



Tax Update

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Extension of trading loss carry back for business

In the 2008 pre-budget report the government proposed a temporary measure to extend the current loss relief rules for both companies and unincorporated businesses. The aim of the measure is to enable trading losses to be carried back further than at present and to permit the repayment of tax previously paid.

For companies the measure will have effect for accounting periods ending in the period 24 November 2008 to 23 November 2009, whilst for unincorporated businesses the relevant period is the tax year 2008-09.

Companies

In broad terms companies presently have three ways in which to obtain tax relief for trading losses: they can set them against any other profits in the same accounting period; carry back the balance of the loss against any profits of the preceding 12 months (limited by the profits in that period); and carry any remaining losses forward against future profits of the same trade.

The proposals will extend the carry back period from one year to three years. Companies will still be able to carry back an unlimited amount of loss one year, but the total able to be carried back to the earlier two years will be capped at £50,000.

Example:

A company makes a trading loss for the year ended 31 December 2008 of £150,000, having previously made profits of £80,000, £40,000 and £60,000 in the years ended 31 December 2007, 2006 and 2005 respectively.

The company can carry back £80,000 to 2007 (unlimited), £40,000 to 2006 and £10,000 to 2006 (capped at £50,000 in total). The remaining £20,000 of the £150,000 loss can be carried forward to set against future profits of the same trade.

Unincorporated businesses

The relief will work in a similar way for unincorporated businesses. At present unincorporated businesses can set trading losses against general income in the same tax year as the loss or carry the loss back against general income in the preceding tax year. Unrelieved losses can be carried forward against future profits of the same trade.

The proposals will allow trading losses incurred in 2008-09 to be set against general income in the same tax year, carried back without limit against general income in 2007-08 and carried back against profits of the same trade (not general income) in 2006-07 and 2005-06.

The amount of loss that can be carried back to 2006-07 and 2005-06 is £50,000 in total.



Implementation

The measure will be effective from this year's Budget statement (22 April 2009) and it is possible that the government may amend or extend the measure at that time.

Repayments of corporation tax or income tax will only be made after 22 April 2009, but losses and carry back claims can be quantified and filed before that date. In those circumstances HM Revenue & Customs should endeavour to make the repayments as soon as possible after the Budget statement.

Repayments of tax will carry repayment interest and this should be at the rates prevailing in the earlier periods when the original tax liabilities were due, and not the lower rates that currently apply.

If your business is currently loss making, but has been previously profitable, it could be advantageous to you to complete your accounts and tax returns earlier than previously so that you can secure a repayment of tax with interest sooner rather than later.

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