Draft FB 2017 Cl 20: Carried-forward losses

Large Corporate

01 March 2017

The proposed new rules reforming the treatment of corporation tax losses go beyond the stated policy aim and place unnecessary burdens on taxpayers.

Draft Finance Bill 2017 provisions were published on 5 December 2016 and 26 January 2017 which will implement the proposed reform of corporation tax loss relief initially announced in Budget 2016 and confirmed in the Autumn Statement 2016.

In its comments on this draft legislation, the CIOT welcomed the steps taken to simplify the proposals as a result of the consultation conducted over the summer, but also raised concerns that the legislation introduces restrictions that extend its effect beyond the stated policy aim and which place unnecessary burdens on taxpayers.

Areas in respect of which we have concerns are:

- ***Change of company ownership rules***: In our view the proposed changes to these rules are excessive. Whilst we recognise the Government's desire to combat any perceived abuse of the new rules, the vast majority of company sales are entirely commercially driven transactions and these will be adversely and unfairly impacted by the proposed new rules.
- ***Companies in administration***: The proposed rules could impact adversely on companies in administration. The £5m allowance may be not sufficient to protect large groups in administration, so the new rules could impose tax charges in such situations brought about by current year profits (possibly created on disposals in administration), despite the existence of brought forward losses. This increases the risk that a liquidation is triggered.
- ***Overall 50% rule***: We are disappointed that the rules, at least in respect of pre-April 2017 losses, can still result in an offset of losses that is restricted to a

lower level than 50% of a company's total profits, as a result of having to apply the 50% test to each stream of profits (after the use of the £5m allowance).

CIOT's full response can be found on the CIOT website.