

A surprising twist in basis period reform (Lecture B1468 – 14.33 minutes)

The basis period reform rules for unincorporated businesses have thrown up a number of unexpected situations, particularly in connection with the transitional 2023/24 tax year. However, before we look at one interesting relief which can arise where there are losses, it is probably expedient to issue a brief reminder of what the main FA 2022 legislation involves. For income tax purposes, the Government are moving from a current year basis to a tax year basis. In other words, for 2024/25 onwards, the trading profits of a tax year will be those arising in the tax year (often referred to as 'actual').

A sole trader with a 30 April year end will find that his taxable profits for 2024/25 are based on:

- 1/12th of his profits for the year ended 30 April 2024; plus
- 11/12ths of his profits for the year ended 30 April 2025,

whereas, under the previous regime, his taxable profits for 2024/25 would have comprised his profits for the year ended 30 April 2024.

2023/24 represents a complicated transitional year in which the changeover starts.

The first element in the calculation is the level of the trader's profits measured on the current year basis. Let us assume that this is for the year ended 30 June 2023 (known as the 'standard part').

To this must be added the profits of the so-called 'transition part'. The transition part runs from the end of the standard part (1 July 2023) through until 5 April 2024.

In order to alleviate the impact of additional profits being brought into account, two adjustments are available for taxpayers:

- they can deduct any overlap relief from their transition part profits; and
- they can spread any remaining transition profits evenly over a five-year period, starting with 2023/24.

Note that an election can be made to accelerate the taxation of the spreading. It may be for any amount of the transition profits not previously charged to tax.

In 2023/24, businesses must offset all the overlap relief to which they are entitled. If they do not do so, there will be no further opportunity to relieve this amount.

If a business is unaware of their overlap relief entitlement, the easiest way to find this information is to use HMRC's special online form available at www.gov.uk/guidance/get-your-overlap-relief-figure.

We can now turn to the main purpose of this session.

Extended loss carry-back

If deducting overlap relief creates (or increases) a loss in 2023/24, an extended loss carry-back is available. Effectively, the business can apply the terminal loss relief legislation as though the owner had ceased to trade on 5 April 2024. This allows the loss to be carried back for up to three previous tax years on a LIFO basis.

However, it goes without saying that only the part of the loss which arises from the overlap relief element qualifies for this extended carry-back. Any remaining loss is dealt with using the normal loss relief rules.

It should be emphasised that treatment of this overlap relief loss as a terminal loss is an optional exercise. The businessman is able to:

- claim terminal loss relief; or
- carry his loss forward; or
- claim sideways loss relief (subject to the usual constraints).

Example

Gary has been trading for a number of years. His recent adjusted results are:

		£
Year ended 30 April 2023	Loss	(28,000)
Year ended 30 April 2024	Loss	(33,000)

His overlap relief brought forward amounts to £26,750.

The calculation of Gary's loss relief position for 2023/24 proceeds as follows:

	£
Standard part (year ended 30 April 2023)	(28,000)
Transition part: 1 May 2023 – 5 April 2024 ($11/12 \times 33,000$)	<u>(30,250)</u>
	(58,250)
Overlap relief	<u>(26,750)</u>
	<u>£(85,000)</u>

Out of this total of £85,000, Gary can make a terminal loss relief claim in the sum of £26,750, with the balance of £58,250 being treated as a normal trading loss.

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