Smith & Williamson

Real Estate

Corporation tax loss reform

The rules on corporation tax losses were overhauled from 1 April 2017. There is some increased flexibility on how losses can be used but property developers and investors alike could be disadvantaged by the new restriction on offsetting profits with carried-forward losses.

The rules

Losses that were incurred before 1 April 2017 and carried forward can only be used by the company that incurred the loss and only then against certain types of income – for example, trading losses can only be used against trading profits.

The rules have changed for losses arising after 1 April 2017 which, when carried forward, can be set more flexibly against total taxable profits, rather than particular types of income, of a company and its group members.

A further change is that the amount of profit arising after 1 April 2017 that can be relieved with carried-forward losses is now restricted to 50%, regardless of when the losses arose. However, each standalone company or group has a £5 million annual profit allowance before the restriction takes effect.

The impact

The relaxation on how losses can be used could be of particular value for those property businesses that hold property both as stock and as investments, with brought-forward trading losses now able to offset rental profits, and vice versa. The ability to use the carried-forward losses of one group company against the profits of another should also benefit property businesses that commonly use SPVs.

Although the government expects the £5 million allowance will ensure 99% of companies are unaffected by the new restriction, property developers that naturally have a timing mismatch between incurring costs and earning profits may be exposed, as well as investors with large one-off gains on property disposals.

What are we doing with our clients?

Many companies will have accounting periods that span 1 April 2017 and we have been helping clients apportion their results before and after that date.

The new rules add complexity and we have been working to establish how they apply to our clients' individual circumstances and modelling the impact on tax cash flows. There can now be many more options for how losses can be used and we have been considering those with our clients to determine which are likely to be the most beneficial, at what point, and how we add strategy to what is claimed when.

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