

Short Lived Businesses

Part 04-03-01

This document should be read in conjunction with section 68 of the Taxes
Consolidation Act 1997

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Table of Contents

| | | |
|-----|--|---|
| 1 | Introduction | 3 |
| 2 | Cases to which section 68 TCA 1997 applies..... | 3 |
| 3 | Rules governing basis of assessment of profits of a trade or profession..... | 4 |
| 4 | Effect of section 68 TCA 1997 | 5 |
| 4.1 | Example | 5 |
| | Note 1..... | 6 |
| | Note 2..... | 6 |
| 5 | Deemed commencements and cessations..... | 6 |
| 6 | Notice required to be submitted to Revenue | 6 |

1 Introduction

The purpose of this manual is to outline where the provisions of section 68 TCA 1997 should be applied.

2 Cases to which section 68 TCA 1997 applies

The section applies where:

- (i) a trade or profession commences and ceases within three tax years,
and
- (ii) the profits which would otherwise be assessed exceed the actual profits
of the trade or profession for the period of its existence.

Note: For the provision to apply, the commencement and cessation must take place within a period of three years of assessment. Thus, the provision would not apply where, for example, a business commenced on 1/11/2019 and ceased on 30/6/2022. Although the life of the business in this case is less than three years, the commencement and cessation take place within four tax years i.e. years 2019 to 2022 inclusive.

3 Rules governing basis of assessment of profits of a trade or profession

The normal rules governing the assessment of profits of a trade or profession (other than a short-lived business) are contained in sections 65, 66 and 67 TCA 1997. These are summarised as follows¹:

| Tax Year | Basis of assessment |
|-------------------------------|---|
| Year 1 (year of commencement) | Actual profits from commencement to following 31 December. |
| Year 2 | Profits of first 12 months |
| Year 3 | Profits of period of 12 months ending in the tax year; Where the profits assessed for year 2 exceed the actual profits for that tax year, the excess may be set as far as possible against the profits assessed for year 3 with any balance being carried forward as a trading loss for set-off against profits of the trade or profession assessable for later tax years. |
| Year of permanent cessation | Actual profits from 1 January to date of cessation. The assessment for the preceding year is increased to actual, subject to set-off of losses. |

Where a trade or profession ceases in year 3, the profits assessable for year 3 may not be sufficient to absorb the excess of the profits assessed for year 2 over the actual profits for that year. Since the trade or profession has ceased permanently, there are no profits available to absorb the balance of this excess in future years.

¹ For more details, refer to:

- [Tax and Duty Manual \(TDM\) 04-03-03](#) for details on the commencement rules
- [TDM 04-03-04](#) for details on the cessation rules
- [TDM 04-03-05](#) for details on a change in accounting date or cessation of a trade or profession

4 Effect of section 68 TCA 1997

Section 68 deals with the above problem by providing for a reduction in the amount of profits assessable for the tax year prior to the tax year in which the trade or profession ceases. In practice this will be year 2.

The following example illustrates the operation of the section.

4.1 Example

Trade commenced on 1 April 2019.

Accounts are prepared annually to 31 March.

Trade ceased on 30 September 2021.

Profits per accounts

| | |
|--|---------------|
| Year ended 31 March 2020 | €6,000 |
| Year ended 31 March 2021 | €3,000 |
| 6 months ended 30 September 2021 | € 0 |
| Total profits earned during life of business | <u>€9,000</u> |

(ii) The profits assessable **but for section 68 TCA 1997** would be:

| | | |
|---|------------------------------------|--------------------------|
| 2019 (actual) | 6,000 x 9/12 | €4,500 |
| 2020 (first 12 months) | | €6,000 (Note 1) |
| 2021 (actual on cessation) | | |
| 3,000 x 3/12 + 0 x 6/6 | = 750 | |
| Less excess of assessment year 2 over profits for that year | | |
| 6,000 - 3,750 ² | = <u>2,250</u> 0 (Note 2) | |
| Total amount assessed | | €10,500 |

² Actual profits of 2020 is €3,750 i.e. €6000 x 3/12 plus €3,000 x 9/12.

Note 1

Since the actual profits of the tax year 2020 do not exceed the assessed profits, there would be no revision of the assessment for that tax year, under the rules of cessation in section 67(1) TCA 1997, to the actual basis of assessment.

Note 2

The balance of the excess (€1,500) would be lost since the trade has ceased. If the trade had continued, set-off of this amount against future profits would have resulted in the profits assessed for the first three years being effectively equal to the profits of those three years.

(iii) Profits assessable when section 68 is applied are:

In the above example, the total profits earned during the life of the trade are €9,000. However, the profits assessed, in the absence of section 68, would total €10,500.

Under section 68, the assessment for the tax year prior to the tax year in which the trade ceased³, is reduced by the amount by which the profits assessed for that year exceed the actual profits of that year. Thus, in this case, the 2020 assessment would be on the actual amount i.e. €3,750 and the assessment for 2021 would also be on the actual amount i.e. €750.

5 Deemed commencements and cessations

The section applies where a trade or profession is deemed to have commenced or to have ceased permanently in accordance with section 69 TCA 1997 (change of proprietor).

6 Notice required to be submitted to Revenue

Chargeable persons must give notice in writing to Revenue, on or before the return filing date for the tax year in which the business ceased, of their entitlement to have the profits of the business reduced in accordance with the provisions of section 68 TCA 1997.

³ Refer to [TDM 04-03-06](#) for details on when a trade has ceased.