

The widening of share loss relief

(Lecture P1158 – 6.44 minutes)

In the context of income tax, the share loss relief regime can be found in Ss131 – 151 ITA 2007. It applies where an individual subscribes for newly-issued shares in a small or medium-sized unlisted trading company and those shares are subsequently disposed of at a loss.

The equivalent corporation tax rules are set out in Ss68 – 90 CTA 2010. They apply to investment company subscribers and broadly mirror the ITA 2007 requirements.

In order to be eligible for share loss relief, the shares disposed of must be those of a qualifying trading company, that is to say, a company which meets four conditions at the relevant time (this time varies depending on the condition):

1. The company carries on a trading activity which is not an excluded activity;
2. The company's gross assets did not exceed a limit of £7,000,000 immediately before the subscription and £8,000,000 immediately afterwards (the same limit is in point for the parent company of a group);
3. The company is unlisted; and
4. The company carries on its business wholly or mainly in the UK.

Relief is only due if the holder of the shares made a disposal which resulted in an allowable loss for the purposes of TCGA 1992. Relief for this loss is given against income rather than against gains, as would normally be the case. Share loss relief is particularly attractive to individuals, given that the top rate of income tax is 45% compared to a CGT rate of (usually) 20%.

In the case of individuals, relief is also available in respect of shares which attracted EIS relief.

With effect from 24 January 2019, share loss relief has been extended to cover companies which conduct their business wholly or mainly outside the UK.

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