

Basic Tax Information Bulletin

Corporate Tax Losses



1 Who should read this information bulletin?



Anyone who is responsible for the tax affairs of a Taxable Person who wants to understand:

- What is a Tax Loss?
- What is not a Tax Loss?
- What relief is available for Tax Losses?
- How does relief for carried forward Tax Losses work?
- What are the limitations on the carry forward of Tax Losses?
- Under what circumstances are Tax Losses forfeited?
- What are the conditions for the transfer of Tax Losses and what is available for transfer?
- What is the impact of electing for Small Business Relief (SBR)?

2 What is a Tax Loss?



For Corporate Tax purposes, a Tax Loss arises when deductible expenses exceed income that is subject to Corporate Tax in a given Tax Period. In other words, a Tax Loss is negative Taxable Income computed by adjusting Accounting Income as per the Corporate Tax Law for a given Tax Period.

3 What is not a Tax Loss?



Losses incurred before Corporate Tax came into effect on 1 June 2023, losses incurred before a person became a Taxable Person under the Corporate Tax Law, and losses from activities that do not result in Taxable Income (for instance, related to Exempt Income) are not Tax Losses.¹ Losses incurred before Corporate Tax was introduced in the UAE cannot be carried forward and offset against the Taxable Income of any Tax Period.

4 What relief is available for Tax Losses?



A Taxable Person can carry forward Tax Losses and offset them against its own Taxable Income in future Tax Periods (see Q5). Further, it is also possible to transfer Tax Losses to another Taxable Person and offset them against its Taxable Income (see Q8).

1 | Article 37(3) of the Corporate Tax Law.



5 How does relief for carried forward Tax Losses work?



When a Tax Loss related to a Tax Period cannot be used in full in that Tax Period, the balance remains available to offset in future Tax Periods. A Taxable Person can carry forward its own Tax Losses indefinitely into future Tax Periods. Offsetting Tax Losses can reduce the amount of Taxable Income and thus Corporate Tax payable when a Taxable Person generates Taxable Income in future Tax Periods.

The total amount of Tax Losses which can be offset in a subsequent Tax Period is limited to 75% of the Taxable Income in that Tax Period before any Tax Loss relief.² The oldest Tax Losses are offset before more recent Tax Losses.

A Taxable Person is required to offset carried forward Tax Losses to the fullest extent possible before any remainder can be carried forward to further subsequent Tax Periods.³ For example, if a company has AED 1,000,000 of Taxable Income (before Tax Loss relief) in a Tax Period and Tax Losses of AED 3,000,000 carried forward from earlier Tax Periods, it must offset AED 750,000 of those Tax Losses against its Taxable Income for the Tax Period (i.e., 75% of 1,000,000). This would result in Taxable Income of AED 250,000 (AED 1,000,000 less AED 750,000) for the relevant Tax Period and Tax Losses carried forward to the following Tax Periods of AED 2,250,000 (AED 3,000,000 less AED 750,000). It is not possible to choose to offset a lower amount than 75% of Taxable Income and thereby carry forward more Tax Losses to future Tax Periods.


Further, a Taxable Person must first utilise its own carried forward Tax Losses before utilising transferred Tax Losses received from another Taxable Person.⁴ A Taxable Person must first fully utilise its own carried forward Tax Losses before transferring any remaining Tax Losses to another Taxable Person for a specific Tax Period.

2 | Article 37(2) of the Corporate Tax Law.

3 | Article 37(4) of the Corporate Tax Law.

4 | Article 37(4) of the Corporate Tax Law.

6 What are the limitations on the carry forward of Tax Losses?

 The carry forward and utilisation of Tax Losses can be restricted in case of a change of ownership of more than 50% in a Taxable Person. Such change occurs when more than 50% of the ownership interests in a Taxable Person have changed comparing the beginning of the Tax Period in which a Tax Loss arose and the end of the Tax Period when the Tax Loss is fully or partially utilised⁵. An ownership interest is any equity or similar interest (for instance, a partnership interest or shares issued by a company) that carries rights to profits and liquidation proceeds. For instance, if the shareholders of a company consist of 5 individuals that each hold 20% of the shares, there would be a change of ownership if 3 of those individuals disposed of all of their shares at the same time. Further, for the purposes of this condition, the ownership interests include direct or indirect ownership interests.

In the case of a change in ownership of more than 50%, a Tax Loss can only be carried forward and offset against Taxable Income of future Tax Periods if the Taxable Person continues to conduct the same or a similar Business or Business Activity.⁶ This requires the nature of the activities to remain substantially unchanged.

When evaluating whether a Taxable Person has continued to conduct the same or a similar Business or Business Activity after a change in the direct or indirect ownership, consideration should be given to the following factors (non-exhaustive)⁷:

- the Taxable Person uses some or all of the same assets as before the ownership change;
- the Taxable Person has not made significant changes to the core identity or operations of its Business since the ownership change;
- where there have been any changes, these result from the development or exploitation of assets, services, processes, products or methods that existed before the ownership change.

The above limitation of carry forward of Tax Losses does not apply to a Taxable Person whose shares are listed on a Recognised Stock Exchange⁸.

5 Article 39(1)(a) of the Corporate Tax Law.

6 Article 39(1)(b) of the Corporate Tax Law.

7 Article 39(2) of the Corporate Tax Law.

8 Article 39(3) of the Corporate Tax Law.

7 Under what circumstances are Tax Losses forfeited?



There are many circumstances under which Tax Losses are forfeited. These could include when a Taxable Person has changed its Business or Business Activity following a change in ownership of more than 50% (see Q6), and when a Taxable Person deregisters for Corporate Tax.

8 What are the conditions for the transfer of Tax Losses and what is available for transfer?



The transfer of Tax Losses from one Taxable Persons to another Taxable Person requires the following conditions to be met⁹:

No.	Applicable condition to the Taxable Person	Explanation
1	Juridical person condition	Both Taxable Persons are juridical persons, for instance LLCs. Tax Losses cannot be transferred to or from a natural person, even if they are a Taxable Person.
2	Resident Person condition	Both Taxable Persons are Resident Persons. The transfer of Tax Losses to or from a Non-Resident Person is not possible, even if such a Person is subject to Corporate Tax (for example, a UAE Permanent Establishment of a foreign company, such as a branch).

No.	Applicable condition to the Taxable Person	Explanation
3	75% ownership condition	One Taxable Person owns at least 75% of the ownership interests of the other, or a third Person (single Person) owns at least 75% of each Taxable Person (directly or indirectly). An ownership interest is any equity or similar interest (for instance, a partnership interest or shares issued by a company) that carries rights to profits and liquidation proceeds. This condition needs to be met from the start of the Tax Period in which a Tax Loss was incurred, until the end of the Tax Period in which the Tax Loss is offset by the Taxable Person to whom the Tax Loss is transferred.
4	Not being an Exempt Person condition	Neither person is an Exempt Persons from Corporate Tax.
5	Not being a Qualifying Free Zone Person condition	Neither person is a Qualifying Free Zone Person (even if they have Taxable Income that is subject to the 9% Corporate Tax rate).
6	Financial Year end condition	The Financial Year of both Taxable Persons ends on the same date.
7	Accounting Standard condition	Both Taxable Persons use the same accounting standards in preparing their Financial Statements (for example, both using IFRS or both using IFRS for SMEs). This requirement ensures the accounting losses and income are computed on a comparable basis.

If all conditions are met, a Tax Loss can be offset against the Taxable Income of another Taxable Person. The Taxable Persons can choose the amount of Tax Loss to transfer – it does not need to be the maximum possible. The total Tax Loss offset from all sources, i.e., transferred Tax Losses in addition to the Taxable Person’s own carried forward Tax Losses, cannot exceed 75% of the Taxable Income of the Taxable Person utilising the Tax Losses¹⁰, in a Tax Period (see Q5). There is no limit on the number of other Taxable Persons to which Tax Losses can be transferred. The Tax Losses available to be transferred are unused Tax Losses of the current Tax Period or carried forward from previous Tax Periods. A Taxable Person must first fully utilise its own carried forward Tax Losses before transferring any remaining Tax Losses to another Taxable Person for a specific Tax Period. Any remaining unused Tax Losses can be carried forward by the Taxable Person which incurred them.

9 What is the impact of electing for SBR?



When a Taxable Person that is a Resident Person elects for SBR in a Tax Period, it is treated as having no Taxable Income and accordingly, no Tax Loss can arise in that Tax Period. Tax Losses carried forward from Tax Periods in which SBR did not apply cannot be utilised or transferred in a Tax Period where SBR is applied. However, such Tax Losses may continue to be carried forward and utilised in future Tax Periods when SBR does not apply (see Q5), or transferred to another Taxable Person (see Q8), subject to conditions being met.

10 Further information



The FTA has published various Corporate Tax guides and public clarifications, which are all available on the FTA's website.¹¹