CHAPTER 16

LOSSES – CONTINUOUS TRADES

Statutory references are to ITA 2007 unless stated otherwise.

16.1 Introduction

When a sole trader makes a loss, the **trading income assessment** (i.e. the taxable profit for the year) **will be nil.** "Trading income" taxes profits only - if there is a loss, there is no profit.

The trader may then choose how the loss should be relieved by making any appropriate **loss relief claims.**

Initially we shall look at losses of **continuing trades**. The rules allow us to **set losses against other income** under s.64 ITA 2007. We are also allowed to **carry forward losses** under the provisions of s.83 ITA 2007. ITA 2007, s. 64

16.2 "Current year" loss relief under Section 64

Under s.64, losses may be set against **net income**. This is **total income** (of any description) **less any deductible payments**, but **before personal allowances**. Consequently if the loss is large enough it could mean the taxpayer will waste his personal allowance.

Income	X
Less: deductible payments	(X)
Net Income	X
Less: s.64 losses	**(X)**
Revised Net Income	X
Less: PAs	(X)
Taxable income	X

Note: net income is also sometimes referred to as general income.

The loss can be set against the net income of **the year of loss and/or the preceding year.** Loss relief is only available if the business is being run on a commercial basis with a view to realising a profit. ITA 2007, s. 64 ITA 2007, s. 66

Assume a taxpayer draws up accounts for an accounting period, and those accounts show a trading loss. The first thing we must do is to **allocate the loss to a tax year**. For example, if a loss has arisen in the year ended 31 December 2010, under the CYB rules this loss will be treated as a loss of the tax year 2010/11. The trading income assessment for 2010/11 will be nil.

Once we have allocated losses to a tax year, we can decide what we wish to do with the loss. If a claim is made under s.64, the loss may be set against **net income of the current year** i.e. 2010/11. Alternatively, the loss may be set against the **net income of the previous year** i.e. 2009/10.

The **two claims are independent** and consequently we could make **either or both** claims **in any order** we like. For instance we could set the loss against the net income of 2010/11 only, or of 2009/10 only, or we can make both claims but in any order. **A s.64 claim is not mandatory** and the taxpayer can decide not to make a claim if he wishes.

No partial claims are permitted. A taxpayer must either utilise **all** of the available loss or relieve **all** of the available income. Where a claim has been made and it is large enough, **it could reduce net income to nil** which will mean wasting some **personal allowances**.

Illustration 1

Geoff is a self-employed carpenter and has the following results.

Year ended 30 September 2009	£16,000 profit
Year ended 30 September 2010	£(10,000) loss

He has rental income each year of £7,000

We want to determine the claims that he ought to make to relieve his loss.

The loss arose in the year ended 30 September 2010. This is therefore a loss in 2010/11. Consequently the loss can be set against net income of 2010/11 and/or the preceding year, 2009/10.

To decide what Geoff should do, we first need to build up the income tax computations in each of the years affected.

	2009/10	*2010/11*
	£	£
Trading Income	16,000	Nil
Property Income	7,000	7,000
Net Income	23,000	7,000

If he sets the loss against income of 2010/11, the maximum claim would be £7,000 as that is the amount of the net income - once the claim has been made we have to relieve £7,000 of the loss.

As there is now £3,000 of loss left, Geoff can claim to set the remaining loss against net income of 2009/10. This revises the net income to £20,000 for 2009/10 and nil for 2010/11. From net income we deduct the personal allowance - however, as there is no net income left, the personal allowance in the later year will be wasted.

	2009/10	*2010/11*
	£	£
Trading Income	16,000	Nil
Property Income	7,000	7,000
Net Income	23,000	7,000
S.64	**(3,000)**	**(7,000)**
Revised Net Income	20,000	Nil
Personal allowance	(6,475)	(n/a)
Taxable income	13,525	Nil

As Geoff has **wasted his personal allowance,** this is possibly **not the best option** for relieving the loss. There is however another option.

A claim can be made to set the full £10,000 loss against the net income of 2009/10. A "current year" (i.e. 2010/11) claim would not then be possible as he has utilised all of the loss. This second option would be **better as Geoff does not waste any of his personal allowances**.

S.64 claim for preceding year (2009/10):

	2009/10	*2010/11*
	£	£
Net Income	23,000	7,000
S.64 losses	**(10,000)**	____
Revised Net Income	13,000	7,000
Personal allowance	(6,475)	(6,475)
Taxable income	6,525	525

16.3 Loss Planning

With these loss options, it is important to **effectively plan the use of a loss**. When deciding how best to relieve a loss, the following factors must be considered:

1) Firstly we must look at the **marginal rates of tax** at which the loss will be relieved. We want to set a loss against income which is taxed at the highest rate of income tax. This means trying to use the loss against income taxed at 50%, then at 40%, then at 20%.

   Where we are dealing with dividends, we may need to look at the 42½% and 32½% rates as well. Generally we will **set a loss against income taxed at higher marginal rates.**

2) Secondly we look at the **loss of personal allowances.** As we saw from the last example, a s.64 claim can waste a personal allowance. If income is already covered by the personal allowance, it is not going to be subject to tax anyway, so there is little point in setting a loss against it.

3) Finally, we look at **timing**. We would like to relieve a loss **earlier rather than later.** Relieving a loss in an earlier year leaves more net income available for relieving a loss in the following year. We can only set S.64 losses against net income of the current and preceding year. Therefore if we set losses against net income of the current year, the current year income is reduced. This means that if we make a loss in the next year, there is less income available to set it against.

Example 1

Judy is a self-employed dressmaker. Recent results are as follows:

Year ended 30 November 2009	£25,000 profit
Year ended 30 November 2010	£(15,000) loss

She also has a part-time job. In 2009/10 her salary was £4,000 and in 2010/11 it was £6,000.

What loss relief options are best for Judy?

Example 2

Use the same facts as the last example, except that in 2010/11 assume that Judy's salary will be £60,000 as she decides to take on more employment in order to help her through the loss period.

What are Judy's loss relief options now?

16.4 Extension to Capital Gains

ITA 2007, s. 71

Where a person claiming relief for a trade loss against net income (s.64) is unable to make full use of that loss, he may make use of the balance as an allowable loss for the purposes of capital gains tax under s.71.

Losses under s.71 are used after current year capital losses but before any capital losses brought forward from previous years. This relief is under s.261B TCGA 1992.

	£
Capital gains in year	X
Capital losses in year	(X)
Net capital gains	X
Less S.71 trading losses	**(X)**
	X
Less: capital losses b/fwd	(X)
Chargeable gains	X

If a loss arises in the tax year 2010/11, first we can set this loss against the net income of 2010/11 and/or 2009/10. A s.71 claim allows us to extend this to capital gains. We can therefore extend the 2010/11 s.64 claim to cover capital gains in that year and/or do the same for 2009/10.

We **have to make the s.64 claim before we can extend to gains**. This will inevitably mean **the wastage of personal allowance** in this year as net income will have been reduced to zero before we can progress to the s.71 claim.

The s.71 ITA 2007 relief will be the lower of:

a) the **remaining loss** after the s.64 claim; and

b) the **"relevant maximum"** which is the **net gains in the tax year, less capital losses brought forward**.

Once the relevant maximum has been calculated, trading losses of this amount **must** be set against gains in the year. A lower claim is not permitted (e.g. to preserve the capital gains tax annual exemption). It is therefore possible that a s.71 claim could lead to a wastage of both personal allowances and all or part of the CGT annual exemption.

Illustration 2

Delia sustains a trading loss in the year ended 31 January 2011 of £20,000. She has other income of £8,000 in 2010/11. In 2010/11 she has capital gains of £25,000, capital losses of £2,000 and capital losses brought forward of £13,000.

Firstly consider the s.64 claim for £8,000 which reduces the net income of 2010/11 to zero. This wastes Delia's 2010/11 personal allowance.

	£
Trading Income	Nil
Other income	8,000
S. 64 loss relief	(8,000)
Revised net income	Nil
Remaining trading loss	
£(20,000 – 8,000)	12,000

Next consider how much of the loss can be utilised under s.71. The s.71 relief will be the **lower** of the **loss remaining after the s.64 claim** (i.e. £12,000 as above) and the **relevant maximum.**

The relevant maximum is calculated as follows:

	£
Net gains in year (25,000 – 2,000)	23,000
Capital losses b/f	(13,000)
Relevant maximum	10,000

Therefore Delia's s. 71 claim will be £10,000.

Effectively a s.71 claim **converts a current year income loss into a current year capital loss**. Remembering that capital losses brought forward reduce gains to the level of the annual exemption, the computation here will be as follows:

	£
Current year gains	25,000
Current year losses	
(2,000 + **10,000 S.71 loss**)	(12,000)
Revised net gains	13,000
Capital losses b/f	(2,900)
Remaining gains	10,100
Annual exemption	(10,100)
Taxable gains	Nil

The capital losses to be carried forward to 2011/12 will be:

£13,000 – £2,900 = £10,100

The trading losses to be carried forward to 2011/12 will be:

£12,000 – £10,000 = £2,000

16.5 Temporary extension to loss carry back claim

FA 2009, s. 23 & Sch 6

In order to help traders who are struggling during the recession, the normal loss carry back period has been extended from one year to **three years on a last in first out (LIFO) basis**.

This is a temporary extension and applies only to loss making **accounting periods ending in 2008/09 and 2009/10.**

Prior to claiming this extended carry back, the trader **must first make a claim under s.64 ITA 2007** against net income for either the year of the loss and/or the previous year.

Having made the s64 claim, the trader may choose to **extend their loss carry back to three years but only against trading profits** and not against income from other sources.

This extended carry back applies to trades, professions and vocations and includes furnished holiday lettings incurring a loss.

There is a **£50,000 cap** on the amount of loss that may be **carried back by more than 12 months**. This £50,000 cap applies to each loss which means that there is one cap for 2008/09 losses and another £50,000 carry back cap for 2009/10 losses.

Illustration 3

Joe incurs a trading loss in his year to 31 December 2009. What are his options for relieving this loss?

This is a trading loss of 2009/10. Joe must therefore make a s.64 claim against either his 2009/10 net income or against his 2008/09 net income before considering an extended carry back claim.

Let's assume that he makes a s.64 claim against his 2008/09 net income. Because one year of carry back has effectively been used by the s.64 claim, any loss remaining can then be carried back a further two years against trading income of 2007/08 and 2006/07, in that order, subject to the £50,000 cap.

If Joe had instead made his s.64 claim against his net income in 2009/10, then the unused loss may be carried back three years against trading profits of 2008/09, 2007/08 and 2006/07, in that order. However the £50,000 cap only applies to the years 2007/08 and 2006/07.

The 2008/09 carry back against trading profits is not restricted and other income is left available to mop up any personal allowances.

Illustration 4

Jamie has achieved the following results over recent years:

	2006/07	2007/08	2008/09	2009/10
	£	£	£	£
Trading profit/(loss)	40,000	35,000	24,000	(90,000)
Other income	6,000	6,000	6,000	4,000

Assuming that he makes his s.64 claim in 2008/09, before making the extended carry back claim in 2007/08 and 2006/07 against trading profits, his income tax computations will be as follows:

	2006/07	2007/08	2008/09	2009/10
	£	£	£	£
Trading profit	40,000	35,000	24,000	Nil
Extended carry back	**(15,000)**	**(35,000)**		
Other income	6,000	6,000	6,000	4,000
Net income	31,000	6,000	30,000	4,000
s.64 loss relief			**(30,000)**	
Revised net income			Nil	

£30,000 of the loss is set against the net income of 2008/09 which leaves £60,000 loss unrelieved.

The maximum loss which can be carried back to 2007/08 and 2006/07 is capped at £50,000. Therefore £35,000 of the loss is set against Jamie's trading profit in 2007/08 and the remaining £15,000 of loss which can be carried back is set against the trading profit of 2006/07.

This leaves £10,000 of loss unrelieved which will be carried forward to set against Jamie's future trading profits under s.83 ITA 2007 (see later in chapter).

Personal allowances are preserved in all years except 2008/09.

Loss memo

	£
2009/10 loss	90,000
S.64 (2008/09)	(30,000)
Extended carry back (2007/08)	(35,000)
Extended carry back (2006/07 – capped)	(15,000)
Loss to carry forward	10,000

If Jamie had instead decided to make his s.64 claim in 2009/10, he would have been able to make the extended carry back claim in 2008/09, 2007/08 and 2006/07 against trading profits and his income tax computations would be as follows:

	2006/07	2007/08	2008/09	2009/10
	£	£	£	£
Trading profit	40,000	35,000	24,000	Nil
Extended carry back	**(15,000)**	**(35,000)**	**(24,000)**	
Other income	6,000	6,000	6,000	4,000
Net income	31,000	6,000	6,000	4,000
S.64 loss relief				**(4,000)**
Revised net income				Nil

£4,000 of the loss is set against the net income of 2009/10 which leaves £86,000 loss unrelieved.

£24,000 of the loss is then set against the trading profits of 2008/09 as part of the extended carry back claim – however the loss relieved in 2008/09 does not use up any of the £50,000 cap.

The maximum loss which can be carried back to 2007/08 and 2006/07 is still capped at £50,000. As before, £35,000 of the loss is set against Jamie's trading profits in 2007/08 and the remaining £15,000 of loss which can be carried back is set against the trading profits of 2006/07.

This leaves £12,000 of loss unrelieved which will be carried forward to set against Jamie's future trading profits under s.83 ITA 2007 (see later in chapter).

Personal allowances are preserved in all years except 2009/10.

Loss memo

	£
2009/10 loss	90,000
S.64 (2009/10)	(4,000)
Extended carry back (2008/09)	(24,000)
Extended carry back (2007/08)	(35,000)
Extended carry back (2006/07 – capped)	(15,000)
Loss to carry forward	12,000

In this example, Jamie would be better off making the s.64 claim in 2009/10 before making the extended carry back claim since less loss is wasted and he has a higher trading loss to carry forward to future years.

The extended loss carry back claim can also be made where the trader has **net income of nil in both the loss making tax year and the previous tax year**. In this case no s.64 ITA 2007 claim against net income is required prior to making the extended carry back claim.

16.6 Carry forward of losses under Section 83

The carry forward of losses is given under s.83 ITA 2007. Losses may be carried forward and set against **future profits of the same trade.**

A claim to carry forward trade losses will be made when a loss is not relieved against other net income, against trading profits under an extended carry back claim or against capital gains.

For example, a carry forward claim may be made after a s.64 claim has been made, or if no claim has been made under s.64 at all (ie, if the trader has no other income or such income is covered by personal allowances).

S.83 loss relief is often a "last resort" as it delays relief for losses. Once a s.83 claim has been made the carried forward loss **must** be set off against the next available trading income.

Illustration 5

Greg has the following trading results in recent years:

	£
y/e 31 March 2010	18,000
y/e 31 March 2011	(30,000)
y/e 31 March 2012	2,000

He has property income each year as follows:

	£
2009/10	8,000
2010/11	Nil
2011/12	8,000

First we build up the computations for each of the years affected. These are 2009/10, 2010/11 and 2011/12.

We start with Trading Income which is £18,000 in 2009/10, nil in 2010/11 (because we have a loss), and £2,000 in 2011/12. We also make a note, in a separate loss memo below, of the loss which has arisen. This is £30,000 in respect of 2010/11.

Leave a line in the main computation to take account of any losses we may be relieving under s.83, as these can only be carried forward against future trade profits. It is at this line in the computation that any such losses will be deducted. Leave the figures blank for now because you don't yet know whether there will be any losses to carry forward.

Now add Greg's other income (property income of £8,000 for 2009/10 and 2011/12 here). This gives net income from which we deduct s.64 losses leaving revised net income.

	2009/10	*2010/11*	*2011/12*
	£	£	£
Trading Income	18,000	Nil	2,000
Less S.83 losses			
Property Income	8,000	Nil	8,000
Net Income			
Less S.64 losses			
Revised Net Income			
Loss		30,000	

Looking at 2009/10, there are no losses brought forward so there will not be any losses to set against the £18,000 trading income. Net income in 2009/10 is £26,000.

Looking at 2010/11, again there are no losses brought forward from an earlier year. There is no property income thus net income is Nil.

We now consider s.64 claims. A s.64 current year claim cannot be made as there is no net income in 2010/11. However, a s.64 preceding year claim can be made to set the loss against net income in 2009/10. This reduces the 2009/10 net income to zero.

	2009/10	*2010/11*	*2011/12*
	£	£	£
Trading Income	18,000	Nil	2,000
S.83 losses			
	18,000	Nil	
Property Income	8,000	Nil	8,000
Net Income	26,000	Nil	
S.64 losses	**(26,000)**		
Revised Net Income	Nil	Nil	

As a result of this s.64 claim, the remaining loss is reduced to £4,000.

Loss Memo	£
Loss of 2010/11	30,000
S. 64 claim in 2009/10	(26,000)
Loss c/fwd to 2011/12	4,000

In 2011/12 Greg has trade profits of £2,000. Under s.83 we **offset £2,000 of the losses carried forward against this profit**, reducing the Trading Income profit to nil. This gives total income in 2011/12 of £8,000. There is no possibility of a s.64 claim as no losses have arisen in that year.

	2009/10	*2010/11*	*2011/12*
	£	£	£
Trading Income	18,000	Nil	2,000
S.83 losses			**(2,000)**
	18,000	Nil	**Nil**
Property Income	8,000	Nil	8,000
Net Income	26,000	Nil	8,000
S.64 losses	(26,000)	-	-
Revised Net Income	Nil	Nil	8,000

The revised net income in 2011/12 will be reduced by personal allowances. We are left with a loss to carry forward of £2,000 which must (once s.83 is claimed) be set against future trading income in 2012/13 and onwards until the loss has been finally utilised.

Loss Memo	£
Loss of 2010/11	30,000
S. 64 claim in 2009/10	(26,000)
	4,000
Loss c/fwd	
S.83 in 2011/12	**(2,000)**
Loss c/f to 2012/13	**2,000**

16.7 Loss relief claims

Loss relief claims under **s.64** must be submitted to HMRC by 31 January **22 months following the end of the tax year of the loss.** If a loss arose in tax year 2010/11, the claim must be submitted by 31 January 2013.

This same time limit also applies to the extended loss carry back claims against trading profits, which are available only for loss making accounting periods ending in 2008/09 and 2009/10.

There is no time limit specified in the legislation for s.71 ITA 2007 claims, but as the effect of the s.71 claim is to **extend** the s.64 claim, the 22 month time limit should be adhered to.

16.8 Effect on Tax Payments

A loss utilised in the current year under s.64 simply reduces the net income of that year, thereby reducing the amount of tax which is due.

Illustration 6

A taxpayer has net income of £20,000. He makes a current year loss relief claim utilising a loss of £5,000 under s.64. The tax due will be calculated as follows:

	2010/11
	£
Net income before loss	20,000
Less S. 64 claim	(5,000)
Revised net income	15,000
Personal allowance	(6,475)
Taxable income	8,525
Tax:	
£8,525 x 20%	1,705

This amount is due by 31 January 2012. From this amount we deduct any payments on account which have already been made. If this results in a repayment, interest will run from 31 January 2012.

16.9 Losses utilised in earlier years

A loss that is utilised in a **previous year** under s.64 **revises the earlier year's tax liability**.

Illustration 7

Consider a computation for 2009/10 as follows:

	2009/10
	£
Net Income before loss	20,000
Personal allowance	(6,475)
Taxable income	13,525
Tax: £13,525 x 20%	2,705

If a loss is taken back from 2010/11 under s.64, the 2009/10 computation will be revised as follows:

	Original 2009/10	*Revised 2009/10*
	£	£
Net income before loss	20,000	20,000
Less S.64 carry back claim		(5,000)
Revised net income		15,000
Personal allowance	(6,475)	(6,475)
Taxable income	13,525	8,525
Tax: £13,525 x 20%	2,705	
£8,525 x 20%		1,705
Refund: £(2,705 – 1,705) =	£1,000	

This refund of £1,000 is treated as a **tax credit in the year of the loss (i.e. of 2010/11)**. The loss arose in tax year 2010/11 and we carried it back to 2009/10. The £1,000 **is deducted from the tax owing in 2010/11,** but is **computed using the tax reliefs and rates applicable in 2009/10.**

Assume that the tax due for 2010/11 is £4,000 and the taxpayer had made payments on account of £3,500. The tax credit for the loss relief claim of £1,000 is deducted here because it belongs in 2010/11. This gives us a refund of tax of £500 in respect of tax year 2010/11.

The repayment interest therefore starts from **31 January 2012** as it is a repayment arising for **tax year 2010/11**.

	2010/11
	£
Tax due on income	4,000
Paid on account	(3,500)
Tax credit re loss claim	(1,000)
Refund due	(500)

Where a loss is carried back under s.64 – in this example from 2010/11 to 2009/10 – the **carry back does not affect payments on account**. For example, the payments on account for 2010/11 would be based on the tax due for 2009/10 **BEFORE** giving effect to the loss used under s.64.

16.10 "Non commercial" trades and other restrictions

ITA 2007, s. 66

No loss relief is available **unless the trade is being carried on commercially with a view to the realisation of profits.** This means that losses arising as a result of "hobby "trades will not be available for relief against other income under s.64 (or under the opening year "carry back" rules in s.72 which will be discussed in the next chapter).

If the trade is one of **farming or market gardening**, general loss relief is denied under s.64 if losses (before capital allowances) **have been made in each of the previous 5 tax years**. In this case, subsequent losses can only be carried forward against trade profits under s.83. ITA 2007, s. 67

Finance Act 2008 introduced new rules restricting loss relief where an individual carries on a trade on a part-time basis. ITA 2007, s. 74A

With effect from 12 March 2008, if in a tax year:

- an individual carries on a trade in a **"non-active" capacity;** and
- he **makes a loss** from that trade in that year;

the loss is an "affected loss", the use of which is restricted.

"Affected losses" can only be set against net income or capital gains up to the "cap" for the tax year. **The "cap" is £25,000**. Any excess losses can only be carried forward against future trading profits under s.83.

An individual carries on a trade in a "non-active" capacity if he **does not devote a significant amount of time** to the trade during the year. "Significant" is defined as an average of at least 10 hours a week. ITA 2007, s. 74C

The "non-active" rules affect losses relieved under s.64 (loss relief against net income), s.71 (set-off against capital gains) and s.72 (opening year "carry back" of losses to be discussed in the next chapter). This is sometimes referred to as "sideways" loss relief. They do not affect the carry forward of trade losses.

The "non-active" rules apply for sole traders only – there are separate provisions dealing with non-active partners in a partnership.

Finance Act 2010 has introduced a **new anti-avoidance rule** which **prevents the sideways loss relief of losses in a rental business when the loss is related to the AIA** and 'relevant tax planning arrangements' are in place. This applies to arrangements entered into on or after 24 March 2010.

For this purpose, relevant tax planning arrangements means that the main purpose or one of the main purposes of the arrangements is being in a position to **make use of the AIA to obtain a reduction in tax liability** by means of property loss relief against net income.

This rule could affect those investing in commercial property who incur expenditure on fixtures which could attract the AIA. This could also affect those with Furnished Holiday Letting activities (since FHLs have not been affected by Finance Act 2010).

Example 3

Montague sustained a trading loss of £(32,000) in 2010/11. He has capital gains and losses in the year as follows:

	£
Gain on sale of investment property	38,000
Loss on sale of quoted shares	(5,000)
Capital losses brought forward	(7,000)

He also has gross interest of £4,000 in 2010/11.

Calculate the loss that he could relieve if he were to make a claim to use the trading loss as a CGT loss.

Example 4

Hugo has the following trading results:

	£
y/e 31 December 2009	30,000
y/e 31 December 2010	(50,000)
y/e 31 December 2011	25,000

He has other income each tax year of £10,000 in 2009/10, £4,000 in 2010/11 and £10,000 in 2011/12.

Assuming that Hugo makes any beneficial loss claims, what will his final net income for 2011/12 be?

Answer 1

The net income for each year is as follows:

	2009/10	*2010/11*
	£	£
Trading Income	25,000	Nil
Employment Income	4,000	6,000
Net Income	29,000	6,000

If a s.64 current year claim is made, this will utilise £6,000 of the loss in 2010/11. A s.64 carry back claim can then be made, reducing 2009/10 net income by £9,000 - the balance of the £15,000 loss. We then deduct the personal allowance, which for 2010/11 is wasted.

	2009/10	*2010/11*
	£	£
Net Income	29,000	6,000
S.64 current year claim		(6,000)
S.64 carry back claim	(9,000)	
Revised net income	20,000	Nil
PA	(6,475)	(6,475)
Taxable income	13,525	Nil

As the personal allowance is wasted, this is **not** the best option.

If the s.64 current year claim is not made in order to **avoid wasting the personal allowance** in 2010/11, that would mean we could **make a s.64 carry back claim** and relieve all of the £15,000 loss against net income of 2009/10. This time the personal allowances are not wasted, due to a loss relief claim.

	2009/10	*2010/11*
	£	£
Net Income	29,000	6,000
S.64 carry back claim	**(15,000)**	
Revised net income	14,000	6,000
PA	(6,475)	(6,475)
Taxable income	7,525	Nil

Answer 2

The net income for each year is as follows:

	2009/10	*2010/11*
	£	£
Trading Income	25,000	Nil
Employment Income	4,000	60,000
Net Income	29,000	60,000

The marginal rate of tax in 2009/2010 is 20% with income of £29,000. However, for **2010/11 the marginal rate of tax is 40%.** Consequently it would be more efficient to set any losses against net income in the 2010/11 year.

We would therefore **only make a s.64 current year claim** relieving the full £15,000 loss in 2010/11.

	2009/10	*2010/11*
	£	£
Net Income	29,000	60,000
S.64 current year claim	____	**(15,000)**
Revised net income	29,000	45,000
Personal allowance	(6,475)	(6,475)
Taxable income	22,525	38,525

Answer 3

The s.71 ITA 2007 and s.261B TCGA 1992 claim will be the lower of:

1) The remaining loss	£
Trading loss	32,000
S.64 claim	(4,000)
Remaining loss	28,000
2) The relevant maximum	
Net gains in year	
(38,000 – 5,000)	33,000
Capital losses b/f	(7,000)
Chargeable Gain	26,000

The claim will be restricted to the relevant maximum of £26,000.

Answer 4

	2009/10	*2010/11*	*2011/12*
	£	*£*	*£*
Trading Income	30,000	Nil	25,000
s. 83 losses	n/a	n/a	(10,000)
	30,000	Nil	15,000
Other income	10,000	4,000	10,000
Net Income	40,000	4,000	25,000
S.64	(40,000)	n/a	n/a
Revised Net Income	Nil	4,000	**25,000**

Loss	(50,000)
S.64 – 2009/10	40,000
	(10,000)
S.83 – 2011/12	10,000
Loss carried forward	Nil

The net income in 2010/11 is covered by the personal allowance, consequently there will be no point in making a s.64 current year claim because all that will do is waste the loss.

However the net income in 2009/10 is £40,000 and a s.64 carry back claim would be worthwhile. This will reduce the net income in that year to zero and leaves us with a remaining loss of £10,000.

This £10,000 is carried forward against future profits from the same trade. In the following year (2011/12) we have profits of £25,000 arising from the same trade. Consequently using losses under s.83 will reduce profits to £15,000. Net income for that year will be £25,000.

Note that all of our losses have been utilised, there is no amount to carry forward to the following year.