Chapmans
CHARTERED ACCOUNTANTS

New Tax Loss Carry Back regime

The COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 was passed under urgency last week and has implemented the new tax loss carry back scheme.

The legislation received royal asset last Friday and applies from 15th April 2020.

Key features

- A temporary measure which will provide for a one-year carry back of losses incurred in either the 2019–20 or 2020–21 income years.
- Taxpayers can estimate the loss and transfer this back one year enabling a refund to be received for tax paid on prior year profits.
- Applies to companies, trusts and individuals (other than those deriving only PAYE income) as well as those operating through partnerships and look-through companies.
- Application will depend upon the taxpayer's balance date. Taxpayers with a late balance date, for example 30 September, are more likely to benefit as the 2020 income year will likely have been more negatively impacted by COVID-19 as opposed to a taxpayer with a standard 31 March balance date.
- No requirement to show an expected downturn in earnings from COVID-19.
- A more permanent loss carry-back mechanism is likely to be introduced later in the year with application from the 2021–22 income year.

Limitations

As this legislation was passed under urgency it does not come without complications. Therefore, it is important to take note of the limitations below:

- Use of money interest will apply where a loss is over-estimated. Care should be taken when estimating losses for the 2021 income year as this is still a long way out.
- Existing ownership continuity requirements of 49% (for carrying losses forward) and 66% for grouping losses will apply.
- If a company is part of a wholly owned group, tax losses must first be utilised within the group. Any excess will be able to be carried back to the prior year.

- Tax losses arising from residential rental properties (where the loss ring fencing rules apply) are excluded.

- Refunds will be limited to the amount of imputation credits available. This is likely to create problems where a company has already paid a dividend in the prior year to utilise imputation credits.

- Care should be taken where shareholder salaries are involved, particularly where a shareholder current account is overdrawn.

How we can help

If your business is expected to make a loss for the year ended 31 March 2020 or 2021 you may be entitled to refund for provisional tax already paid.

This process will require a re-estimation of 2020 provisional tax, or an amendment of the 2019 income tax return already filed.

Please get in touch with us so that we can discuss your requirements with you.