TAX RELIEF FOR TRADING COMPANY LOSSES

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Relief for company trading losses is given under S.396A and S.396B of the Taxes Consolidation Act 1997.

A company can use losses arising in a trade to reduce

(a) other trading income and
(b) the corporation tax liability on income and gains that are taxable at a higher rate.

The reduction in the corporation tax liability is achieved through relief being given on a value basis.

GRANTING & CALCULATING RELIEF: A TWO-TIER PROCESS:

S.396A: Loss relief is given **€** for **€** against Schedule D Case I:

(a) In the year the loss was incurred.
(This may already be at Nil if the company has only one trade.)

(b) In the accounting period of the same length immediately preceding the accounting period where the loss occurred.

S.396B: Any remaining loss is relieved on a **value basis** i.e. a credit is given against corporation tax, as calculated on the remaining profits:

(a) In the year the loss was incurred.

(b) In the accounting period of the same length immediately preceding the accounting period where the loss occurred.

The **value of the loss** is calculated at the standard corporation rate prevailing in the year the loss was incurred.

Under S.396A and S.396B, *"accounting period of the same length immediately preceding…"* means that if the loss is made in an accounting period of 12 months, it can be carried back 12 months into the immediately preceding accounting period(s). Similarly, if the loss is made in an accounting period of 6 months, it can only be carried back into 6 months of the preceding accounting period(s) etc.

When applying these rules a straightforward 4-step approach should be adopted. This approach is highlighted using the following 3 examples:

Example 1:

	Year end 31/12/2014	***Year end 31/12/2015***
	€	**€**
Case I	*50,000*	*(75,000)*
Case III	*4,000*	*5,000*
Adjusted gain	*3,000*	*2,000*

STEP 1: **Start with the year where the loss was made - work out the tax:**

	Year end 31/12/2015
	€
Case I	Nil
Case III	5,000
Income	5,000
Adjusted gain	2,000
Profits	7,000
Taxed:	
Case I	Nil
Case III €5,000 @ 25%	1,250
Gain €2,000 @ 12.5%	250
	1,500

STEP 2: **Carry back the loss € FOR € against Case I in the preceding**
S.396 A **period of the same length - work out tax.**

	Year end 31/12/2014	
	€	
Case I	50,000	Remaining loss €25,000
S.396 A	(50,000)	(€75,000 - €50,000)
	Nil	
Case III	4,000	
Income	4,000	
Adjusted gain	3,000	
Taxable profits	7,000	
Taxed:		
Case I	nil	
Case III €4,000 @ 25%	1,000	
Gain €3,000 @ 12.5%	375	
	1,375	

STEP 3: S.396B	**Relieve remaining loss against tax, on a value basis, in the same order**		
	Year end 31/12/2015 €		
Corporation tax	1,500		
S.396 B - €12,000 x 12.5%	(1,500)	Loss remaining:	€13,000
Tax payable	nil	(€25,000 - €12,000)	

STEP 4: S.396 B	**And, carry back against tax in the preceding period of the same length**		
	Year end 31/12/2014 €		
Corporation tax	1,375		
S.396 B - €11,000 x 12.5%	(1,375)	Loss remaining:	€2,000
Tax payable	nil	(€13,000 - €11,000)	

The final remaining loss of €2,000 will be carried forward to 2016 and set € for € against future trading income of the same trade.

In an exam situation, it is quite common to be given accounting periods of differing lengths. This should not cause a problem if the 4 steps are followed logically:

Example 2:
If in the above example the year-end of the company in 2015 was the 30 June rather than the 31 December and the Case III is €25,000:

STEP 1: S.396A	**Starting with the year where the loss was made - work out the tax:**
	6 months end 30/06/2015 €
Case I	Nil
Case III	25,000
Income	25,000
Adjusted gain	2,000
Profits	27,000
Taxed:	
Case I	nil
Case III €25,000 @ 25%	6,250
Gain € 2,000 @ 12.5%	250
	6,500

STEP 2: **Carry back the loss € FOR € against Case I in the preceding**
S.396 A **period of the same length - work out tax.**

	Year end 31/12/2014	
	€	
Case I	50,000	
S.396 A * €50,000 x 6/12	(25,000)	Remaining Loss: €75,000- €25,000
	25,000	€50,000
Case III	4,000	
Adjusted gain	3,000	
Taxable profits	32,000	

Taxed:

Case I €25,000 @ 12.5%	3,125
Case III €4,000 @ 25%	1,000
Gain €3,000 @ 12.5%	375
	4,500

STEP 3: **Now relieve any remaining loss on a value basis, in the same order**
S.396B

	6 months end 30/06/2015	
	€	
Corporation tax	6,500	
S.396 B - €50,000 x 12.5%	(6,250)	Loss remaining: € NIL
Tax payable	250	(€50,000 - €50,000)

STEP 4: **And, carry back against tax in the preceding period of the same length**
S.396B

	Year end 31/12/2014
	€
Corporation tax	4,500
S.396 B	(Nil)
Tax payable	4,500

Case V Rental Losses

S399 deals with losses arising from rental properties owned by a company. All Case V income is treated as arising from one source. Where there are a number of let properties, losses arising on one property may be netted against profits arising on another property. Where there is an overall loss arising, this loss may be carried back against Case V income of previous accounting period of equal length and any balance remaining may be carried forward against future Case V income.

In addition to Case V losses we also have Excess Case V Capital Allowances. S308 of the TCA 97 deals with these and they can be used as follows:

- Excess Case V Capital Allowances can be deducted all profits of the accounting period (including adjusted gains)
- Deducted from all profits of the preceding accounting period (of equal length)
- Carried forward against Case V in future accounting periods

Example 3:	***Year end 31/12/2014***	***Year end 31/12/2015***
	€	***€***
Case I	*50,000*	*(75,000)*
Case III	*4,000*	*5,000*
Case V	*10,000*	*8,000*
Case V Capital Allowances	*(6,000)*	*(12,000)*
Adjusted gain	*3,000*	*2,000*

STEP 1: **Start with the year where the loss was made - work out the tax:**

Year End 31/12/2015

	€
Case I	Nil
Case III	5,000
Income	5,000
S308	(4,000)
Total Income	1,000
Adjusted gain	2,000
Profits	3,000

Taxed:

Case I	Nil
Case III €1,000 @ 25%	250
Gain €2,000 @ 12.5%	250
	500

STEP 2: **Carry back the loss € FOR € against Case I in the preceding**
S.396 A **<u>period of the same length - work out tax.</u>**

	Year end 31/12/2014 €	
Case I	50,0000	
S.396 A	(50,000)	Remaining Loss:
	Nil	€75,000- €50,000
Case III	4,000	€25,000
Case V	4,000	
Adjusted gain	3,000	
Taxable profits	11,000	

Taxed:

Case III & V €8,000 @ 25%	2,000
Gain €3,000 @ 12.5%	375
	2,375

STEP 3: **<u>Relieve remaining loss against tax, on a value basis, in the same order</u>**
S.396B

Year end 31/12/2015

	€		
Corporation tax	500		
S.396 B - €4,000 x 12.5%	(500)	Loss remaining:	€21,000
Tax payable	nil	(€25,000 - €4,000)	

STEP 4: **<u>And, carry back against tax in the preceding period of the same length</u>**
S.396 B

Year end 31/12/2014

	€		
Corporation tax	2,375		
S.396 B - €19,000 x 12.5%	(2,375)	Loss remaining:	€2,000
Tax payable	nil	(€21,000 - €19,000)	

The final remaining loss of €2,000 will be carried forward to 2016 and set € for € against future trading income of the same trade.