

TRADING LOSSES

Carrying Losses Forward

Where there is a trading loss under the accounts as adjusted for taxation, there are a number of different ways in which the losses can be used. One option is to carry the loss forward against future trading profits. They must then be set against the first available profits of the same trade. If losses are carried forward, it is mandatory to use them, insofar as possible.

The losses cannot be claimed on a partial basis so as to say use allowances to reduce tax liability. The losses reduce the future profits to nil and the remaining unused loss (if any) is carried forward against further future profits and set off until the loss is fully extinguished. The carrying forward of losses is automatic. However the amount claimed must be specified.

Setting Losses against Total Income

Tax payers may alternatively use losses to offset against the payer's total income in the year concerned and the previous years. It is possible to choose to claim the relief against total income by choosing to set the loss off against profits of the year concerned or the previous year or either year in isolation. Unrelieved losses (if any remain) can then be carried forward in the normal manner against the trade in which the loss was incurred. It is not possible to set off part of the loss against total income. It must be set off against the maximum possible extent for a given year.

Total income is income from all sources less charges. Personal allowances are deducted afterwards so a claim to offset losses may waste them. A specific claim is required for each year. It must be made within one year of the 31st January following the year of the tax loss.

Trading losses may be set off against chargeable gains subject to certain conditions. The total income must be reduced to zero by a trading loss claim. Relief against capital gains of the previous years may also be available.

Initial and Final Losses

There is special relief to help new business in the initial years of trading. This relief allows the tax payer to relieve a loss in the first four years of a trade against statutory total income of the three tax year proceeding the tax year of the loss. Certain rules and conditions apply.

A special relief is allowed where a trade ceases. A trading loss in the final 12 months can be set off against available profits on a last in first out basis for the last three years.

There are tactical considerations in relation to the making loss claims. Partnership loss is allocated between the partners in the normal way. Claims are available same as those to sole traders. Partners joining will be entitled to make the claim in the first four years mentioned above in respect of new traders.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.