CHAPTER 16

RELIEF FOR OTHER LOSSES

16.1 Other losses

Other losses include:

(i) Losses from a UK property business and an overseas property business;

(ii) Excess management expenses, for companies with investment business;

(iii) Capital losses;

(iv) Losses from non-trading loan relationships; and

(v) Losses from non-trading IFAs.

16.2 Losses of a UK property business

A company may rent out a number of different properties, some may make a profit, some a loss. All of the **results of each property are pooled together,** very similar to the rules for pooling debits and credits for loan relationships.

Where the pool produces a net profit, this is simply taxed as profits from a UK property business as income. Where the pool produces a net loss, relief will be available.

Initially **losses of a UK property business must be set against 'total profits' in the current chargeable accounting period**. Remember 'total profits' means the company's income and gains before deducting qualifying charitable donations. CTA 2010, s.62

No claim is required as the relief is automatic. The set off is compulsory and when we make a UK property business loss, we simply include a **negative** figure in the corporation tax computation.

Illustration 1

Durban Ltd has the following results for the year to 31 March 2011:

	£
Trade profit	10,000
Non-trading profit (LR)	2,000
Chargeable gains	3,000
Net income from UK property 1	5,000
Net loss from UK property 2	(2,000)
Net loss from UK property 3	(6,000)

The automatic set off in respect of the UK property business loss will be as follows:

	y/e 31.3.11
	£
Trade profit	10,000
Non-trading profit (LR)	2,000
Chargeable gains	3,000
UK property business loss	
(5,000 - 2,000 – 6,000)	(3,000)
TTP	£12,000

The relief is **given in priority** to any **trading losses** of that year. The excess UK property business loss, i.e. the amount of the UK property business loss that exceeds the 'total profits' of the current year, will be **available for group relief** by surrendering it to fellow 75% group companies. A claim is required under s.99 CTA 2010.

If group relief does not relieve the rest of the loss or is not available, the **loss is automatically carried forward** and treated as a UK property business loss of the next period. Thus it is **carried forward against future income and gains** of any description.

Losses on overseas properties (**Overseas property business losses**) are pooled together with profits on overseas properties. Any resulting loss is then carried forward and set against profits of the overseas property business of future chargeable accounting periods. CTA 2010, s.66

There is no "mixing and matching" of overseas property business losses with UK property business profits.

Remember that a UK property business loss is automatically set against current year income (which could include overseas property business profits) and gains.

16.3 Management expenses

Management expenses are **set against investment income and gains** in the **current** chargeable accounting **period**. This relief, like that for losses of a UK property business, is automatic and compulsory. CTA 2009, s.1219

To the extent that the management expenses exceed current year income and gains, they are "excess". Like losses of a UK property business, they may be **group relieved** or, failing that, they are **carried forward against future income and gains** of any description CTA 2009, s.1223

16.4 Capital losses

Capital losses may only be set against current period chargeable gains and carried forward against future capital gains. The chargeable gains figure included in TTP is net of current year capital losses and brought forward capital losses as shown below:

	£
Chargeable gains	X
Less: Current year capital losses	(X)
Brought forward capital losses	(X)
Net chargeable gains included in TTP	X

There is no current year relief against income, there is no carry back and no group relief. However, group companies can reallocate capital losses within a gains group to ensure gains and losses in different group companies are set off against each other. This is covered in more detail in the capital gains chapters.

16.5 Terminal loss relief

CTA 2010, s.39

When a company ceases to trade, and it makes a trading loss in the final period, it is not possible to carry the loss forward, as there will be no future profits (and no future trade).

In this situation, the trading loss of the final 12 months of trade can be carried back against the **total profits** of the previous 3 years. This effectively extends the claim under s.37(3)(b) beyond the normal 12 month carry back.

Losses are relieved first against total profits of the final period (before qualifying charitable donations), then are carried back for a maximum of 36 months against later periods before those of earlier periods.

Illustration 2

Darwin Ltd prepares accounts to 30 June each year but ceased to trade on 31 March 2011 after incurring trading losses. The company's results for its final four chargeable accounting periods of trade are as follows:

	y/e 30.6.08	y/e 30.6.09	y/e 30.6.10	9 m/e 31.3.11
	£	£	£	£
Trade profits	30,000	20,000	15,000	-
Trade loss				(70,000)
Non-trading profits (LR)	1,000	800	500	500
Chargeable gains	-	6,000	-	4,000

If Darwin Ltd made a claim for terminal loss relief, its trading loss incurred in the 9 months to 31 March 2011 would be relieved as follows:

	y/e 30.6.08	y/e 30.6.09	y/e 30.6.10	9 m/e 31.3.11
	£	£	£	£
Trade profits	30,000	20,000	15,000	-
Non-trading profits (LR)	1,000	800	500	500
Chargeable gains		6,000		4,000
Total profits	31,000	26,800	15,500	4,500
Terminal loss relief:				
- 9 m/e 31.3.11				**(4,500)**
- y/e 30.6.10			**(15,500)**	
- y/e 30.6.09		**(26,800)**		
- y/e 30.6.08	**(23,200)**			
TTP	7,800	Nil	Nil	Nil

Loss Memo:

	£
Trading loss of 9 m/e 31.3.11 = terminal loss	70,000
Less: terminal loss relief:	
- 9 m/e 31.3.11	(4,500)
- y/e 30.6.10	(15,500)
- y/e 30.6.09	(26,800)
- y/e 30.6.08	(23,200)
	£Nil

The loss of the final chargeable accounting period is Darwin Ltd's terminal loss, it does not matter that this chargeable accounting period is less than 12 months long. The £70,000 terminal loss must be used in the loss making period against total profits first, and then it is carried back 3 years from the start of the loss making period, also against total profits.

If a trading loss had also been incurred in the previous period, the year ended 30 June 2010, then 3/12ths of this loss would also have been eligible for terminal loss relief and could have been carried back 3 years from the start of the year ended 30 June 2010.

16.6 Loan relationships – Non-trading deficits (LR)

CTA 2009, s.456-463

Interest paid and interest received on non-trading loan relationships is pooled together to give a net "profit" (or "credit") or a net deficit ("loss" or "debit").

The possible claims a company can make to use a non-trading deficit are:

(i) Set against total profits of the same chargeable accounting period; or CTA 2010, s.461

(ii) Set against non-trading profits (LR) of the previous 12 months; or

(iii) Surrender to a company in the same group ("group relief").

Non-trading deficits (LR) are **very flexible** – i.e., the company can carry back the loss without first having to use the loss in the current year.

Non-trading deficits (LR) are **used in priority** to trading losses and losses of a UK property business:

	£
Total profits for period	X
Less: Non-trading deficit	(X)
Less: UK property business loss	(X)
Less: Trading losses	(X)
TTP	X

To the extent that a non-trading deficit (LR) has not been used by group relief, a current year claim or a carry back claim, it will go forward to the succeeding chargeable accounting period to be set against other **non-trading income and gains**. CTA 2009, s.457

CTA 2009, s.458

If the company does not want this automatic set off in the next accounting period then they have two years to make a claim so that all or part of the deficit carried forward is not so set off.

16.7 The carry back of non-trading deficits (LR)

The **carry back claim is an all or nothing claim** as it has to be made for the lower of: CTA 2009, s.462

(i) the non-trading deficit (LR) available for carry back, and

(ii) the profits available to set it off against.

The non-trading deficit (LR) available to carry back is the deficit of the current year to the extent that it has not been relieved by a current year or group relief claim.

The profits available to set it against are only the non-trading profits (LR) arising from loan relationships in the period of twelve months immediately preceding the beginning of the deficit period as reduced by: CTA 2009, s.463

- Losses and deficits brought forward;
- Relief under s.37(3) for trading losses current and carry back;
- Any claims for current year set off or group relief in relation to non-trading deficits (LR);
- For companies with investment business, any set-off of management expenses, capital allowances and charges paid wholly for the purpose of the business.

Illustration 3

Perth Ltd has a 31 March year end and has the following results for the last three years:

	Y/e 31 March 2009	Y/e 31 March 2010	Y/e 31 March 2011
	£	£	£
Trade profits	7,000	2,000	33,000
Non-trading profit (LR)	4,000		8,000
Non-trading deficit (LR)		(21,000)	
UK property business	1,000	1,000	1,000

Perth Ltd wants to claim relief for the non-trading deficit (LR) as early as possible and makes the following claims:

	Y/e 31 March 2009	Y/e 31 March 2010	Y/e 31 March 2011
	£	£	£
Trade profit	7,000	2,000	33,000
Non-trading credit (LR)	4,000		8,000
Less: Carry back deficit (LR)	**(4,000)**		
UK property business	1,000	1,000	1,000
Less: Current year claim		**(3,000)**	
Less: Carry forward deficit (LR)			**(9,000)**
TTP	8,000	Nil	33,000

Loss Memo:

	£
Total non-trading deficit (LR)	21,000
Less: Current year claim	(3,000)
Less: Carry back claim	(4,000)
	14,000
Less: Carry forward	(9,000)
To carry forward	5,000

Perth Ltd does not have to do a current year claim before the carry back claim, but as it wants to use the non-trading deficit (LR) as early as possible it can claim up to £3,000 in year ended 31 March 2010. Perth Ltd could have made a partial claim in the current year.

Perth Ltd can **only** carry back the deficit against the **non-trading credits (LR)** of the previous 12 months, so £4,000 is relieved in year ended 31 March 2009.

Of the original £21,000 non-trading deficit (LR) £14,000 is left to carry forward and this is automatically offset against all other non-trading income and gains. Hence £9,000 is offset in year ended 31 March 2011 against the non-trading credit (LR) of £8,000 and UK property income of £1,000. If Perth Ltd did not want to use this deficit in the year ended 31 March 2011 it could make a claim to carry all or part of the deficit forward to the year ended 31 March 2012.

Perth Ltd is left with a non-trading deficit (LR) of £5,000 to carry forward against future non-trading income and gains.

16.8 Losses on non-trading IFAs

CTA 2009, s.753

Where a company incurs a non-trading loss (or "debit") on IFAs, it has two years from the end of the chargeable accounting period of the loss to make a claim to set the **whole or part of the loss against total profits** of that period. Alternatively excess IFA losses can be group relieved.

Otherwise the loss is carried forward and treated as a non-trading debit arising in the next accounting period.