifying shares and subsequently makes a disposal of those qualifying shares resulting in an allowable loss for the purposes of the Taxation of Chargeable Gains Act 1992.
6. Qualifying shares are:
  - a. Shares to which Enterprise Investment Relief is attributable (this applies for individuals only), or
  - b. Shares in a qualifying trading company.
7. A company will be a qualifying trading company if it meets four conditions at the relevant time. The relevant time varies depending on the condition. At a basic level a company will be a trading company if:
  - a. It carried on a trading activity which wasn't an excluded activity, for which there is an exhaustive list of activities;
  - b. Its gross assets didn't exceed a limit immediately before and immediately after the subscription;
  - c. It was unlisted;

- d. It carried on its business wholly or mainly in the UK.
- 8. Extending the relief to companies with a business outside of the UK ensures that the relief complies with Article 63 of the Treaty on the Functioning of the European Union and the Freedom of Movement of capital rules.
- 9. If you have any questions about this change, or comments on the legislation, please contact Jon-Paul Rosser on 03000 551725 (email: [jon-paul.rosser@hmrc.gov.uk](mailto:jon-paul.rosser@hmrc.gov.uk)).