[43.0.1] Partnerships involving companies (Section 1009 TCA 1997)

Last reviewed June 2016

1. Section 1009 provides that, in relation to a company which is a partner in a partnership, subsections (1), (2)(a) and (3) of section 1008 have effect for the purposes of corporation tax as they have effect for income tax. Thus, the company's share of the partnership profits (or losses) and charges is treated as profits (or losses) and charges of a "several trade" carried on by it.

2. This several trade is regarded as commencing when the partnership commences to trade or succeeds to a trade previously carried on by a sole trader or by another partnership none of whose members continues in the new partnership or, if later, when the company joins the partnership; and as ceasing when the company leaves the partnership or, if earlier, when the partnership ceases to carry on the trade or is succeeded by a sole trader (including a sole trader who was a member of the partnership) or by another partnership none of whose members was a member of the previous partnership.

3. Where the period for which the accounts of a partnership are made up does not coincide with the partner company's accounting period for corporation tax, any necessary apportionments are to be made of the partner company's share of the partnership profits or losses in order to arrive at the share of those profits or losses attributable to its "several trade" for its corporation tax accounting period. Any such apportionment is to be made on a time basis, by reference to the number of months or fractions of months.

4. Where an appropriate share of a "joint allowance" or "joint charge" (i.e. a share of the capital allowances or balancing charges of the partnership: see section 1010) would have been made for a year of assessment for income tax purposes if the company had continued to be liable to that tax, the "relevant amount" (see below) is to be treated as an expense or receipt of the company's "several trade" for the whole or part (on a time apportionment) of its corporation tax accounting period which falls within the year of assessment.

5. The "relevant amount" -

(i) is the whole amount of the appropriate share of the joint allowance or the joint charge, where the accounting period and the year of assessment coincide; and

(ii) is a proportion (on a time basis) of such allowance or charge where the accounting period does not coincide with the year of assessment.

6. For the purpose of computing the “relevant amount”, a joint allowance for a year of assessment is not to include any allowance brought forward from a previous year of assessment. The capital allowances to be looked at are those attributable to the accounting period.

7. For the purposes of section 1009, the word “profits” is <u>not</u> to be taken as including chargeable gains.