

Taxation of Profits from Land Relief for losses Section 662 TCA 1997

Part 23-01-05

Document last reviewed May 2019



Executive Summary

This manual outlines the circumstances in which relief under section 381 may be allowed in the fourth and subsequent year where farming losses are due to the burden of loans.

Relief for losses Section 662 TCA 1997

Many farmers, otherwise carrying on farming on a commercial basis and with a view to the realisation of profits, are incurring losses over prolonged periods due to the burden of loans entered into at a time when the state of the market and the prevailing rates of interest suggested that sufficient profits could be generated to service the loans. These loans can now be serviced only by the farmer or his spouse either obtaining an alternative source of income or diverting income from an existing source.

In the circumstances, if an Inspector is satisfied -

- a) that farming is being carried on a commercial basis and with a view to the realisation of profits and that profits would have resulted but for the existence of the loans, and
- b) that genuine efforts are being made to meet the interest payments on the loans, relief may be allowed for the losses in the fourth and subsequent years under **Section 381 TCA 1997** (formerly Section 307 Income Tax Act, 1967). The mere debiting of interest payments to a current or other account should not be accepted as proof that the interest payments are being met. There must be a genuine diverting of income from another source to meet the interest and relief should be allowed only to the extent that interest has actually been paid. In the case of a term loan the amount of interest paid can be determined by reference to the actual payments made on the loan. In the case of a current account or a term loan which is debited to a current account the amount paid may be determined by comparing the opening and closing balances. If the closing balance does not exceed the opening balance it may be accepted that all the interest debited has been paid or if it exceeds the opening balance by an amount which is less than the interest debited, the difference between the excess and the interest debited may be taken as having been paid.

Where accumulated interest is subsequently paid by disposing of land or otherwise, accounts for prior years may be re-opened so as to allow any **Section 381** relief which would have been allowed if the interest had been paid.