

Late Submission of Returns - Restriction of Claims to Relief Corporation Tax

Part 47-06-04

This document should be read in conjunction with section 1085 Taxes Consolidation Act 1997

Document updated July 2017

1. Late Submission of Returns - Restriction of Claims to Relief

While the rate of timely return filing continues to improve, practitioners are reminded of the necessity to submit returns on time. Practitioners are generally aware that failure to file a timely return can lead to a surcharge arising where there is a liability to tax. However, the position of companies availing of/surrendering “excess losses” etc. is not always recognised.

Practitioners should note that, under Section 1085 TCA 1997 claims to the following reliefs are restricted where tax returns are not submitted on time. The amount of the restriction is computed by reference to the length of the delay in filing.

| Claims Affected | Filing delay less than 2 Months Extent of Restriction | Filing delay 2 months or more Extent of Restriction |
|--|--|--|
| Excess Capital Allowances under Section 308(4) TCA 1997 | 25% of the amount otherwise available | 50% of the amount otherwise available |
| Loss Relief under Sections 396(2) 396A(3) , 396B(2) and 399(2) TCA 1997 | 25% of the amount normally claimable | 50% of the amount normally claimable |
| Group Relief Claims | 25% of profits as reduced by any other relief from tax other than group relief | 50% of profits as reduced by any other relief from tax other than group relief |
| Group Relief – Surrender of “Losses” etc. within Sections 420,420A(3) and 420B TCA 1997 | 25% of the “Losses” etc. otherwise available | 50% of the “Losses” etc. otherwise available |

2. Incomplete Company Tax Returns

A significant number of cases where there is a liability under the following headings are not completed on company tax returns (forms CT1):

- surcharge on close company’s undistributed investment & estate income

Sections 440/441 TCA 1997

Income tax due on loans to participators/annual payments

Section 239 TCA 1997

Returns that are submitted without such matters being dealt with are not full and true returns. Some practitioners may, depending on the circumstances, have clients with incomplete returns of this kind being subjected to an interest charge and a surcharge for failure to submit a correct return (as well as the additional tax due) and for details on surcharge (see [47.06.07](#) for companies and see [47.06.01](#) for Form 11).

Practitioners are requested to ensure that returns submitted by their staff are fully complete in these and all other respects.

3. Investment/Rental Companies

Many investment/rental companies fail to keep adequate records as required by law. This creates significant problems when such cases are selected for Revenue Audit and can result in prolonged audits and expense for the company. Practitioners are asked to ensure that they make their clients aware of their obligation to maintain proper books and records and to retain such records for a period of six years after the end of the accounting period for which a tax return is filed.