

Bill 6: Loss Relief: Supplementary Clauses

Introduction

1. This paper, which is linked with paper CC/SC (07) 38, presents two draft clauses which rewrite ESC C5 and section 808 of ICTA.
2. This paper contains:
 - the draft clauses, with origins;
 - draft explanatory notes; and
 - one draft note outlining a proposed change in the law.
3. The clauses will be located in the Loss Relief Part of Bill 6 (see paper CC/SC (07) 38). As there are only two new, self contained clauses it was not thought necessary to re-issue the whole of that Part.
4. References in the explanatory notes to clause numbers are to the clause numbers in paper CC/SC (07) 38.
5. The first clause rewrites ESC C5. This ESC extends the scope of the relief available for registered industrial and provident societies under section 393(1) of ICTA. Subsection (8) of section 393 determines what constitutes “trading income” for the purposes of relief under that section. That subsection was rewritten as clause 16 {j4514rm} of the clauses published as part of paper CC/SC (07) 38 and the new clause will be located after that clause in Chapter 2.
6. The references to “the company” and “the trade” in subsection (1) of clause 1 need to be read in the context provided by clause 15 {j4513rm} of paper CC/SC (07) 38.
7. The second clause rewrites section 808 of ICTA. That section is located in the Double Taxation Relief Part of ICTA. However, the section limits the losses available for relief under section 393 and 393A of ICTA. It was therefore considered appropriate to locate the clause that rewrites section 808 so far as relating to those sections, in the Loss Relief Part of Bill 6.
8. Section 808 also applies in relation to relief under section 436A of ICTA. That section relates to life assurance business and is not being rewritten. We are therefore proposing to insert a new section 436C into ICTA rewriting section 808 so far as relating to section 436A. Section 808 can then be repealed.
9. The clause will also be located in Chapter 2 of the Loss Relief Part and follow clause 17 {j4515rm} (leasing contracts and company reconstructions) of paper CC/SC (07) 38.

Questions for the committee

10. We would be grateful for any comments you may have on these draft clauses and also on the proposed change.

Closing date for comments

11. We would welcome any comments by 28 November 2008. If possible they should be sent by e-mail to:

jackie.bartlett@hmrc.gsi.gov.uk

Written comments should be sent to:

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Please note that the names of respondents may be published unless they ask for their comments to be treated in confidence.

4 September 2008