



# **GRA**

## **GHANA REVENUE AUTHORITY**

---

### **Practice Note on Carry Over Losses under the Income Tax Act, 2015 (ACT 896)**

---

Practice Note Number: **DT / 2016 / 004**

Date of Issue: **6<sup>th</sup> October, 2016**

**TABLE OF CONTENT**

**1.0 TAX LAW ..... 1**

**2.0 INTERPRETATION ..... 1**

**3.0 PURPOSE ..... 1**

**4.0 APPLICATION OF THE LAW ..... 1**

4.1 Losses from business or investment..... 1

4.2 Periods for carrying forward losses ..... 2

4.3 Segmented business with different tax rates..... 5

4.4 Deduction of losses from Business and Investment..... 6

4.5 Losses relating to Incomes taxed at reduced rate or Exempt Income. .... 7

4.6 Transitional Provision ..... 9

## **1.0 TAX LAW**

The Commissioner-General of the Ghana Revenue Authority is empowered under paragraph 2 of the Seventh Schedule of the Income Tax Act, 2015 (Act 896) to issue Practice Notes setting out the interpretations placed on provisions of the Act by the Commissioner-General. Accordingly, this Practice Note is issued in respect of the treatment of losses from business or investment under Section 17 of the Income Tax Act, 2015 (Act 896)

## **2.0 INTERPRETATION**

In this Practice Note the word “Act” means the Income Tax Act, 2015 (Act 896).

Definitions and expressions used in this Practice Note have the same meaning as they have in the Act.

## **3.0 PURPOSE**

The purpose of this practice note is to clarify the provisions of the Act that deal with carryover of losses in business or investment, including banking, general insurance, petroleum operations and mining operations.

It is also intended to provide direction and guidance to officers of the Ghana Revenue Authority, Tax Practitioners, Consultants, Taxpayers and the general public on the acceptable treatment of and procedures for carrying over losses in order to ensure consistency in the administration of the Act.

## **4.0 APPLICATION OF THE LAW**

### **4.1 Losses from business or investment**

**Definition – The definitions of a “Loss” and an “Unrelieved Loss” are as stated under section 17(5) of the Act.**

A Business may suffer losses whereby its revenues from the sale of goods and services and financial income are insufficient to cover wages and salary costs,

materials, interest on borrowed money, other allowable expenses and appropriate depreciation of capital.

Again, losses for tax purposes may arise when some forms of income are not subject to tax or when costs are written off more generously for tax purposes compared to economic cost.

Losses arising from trade, profession or vocation constitutes business loss, while investment loss arises from losses other than from business and employment. Loss from holding of assets is an example of investment loss.

#### **4.2 Periods for carrying forward losses**

A person is allowed under the provisions of the Act (section 17) to carry forward a loss from business or investment incurred in a year of assessment to a subsequent year of assessment.

In ascertaining income from business or investment for a year of assessment, a person operating in a **priority sector** is allowed to deduct an unrelieved loss of the person for any of *the five (5) previous years of assessment*. The priority sectors are as stated under Regulation 19 of the Income Tax Regulations, 2016 (LI. 2244).

A person operating in **a sector other than a priority sector** is allowed to deduct an unrelieved loss for any of *the three (3) previous years of assessment* in ascertaining the person's income from business or from investment for a year of assessment.

##### **4.2.1 ILLUSTRATION 1:**

(a) ABC Mining Company Limited started operations in 2016. In its first year of operation it declared a loss of GHS500,000.00.

Determine the number of years ABC Mining Company may carry forward its losses.

**SOLUTION**

ABC Mining Company Limited is in the priority sector and may deduct the unrelieved loss that occurred in 2016 from the income of any of the subsequent five (5) years of assessment (2017, 2018, 2019, 2020 and 2021 years of assessment).

- (b) XYZ Company is in the business of retailing ladies dresses. In its first year of operation ending in 2016, the company declared a loss of GHS140,000.00.

Determine the number of years XYZ Company may carry forward its losses.

**SOLUTION**

XYZ Company Limited is not in a priority sector hence may deduct the unrelieved loss that was incurred in 2016 from the income of any of the subsequent three (3) years of assessment (2017, 2018 and 2019 years of assessment).

**4.2.2 ILLUSTRATION 2**

A&B Limited started operation on 1<sup>st</sup> January, 2016 and declared tax losses as follows:

<b>Year of Assessment</b>	<b>Tax Loss GHS</b>
2016	200,000.00
2017	100,000.00
2018	300,000.00
2019	50,000.00
2020	150,000.00
2021	1,000.00
2022	500.00

In 2023 year of assessment the company declared a profit of GHS800,000.00

Required

Determine the tax payable by A & B Limited in 2023 year of assessment if:

- (i) The company operates in one of the specified priority sectors.
- (ii) The company operates in a non-priority sector.

SOLUTION

- (i) – COMPANY IN SPECIFIED PRIORITY SECTOR

2023 Year of Assessment

(a) Assessable Income		800,000.00
Less unrelieved loss for the previous five years		
2018	300,000.00	
2019	50,000.00	
2020	150,000.00	
2021	1,000.00	
2022	<u>500.00</u>	
		<u>501,500.00</u>
Chargeable Income		298,500.00
Tax thereon @ 25%		<u>74,625.00</u>

***[Note that the tax losses for 2016 and 2017 years of assessment were not taken into account in the calculation because they were incurred earlier than the previous five years of assessment.]***

- (ii) – COMPANY IN A NON- PRIORITY SECTOR

(b) Chargeable Income		800,000.00
Less unrelieved loss for the previous three years		
2020	150,000.00	
2021	1,000.00	
2022	<u>500.00</u>	

	<u>151,500.00</u>
Chargeable Income	648,500.00
Tax thereon @ 25%	<u>162,125.00</u>

***[Note that the tax losses for 2016, 2017, 2018 and 2019 years of assessment were not taken into account in the calculation because they were incurred earlier than the previous three (3) years of assessment.]***

#### **4.3 Segmented business with different tax rates.**

**Where a person makes a loss and if the loss were a profit would have paid tax at a lower or reduced tax rate, the loss may only be deducted in calculating income that is taxed at the same reduced rate, a lower rate or exempt amount.**

Where business operations are segmented with different tax rates, losses attributable to a segment with a particular tax rate can be deducted only from incomes that will be taxed at the same rate.

Where the business is segmented but the incomes are not segmented, there may be the need for apportionment of the income of the business. The basis for apportionment of income is the contribution of each business line to the total turnover of the business.

#### **ILLUSTRATION**

XYZ Company Ltd deals in non-traditional exports as well as local sales.

The company's operations for 2016 year of assessment is stated below

Turnover	GHS
Export Sales	1,000,000.00
Local Sales	500,000.00
Losses on operations	
Loss from Non-Traditional Exports	200,000.00
Loss from local sales	80,000.00

Assessable Income declared by the company in 2017 year of assessment is as follows:

Non-Traditional Exports	600,000.00
Local Sales	100,000.00

Required: Determine how the unrelieved losses in 2016 will be dealt with in 2017 year of assessment.

Year of Assessment	Income from Non Traditional Exports	Income from Local Sales
<b>2016</b>	<b>GHS</b>	<b>GHS</b>
Unrelieved Losses c/f	200,000.00	80,000.00
<b>2017</b>		
Income	600,000.00	100,000.00
Less unrelieved loss b/f	200,000.00	80,000.00
Chargeable Income	400,000.00	20,000.00
Tax Rate	8%	25%
Tax Thereon	32,000.00	5,000.00

#### 4.4 Deduction of losses from Business and Investment

An unrelieved loss from business may be deducted in calculating income from investment. However an unrelieved loss from investment shall be deducted only in calculating income from investment.

#### ILLUSTRATION

XYZ LTD declared profit (loss) as provided for in the table below:

Year of Assessment	Business Income/ (Loss)	Investment Income /(Loss)
2017	100,000.00	(50,000.00)
2018	(40,000.00)	120,000.00

Required:



Determine how the unrelieved losses will be treated.

**Solution:**

For the 2017 year of assessment, the investment loss of GHS50,000.00 cannot be set off against the business income of GHS100,000.00.

However, in 2018 year of assessment the investment loss of GHS50,000.00 for 2017 year of assessment and the business loss of GHS40,000.00 for the 2018 year of assessment may be deducted from the investment income of GHS120,000 for that year.

The deductions will be as follows:

**2017 Year of Assessment**

	<b>GHS</b>
Business Income	<u>100,000.00</u>
Net Income	<u>100,000.00</u>

**2018 Year of Assessment**

	<b>GHS</b>
Investment Income	120,000.00
Less Investment Loss (2017) (50,000.00)	
Business Loss (2018) <u>(40,000.00)</u>	
	<u>(90,000.00)</u>
Net Income	<u>30,000.00</u>

**4.5 Losses relating to Incomes taxed at reduced rate or Exempt Income.**

**Losses from activities that are exempt from tax or from incomes that are taxed at reduced rates cannot be deducted from the profits of other businesses.**

**ILLUSTRATION**

Yawaduse Company Limited declared a total loss of GHS430,000 in the 2016 year of assessment. The loss was made up of:

- (i) Transport operations of GHS250,000.00
- (ii) Hotel operations of GHS180,000.00.

The company declared profits from its operations for the 2017 year of assessment as follows:

Transport operations	GHS100,000.00
Hotel operations	GHS750,000.00

**Required**

**Determine how the losses of the two business operations will be treated in the 2017 year of assessment.**

**SOLUTION**

Year of Assessment		Income From Transport Operations		Income from Hotel Operation
	<b>GHS</b>	<b>GHS</b>	<b>GHS</b>	<b>GHS</b>
2017 – Assessable Income		100,000.00		750,000
Less				
Unrelieved Loss – 2016	250,000.00		180,000.00	
Loss Utilized		<u>100,000.00</u>		<u>180,000.00</u>
Unrelieved Loss c/f	150,000.00			
Chargeable Income		Nil		570,000.00
Tax Rate		25%		22%
Tax Thereon		Nil		125,400.00

**Unrelieved loss from transport business carried forward to 2018 - GHS150,000.00**

The unrelieved loss of GHS150,000.00 from the Transport business at the end of 2017 year of assessment cannot be deducted from the chargeable income of GHS570,000.00 of the Hotel operations. (Please refer section 17(2)(a), (2)(b))

NB:

- (i) Paragraph 3(1) of the first Schedule of the Act state that the chargeable income of a company other than a company principally engaged in hotel industry would be taxed at the rate of 25%.
- (ii) Paragraph 3 of the first Schedule of the Act state that the chargeable income of a company principally engaged in hotel industry would be taxed at the rate of 22%.

#### 4.6 Transitional Provision

Companies which were required to carry forward losses under the repealed Internal Revenue Act, 2000 (Act 592) will continue with the dispensation up to the end of the basis period in which the dispensation would have ended under the provisions of Act 592.

Signed .....

Date ..... 06/10/2016 .....

**KWASI GYIMAH-ASANTE**  
**COMMISSIONER – DTRD**  
**FOR : COMMISSIONER-GENERAL**