

NORTHERN IRELAND RATE OF CORPORATION TAX

DRAFT GUIDANCE ON THE NI CT REGIME

The Corporation Tax (Northern Ireland) Act 2015 allows for devolution of power to the Northern Ireland Assembly to set a Northern Ireland rate of corporation tax to apply to certain trading income. The government will commence the Act and devolution of the power can be completed once a restored Northern Ireland Executive demonstrates its finances are on a sustainable footing.

Once the Act has been commenced, a separate rate can be set through a resolution agreed by the Northern Ireland Assembly, in advance of the tax year for which the rate is to apply.

The following pages set out HMRC's draft guidance on how the Northern Ireland corporation tax legislation will operate once a separate rate has been set. The text takes account of comments received during consultation and incorporates some minor changes made to the legislation in Finance (No 2) Act 2017. The draft guidance may be refined further prior to the devolution of the corporation tax rate-setting power to the Northern Ireland Assembly.

NICT01000 – Introduction: contents

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NICT01010 – Introduction: preface

Giving advice to companies

The Clearance Service for Businesses sets out the various ways in which HMRC aims to achieve its policy of helping business taxpayers. This, together with CAP 1 (Clearance and Approvals 1) for non-business taxpayers supersedes the previous COP 10 (Code of Practice 10).

Broadly the services include:

- providing general advice,
- giving 'post-transaction rulings',
- providing HMRC's interpretation of tax law in some circumstances, and
- giving statutory clearances and approvals for certain types of transactions.

Uniformity of treatment

The guidance provides for uniformity of treatment between all taxpayers. However, a novel situation may arise or a new interpretation of the law or practice may seem appropriate to a matter which could become publicly sensitive. For example, an officer may wish to apply a decision to a whole class of taxpayers or a trade. This requires referral to the appropriate Technical Adviser before taking up the matter with the company or its advisers. See 'Technical Help' on the left bar.

Cases where very substantial amount of tax in issue

It is essential that the Commissioners' freedom to act is not restricted by the premature agreement of liability where a very substantial amount of tax is in issue. Again such cases should be referred to the appropriate Technical Adviser via 'Technical Help'.

United Kingdom

The expression 'United Kingdom' means Great Britain and Northern Ireland. It does not include the Irish Republic, the Isle of Man or the Channel Islands.

NICT01020 – Introduction: structure of this guidance

The remainder of this guidance is divided into ten parts.

NICT02000+ deals with the main rules and key concepts of the Northern Ireland corporation tax legislation. It explains how the Northern Ireland rate applies to ‘Northern Ireland profits or losses’ (as distinct from ‘mainstream profits or losses’) and the special rules which apply to Northern Ireland losses of various kinds. It defines the concepts necessary to understand how the legislation works, in particular ‘qualifying trades’, ‘excluded trades’, ‘excluded activities’ and ‘back-office activities’; the ‘Northern Ireland company’, and the ‘Northern Ireland regional establishment’ (NIRE). It explains the meaning in the Northern Ireland CT context of micro, small and medium-sized enterprises (SMEs) and terms used in the related workforce test, including ‘Northern Ireland employer’ and ‘workforce expenses’.

NICT03000+ explains how Northern Ireland profits and losses are calculated for SMEs (small and medium-sized enterprises) which are Northern Ireland employers.

NICT04000+ explains how Northern Ireland profits and losses are calculated for large companies and SMEs which are not Northern Ireland employers and have elected to use the rules applying to large companies.

NICT05000+ explains how the rules governing capital allowances and balancing charges are adapted in calculating Northern Ireland profits and losses.

NICT06000+ explains how the rules governing intangible fixed assets (CTA09/PART8) apply in the context of use in a Northern Ireland trade.

NICT07000+ explains the application of research & development (R&D) expenditure credits, and relief for R&D costs incurred by SMEs, to expenditure incurred for the ‘Northern Ireland trade’ of a Northern Ireland company.

NICT08000+ explains the application of the provisions governing remediation of contaminated or derelict land (CTA09/PART14) to expenditure incurred by a Northern Ireland company

NICT09000+ explains the application of the various “creative reliefs” to Northern Ireland expenditure, being those for film, TV production, video games development and theatrical productions.

NICT10000+ explains the operation of the “patent box” legislation (CTA09/PART8A) in relation to a Northern Ireland company.

NICT11000+ explains how the rules are adapted to deal with partnerships at least one of whose members is a company.

NICT01030 – Introduction: background, structure and coming into effect of the Northern Ireland CT legislation

The Northern Ireland CT legislation was introduced into the House of Commons on 8 January 2015, in a Bill which received Royal Assent as the Corporation Tax (Northern Ireland) Act 2015 (CTNIA15) on 26th March.

The legislation was subsequently amended in Finance (No. 2) Act 2017, to modify the scope of the regime as it applied to small and medium companies. Changes were also made to reflect the reform of the Corporation Tax loss relief provisions which were enacted at the same time. These changes are reflected in this guidance.

Structure of the legislation

The Northern Ireland CT legislation comprises six sections and two Schedules. The main provisions are:

- CTNIA15/S1, which inserts a new Part 8B into CTA10. This provides for the application of a ‘Northern Ireland rate’ to specified trading profits and adapts the corporation tax code in a number of areas, mainly concerned with reliefs, with the aim of accommodating the effect of different rates of CT within the UK.
- CTNIA15/S2 and SCH1, which make changes to CAA01 to adapt the capital allowance code to be consistent with CTA10/PART8B.

CTNIA15/S3 and SCH2 make other amendments to CTA09 and TIOPA10.

CTNIA15/S4 contains a “housekeeping” power exercisable by HM Treasury to make any additional consequential provisions that might be needed.

CTNIA15/S5 deals with coming into effect.

CTNIA15/S6 contains interpretation and short title.

Coming into effect

CTNIA15/S5 deals with how the Northern Ireland CT provisions come into effect. The first stage is that the various regulation-making powers in the Act, some of which are exercisable by HM Treasury and some by the Commissioners of HMRC, have effect from Royal Assent.

CTNIA15/S5 (3) provides that the power to set a Northern Ireland rate by resolution given to the Northern Ireland Assembly by CTA10/S357IA, added by CTNIA15/S1, is exercisable in relation to a financial year (and then subsequent financial years) from a day to be appointed by HM Treasury. The first year is known as ‘the appointed financial year’, and the provisions and amendments mentioned above then have effect in relation to accounting periods beginning on or after the first day of the appointed financial year, which is termed ‘the commencement day’.

Where an accounting period straddles the commencement day, the periods up to and from the commencement day are treated as separate accounting periods and amounts brought to account in respect of a trade are apportioned on a just and reasonable basis. The trade within the CT charge may be carried on by a company or in partnership where at least one member of the partnership is a company (see NICT11010 – Northern Ireland profits and losses etc: partnerships: introductory).

NICT01040 – Introduction: overview of Northern Ireland CT legislation

Under the Northern Ireland CT regime the Northern Ireland Assembly will have the power to set the main rate of CT in relation to a defined scope of trading profits, and that rate is called the ‘Northern Ireland rate’.

Most trading activity is included within the category of ‘qualifying trades’, but there are exclusions for the oil and gas ring fence trade, and also for most financial activities, including lending and investment, investment management and long-term insurance business. General insurance (sometimes referred to as property & casualty) is not excluded but all re-insurance activity is excluded.

Where the excluded trade falls within the financial categories an election may be made for ‘back-office activities’ to be treated as a qualifying trade. However, the related ‘Northern Ireland profits’ are calculated by applying a ‘relevant percentage’ to costs related to the back-office activities, termed the ‘back-office deduction’. The relevant percentage is 5 per cent, although this may be varied by regulations made by HM Treasury.

The Northern Ireland rate will apply to the qualifying profits of companies (and in some cases partnerships, see below) which are for this purpose divided into two categories:

- Micro, small or medium-sized enterprises (SMEs) that are Northern Ireland employers where the company’s employee time and costs fall largely in Northern Ireland. It will also apply to a corporate partner on its share of the profits of a partnership trade if both the company and the partnership meet the SME criteria and are Northern Ireland employers and the partnership’s employee time and costs fall largely in Northern Ireland. No attribution of profits is required in these cases.
- For large companies (those not in the SME definition) and those that are an SME but not a Northern Ireland employer and have elected to use the rules applying to large companies, the rate will apply to profits that are attributable to a Northern Ireland trading presence and, in the case of a corporate partner not falling within the SME rules just mentioned, to a corporate partner on its share of the profits of a partnership that are attributable to a Northern Ireland trading presence.

Northern Ireland trading presence and related profits are determined using internationally recognised principles which identify a ‘permanent establishment’ and attribute profits to it. The term NIRE, standing for ‘Northern Ireland regional establishment’ is applied to the trading presence.

A company falling within the Northern Ireland CT regime in an accounting period is referred to as a ‘Northern Ireland company’ (or ‘firm’ applies to a trading partnership within the regime). In an accounting period in which the company or partnership is a Northern Ireland company or firm the company’s or firm’s trading profit or loss is split between ‘Northern Ireland profits or losses’ which attract the Northern Ireland rate and ‘mainstream profits or losses’ which attract the main rate of CT. In some cases, a company or firm making a profit overall may make a Northern Ireland loss in conjunction with a mainstream profit, and the reverse is also possible, a Northern Ireland profit and mainstream loss. Similar analysis applies where there is an overall loss, which may be composed of a mixture of losses and profits.

The regime is explained in detail in the following guidance.

NICT02000 – The NICT scheme: contents

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NICT02010 – The NICT scheme: the Northern Ireland rate

CTA10/S357IA enables the Northern Ireland Assembly to set a rate of corporation tax for one or more specified financial years, called the Northern Ireland rate. It is exercisable by resolution, and subject to certain conditions, including ministerial recommendation and cross-community support.

From the 'appointed financial year' (see [NICT01030](#)) there is always a Northern Ireland rate for a financial year, even if there is no resolution in which case the Northern Ireland rate is the main rate of corporation tax.

Once the power is exercised to set a rate, the most recent rate set continues in the absence of a fresh resolution. The resolution must be passed before the beginning of the financial year to which it applies.

NICT02020 – The NICT scheme: the charge to corporation tax on Northern Ireland profits and on mainstream profits

Where a company carrying on a trade in an accounting period has Northern Ireland profits or mainstream profits of the trade, the normal charge to corporation tax on trade profits (CTA10/S35) is applied to those profits, and the Northern Ireland profits are charged at the Northern Ireland rate – CTA10/S357JA.

Northern Ireland profits and mainstream profits

CTA10/S357MA defines Northern Ireland profits and losses of companies which are micro, small and medium-sized enterprises and Northern Ireland employers (see [NICT03020](#)), and CTA10/S357NA does the same for larger companies and for SMEs that are not Northern Ireland employers and have elected to use the rules applicable to large companies (see [NICT04020](#)). Micro, small and medium-sized enterprises are known as SMEs – see [NICT02048](#).

Profits and losses of the trade for an accounting period are mainstream profits or losses of the trade for the period that are not Northern Ireland profits or losses. Plus there are some specially defined mainstream profits or losses in the NICT legislation. An example of this is at CTA10/S357OA (3) dealing with credits and debits relating to intangible fixed assets.

NICT02030 – The NICT scheme: loss relief in relation to Northern Ireland profits and losses: general

The scheme modifies the various loss relief provisions, including “sideways” set off of losses, carried forward losses and group relief, in recognition of the different rates of corporation tax charged on Northern Ireland profits and on mainstream profits.

If there are both Northern Ireland losses and mainstream losses in a single period, relief is available separately for each. A Northern Ireland loss is relieved, as far as possible, against Northern Ireland profits, before relief is given against mainstream profits. Similarly, a mainstream loss is relieved, as far as possible, against mainstream profits before being relieved against Northern Ireland profits.

If, having applied the rule above, a Northern Ireland loss is to be set against mainstream profits and at any time during the accounting period the Northern Ireland rate is lower than the main rate, a ‘restricted deductions’ rule applies recognising that the mismatch between the Northern Ireland and main rates might otherwise enhance the value of the Northern Ireland losses by setting them against profits taxed at a higher rate.

These provisions are explained in more detail in the following NICT paragraphs.

NICT02031 – The NICT scheme: loss relief in relation to Northern Ireland profits and losses: availability of relief

The following provisions:

- CTA10/S357JB, which applies to relief for trade losses
- CTA10/S357JF, which applies to group relief under CTA10/PART5 and
- CTA10/S357JHA, which applies to group relief for carried forward losses under CTA10/PART5A

make similar provision for the different reliefs. The various reliefs are applied in a way which distinguishes between the Northern Ireland losses and the mainstream losses.

Where there are both Northern Ireland losses and mainstream losses, for the following categories:

Relief under CTA10/S37 – trading losses set against total profits:

- may be claimed separately in relation to Northern Ireland losses and mainstream losses (including making a claim in respect of only one). If the company claims both, the claims may be made in either order;
- for a Northern Ireland loss is given first against Northern Ireland profits, where there are both Northern Ireland profits and other profits;
- for a mainstream loss is given first against profits other than Northern Ireland profits.

Relief under CTA10/S45A - F – trading losses carried forward against future profits:

- may be claimed separately in relation to Northern Ireland losses and mainstream losses (including making a claim in respect of only one). If the company claims both, may be made in either order;
- for a Northern Ireland loss is given first against Northern Ireland profits, where there are both Northern Ireland profits and other profits;
- for a mainstream loss is given first against profits other than Northern Ireland profits.

Group relief under CTA10/PART5:

- in relation to a surrenderable amount that is a Northern Ireland loss is given first against Northern Ireland profits, where there are both Northern Ireland profits and other profits of the claimant company;
- in relation to a surrenderable amount that is not a Northern Ireland loss is given first against profits other than Northern Ireland profits.

Group relief for carried forward losses under CTA10/PART5A:

- in relation to a surrenderable amount that is a Northern Ireland loss is given first against Northern Ireland profits, where there are both Northern Ireland profits and other profits of the claimant company;
- in relation to a surrenderable amount that is not a Northern Ireland loss is given first against profits other than Northern Ireland profits.

NICT02032 – The NICT scheme: loss relief in relation to Northern Ireland profits and losses: restriction on deductions

On the policy assumption that the Northern Ireland rate is set at less than the mainstream rate of tax, it follows that Northern Ireland losses should be worth in tax terms less than mainstream losses. This requires an adjustment to be made when Northern Ireland losses are set against profits which are not Northern Ireland profits. There is no adjustment when mainstream losses are set against Northern Ireland profits.

The following provisions:

- CTA10/S357JC, which applies to relief for trade losses under CTA10/S37 and 45A, 45B or 45F,
- CTA10/S357JG, which applies to group relief under CTA10/PART5 and
- CTA10/S357JHB, which applies to group relief for carried forward losses under CTA10/PART5A

apply the necessary restrictions to the amount of the relief. The mechanics are as follows.

If a company

- is due relief under CTA10/S37 (trade losses against total profits), CTA10/S45A, 45B or 45F (carry forward of trade losses); CTA10/PART5 (group relief) or CTA10/PART5A (group relief for carried forward losses and
- the profits against which relief is claimed or is due include profits which are not Northern Ireland profits, then
- provided at any time in the accounting period for which relief is claimed or due (“the profit period”) the Northern Ireland rate is lower than the main rate, the loss is restricted

in accordance with the formulae at CTA10/S357JJ – see [NICT02033](#).

NICT02033 – The NICT scheme: loss relief in relation to Northern Ireland profits and losses: restriction formulae

These formulae provide for the restrictions required under

- CTA10/S357JC (2) and (4) – relief for trade losses
- CTA10/S357JG (2) – group relief under CTA10/PART5.
- CTA10/S357JHB(2) – group relief for carried forward losses CTA10/PART5A

Profit period falls within only one financial year

The amount of restricted deduction for the Northern Ireland loss = $\left(\frac{NIR}{MR} \times L1\right) + L2$, where

- **NIR** is the Northern Ireland rate in the financial year
- **MR** is the main rate for the financial year
- **L1** is the amount of loss that is 'unmatched'
- **L2** is the amount of loss, if any, that is 'matched'.

An amount of loss is matched if relief in relation to it is given against Northern Ireland profits, and unmatched if it is not. The meanings of 'loss' and 'profit period' are those appearing in [NICT02032](#).

Profit period falls within more than one financial year

The amount of restricted deduction for the Northern Ireland loss = **X** + **L2**, where

- **X** is the amount of the loss which is 'unmatched', adjusted as below
- **L2** is the amount of loss, if any, that is 'matched'.

Adjustment of the unmatched loss

1. Apportion the unmatched loss on a time basis between the financial years according to the respective lengths of the parts of the profit period falling within those years.
2. Reduce any amount apportioned to a financial year under 1. by applying the fraction $\frac{NIR}{MR}$.
This applies only where the Northern Ireland rate is lower than the main rate.
3. Sum each amount reduced under 2. and each amount apportioned under 1. but not reduced under 2.

The same meanings of **NIR**, **MR**, matched, unmatched, loss and profit period apply as above.

NICT02034 – The NICT scheme: loss relief in relation to Northern Ireland profits and losses: modification of group relief provisions

Where an amount surrendered under the group relief provisions in either CTA10/PART5 or CTA10/PART5A includes a Northern Ireland loss, the NICT legislation makes some modifications to those provisions to restrict Northern Ireland losses which are being set against non-Northern Ireland profits. This follows the principle set out at [NICT02032](#).

The modifications are as follows:

CTA10/S357JH (modifications to CTA10/PART5/CHAPTERS 4 and 5)

- CTA10/S138, which limits the amount of group relief to be given on such claims generally, is applied so that the limits at
 - paragraph (a) – unused part of the surrenderable amounts, and
 - paragraph (b) – the unrelieved part of the claimant company's total profits for the claim period,

are separately imposed.

Paragraph (a) operates as a limit on the amount of losses and other surrenderable amounts in relation to which relief may be given on the claim.

Paragraph (b) operates as a limit on the deduction from total profits which may be given as a result of the claim.

- CTA10/S139, which deals with the unused part of surrenderable amounts, is modified so that relief on group claims refers to the amounts of losses and other surrenderable amounts given on the claim.
- CTA10/S140, which deals with the unrelieved part of a claimant company's total profits, is modified so that relief given on group claims refers to the amount of deduction made as a result of the claim.
- CTA10/S143, S144, S146, S148 and S149, which apply to consortium claims, are modified in a similar way.

CTA10/S357JHC and S357JHD (modifications to CTA10/PART5A/CHAPTERS 4 and 5)

- CTA10/S188DB and S188EB, which limit group relief for carried forward losses claimed under S188CB or S188CC respectively, is applied as described above for S138.
- CTA10/S188DC and S188EC, which deal with the unused part of surrenderable amounts, are modified as described above for S139.
- CTA10/S188DE, S188DF, S188EE and S188EG which deal with previously claimed group relief for carried forward losses, are to be read as though references to the amount of group relief for carried forward losses given on a claim are to the amount of the deduction made as a result of the claim.
- CTA10/S188DH, S188DL, S188EI and S188EK, which apply to consortium claims for carried forward losses, are modified in a similar way.

NICT02035 – The NICT scheme: loss relief in relation to Northern Ireland profits and losses: transfers of trade without change of ownership

CTA10/S357JI modifies the provisions of CTA10/PART22/CHAPTER1 (which deal with the transfer of a trade where there is no change of ownership) in circumstances where a loss made by the predecessor in the transferred trade is a Northern Ireland loss or a mainstream loss (see [NICT02020](#)).

CTA10/S944, which modifies the application of the trade loss provisions in CTA10/PART4/CHAPTER2 in the case of these transfers, is read as though references to a loss made by the predecessor were references to the mainstream loss or Northern Ireland loss.

NICT02040 – The NICT scheme: basic definitions: general

CTA10/PART8B/CHAPTER4 provides the basis for the further development of the Northern Ireland corporation tax scheme by setting out a number of key definitions:

- ‘Northern Ireland company’ at CTA10/S357KA. Companies may be Northern Ireland companies by virtue of the ‘SME (Northern Ireland employer) condition’ (S357KA (2)), the ‘SME (election) condition’ S357KA(2A) or the ‘large company condition’ (S357KA (3): see [NICT02041](#)). Northern Ireland profits and losses are identified for a Northern Ireland company in CTA10/PART8B/CHAPTER6 for companies that are SMEs and Northern Ireland employers and CHAPTER7 for large companies and SMEs that are not Northern Ireland employers and have elected to use the rules applicable to large companies (see [NICT04020](#) onwards). For large companies, the concept of a ‘NIRE’ or Northern Ireland Regional Establishment, is important. This is explained in CTA10/PART8B/CHAPTER5, see [NICT02050](#).
- ‘Qualifying trade’ at CTA10/S357KB, see [NICT02042](#). Excluded trades and excluded activities are dealt with at CTA10/PART8B/CHAPTER17, see [NICT02043](#) onwards.
- ‘SME’ (micro, small and medium-sized enterprise) at CTA10/S357KC, see [NICT02048](#).
- ‘Northern Ireland employer’ at CTA10/S357KD. This is needed for determining the ‘SME condition’ (see above) and relies on the concept of Northern Ireland workforce conditions, set out at CTA10/S357KE, see [NICT02049](#).

CTA10/PART8B/CHAPTER5 defines Northern Ireland Regional Establishment (‘NIRE’), see [NICT02050](#).

NICT02041 – The NICT scheme: basic definitions: ‘Northern Ireland company’

A company is a ‘Northern Ireland company’ in an accounting period if

- It carries on a qualifying trade in the period, see [NICT02042](#), and
 - the ‘SME (Northern Ireland employer) condition’, or
 - the ‘SME (election) condition’, or
 - the ‘large company condition’

is met.

The SME (Northern Ireland employer) condition

The SME (Northern Ireland employer) condition is that the company is, in relation to the period

- an SME, see [NICT02048](#), and
- a Northern Ireland employer: see [NICT02049](#).

The SME (election) condition

The SME (election) condition is that the company:

- is an SME in relation to the period
- has a Northern Ireland Regional Establishment or ‘NIRE’: see [NICT02050](#).
- is not a Northern Ireland employer: see [NICT02049](#).
- is not a disqualified close company: see [NICT04015](#) and
- has made an election to calculate its profits or losses according to the rules applicable to large companies.

The election must be made to an officer of HMRC. It must specify the accounting period for which it is to have effect, and must be made within 12 months of the end of that accounting period. In practice, this may be achieved by a company checking the relevant box on its tax return for the accounting period in question, providing that the return is submitted within the normal 12 month submission period.

The large company condition

The large company condition is that the company

- is not an SME in relation to the period, and
- has a Northern Ireland Regional Establishment, or ‘NIRE’, in the period: see [NICT02050](#).

NICT02042 – The NICT scheme: basic definitions: ‘qualifying trade’

Qualifying trade means a trade carried on by a company (other than in partnership) where

- the company is within the corporation tax charge in relation to the trade, and
- the trade is not an excluded trade (see [NICT02043](#)).

Qualifying trade also includes back-office activities of the following excluded financial trades, where the company makes an election under CTA10/S357KB (3):

- lending and investment
- investment management, or
- reinsurance.

Back-office activities

The term back-office is not judicially defined and takes its ordinary commercial meaning. Pending possible exercise of the regulation-making power mentioned below in the light of experience, the term will be interpreted as follows.

Back-office activities are activities of a company of a support or administrative nature. They are a commercially necessary feature of a company’s activities but are generally not direct contributors to its core trading functions. Depending on the precise nature of the company’s trade, they will cover personnel, IT support, routine settlement, record maintenance, accounting and regulatory compliance activity. They will not include the activities of key personnel engaged in taking the decisions and assessing the risks which are at the heart of the trade.

It is necessary to look at the activities of, say, a call centre to determine whether or not it is carrying on back-office activities. Many call centres will be undertaking back-office activities, for instance those dealing with routine customer queries. But some may be actively engaged in selling and be established for that purpose. Similarly, most IT activities will be of a support nature but some will be part of the core business activity. It is therefore necessary to analyse a function in context rather than assume that all (say) call centres undertake back-office activity.

Regulation-making power

CTA10/S357XI contains a regulation-making power for HM Treasury to specify activities which are, or are not, back-office activities or to specify circumstances in which activities are, or are not, to be regarded as back-office activities.

Profit attributable to back-office activities

[NICT03030](#) (for SMEs that are Northern Ireland employers) and [NICT04030](#) (for large companies and companies meeting the ‘SME election condition’) explain that the profit attributable to back-office activities is calculated on a notional, cost-plus basis which is subject to variation by regulations made by HM Treasury.

Election

This must be made to an officer of HMRC, specifying the first accounting period for which it has effect. It must be made before the end of the period of 12 months beginning with the end of the specified period, and is irrevocable.

NICT02043 – The NICT scheme: basic definitions: excluded trades and activities: general

Excluded trades and activities are dealt with at CTA10/PART8B/CHAPTER17. The Chapter also contains a power to alter the meaning of excluded trade or excluded activity – CTA10/S357XH, and it also contains the power, at CTA10/S357XI, to make provision about the meaning of ‘back-office activities’ – see [NICT02042](#).

There are five categories of excluded trades:

- oil activities, CTA10/S357XA,
- lending and investment, CTA10/S357XB,
- investment management, CTA10/S357XC,
- long-term insurance business, CTA10/S357XD, and
- reinsurance, CTA10/S357XE;

and two categories of excluded activities:

- reinsurance activity, and
- exploration and exploitation of the UK sector of the continental shelf.

It is convenient to group these into oil & gas, financial, and long-term insurance, and these are considered in the following NICT paragraphs.

NICT02044 – The NICT scheme: basic definitions: excluded trades and activities: oil & gas

Oil activities

Oil activities amounting to a trade defined as a 'ring fence trade' at CTA10/PART8/S277 constitute an excluded trade – CTA10/S357XA.

Exploration and exploitation of UK sector of continental shelf

An exploration or exploitation activity, or an activity carried on in connection with exploration or exploitation rights, is an excluded activity.

'Exploration or exploitation activity', 'exploration or exploitation rights' and 'UK sector of the continental shelf' (the latter definition appears within the definitions) are defined at CTA10/S357XG. See [OT20201](#) onwards.

NICT02045 – The NICT scheme: basic definitions: excluded trades and activities: financial trades

Financial trades which fall within the excluded category are grouped under four headings

- lending and investment
- investment management
- long-term insurance business
- reinsurance.

Lending and investment – CTA10/S357XB

A trade which consists of, or includes

- a lending activity, or
- relevant regulated activity

is an excluded trade **unless** it is carried on by an insurance company as defined by FA12/S65.

As long-term insurance and reinsurance are in separate excluded categories, this leaves general insurance which is not reinsurance as **not** an excluded trade.

Lending activity

This is defined at CTA10/S357XB (3) and in broad terms includes lending of money, defined widely, leasing finance provision, payment mechanisms and money transmission services, providing guarantees or money commitments, alternative finance arrangements and any activities connected with these.

Relevant regulated activity

This is defined at CTA10/S357XB (4) and relies on the financial services regulatory legislation and in particular the Regulated Activities Order SI01/544. It includes accepting deposits (article 5 of the Order), dealing in investments as principal (article 14) and as agent (article 21), arranging deals in investment (article 25), safeguarding and administering investments (article 40), and regulated mortgage lending (article 61).

Investment management – CTA10/S357XC

A trade which consists of, or includes portfolio management, or risk management in relation to

- an Undertaking for Collective Investment in Transferrable Securities (a UCITS, as defined in EU Directive 2009/65/EC – these are open-ended funds like UK unit trusts and OEICs), or
- an Alternative Investment Fund (an AIF, as defined in SI13/1773)

is an excluded trade. The AIF category will normally cover investment trust companies, which in any event do not usually carry on a trade.

Long-term insurance business – CTA10/S357XD

A trade which consists of or includes long-term (insurance) business, as defined by FA12/S63 (1) is an excluded trade.

Re-insurance trade – CTA10/S357XE

A trade which consists of re-insurance (including retrocession) is an exclude trade. Retrocession means the re-insurance of re-insurance risks.

NICT02046 – The NICT scheme: basic definitions: excluded trades and activities: excluded activities

In addition to the excluded trades ([NICT02044](#) and [NICT02045](#)) there are excluded activities, namely

- re-insurance activity
- exploration and exploitation of UK sector of the continental shelf.

Re-insurance activity – CTA10/S357XF

The activity of effecting or carrying out re-insurance contracts is an excluded activity.

Exploration and exploitation of UK sector of continental shelf – CTA10/S357XG

An activity is an excluded activity if it is

- exploration or exploitation activity, or
- an activity carried on in connection with exploration or exploitation rights.

For the definitions see [NICT02044](#).

NICT02047 – The NICT scheme: basic definitions: excluded trades and activities: power to amend meaning of excluded trade or excluded activity

HM Treasury has power under CTA10/S357XH to amend the meaning of excluded trade or excluded activity by regulations made subject to approval by the House of Commons under the affirmative resolution procedure.

NICT02048 – The NICT scheme: basic definitions: meaning of ‘SME’

A company is an ‘SME’ in relation to an accounting period if it is a micro, small or medium-sized enterprise

- In that (reference) accounting period, or
- In each accounting period any part of which falls within the 12 months previous to the reference accounting period.

The definition is set out at CTA10/S357KC. The main factors for determining whether a company is an SME are

- number of employees, and
- either turnover or balance sheet total.

This essentially follows the SME definition used for the exemption from transfer pricing for SMEs (TIOPA10/S172). The sole difference is that whether a company is an SME for the purposes of the Northern Ireland corporation tax legislation is determined by reference to an accounting period rather than a chargeable period under TIOPA10/S166.

See [INTM412070](#) for details of the rules.

NICT02049 – The NICT scheme: basic definitions: meaning of ‘Northern Ireland Employer’ and the Northern Ireland workforce conditions

A company is a ‘Northern Ireland employer’ in relation to an accounting period if it satisfies the Northern Ireland workforce conditions

- in relation to the accounting period, or
- in relation to the 12 months prior to the accounting period.

This builds in an element of continuity so as to maintain the treatment through merely temporary changes in circumstances.

Northern Ireland workforce conditions – CTA10/S357KE

The Northern Ireland workforce conditions in relation to a period are

- that 75 per cent or more of the working time that is spent in the UK during the period by members of the company’s workforce is spent in Northern Ireland, and
- that 75 per cent or more of the company’s workforce expenses that are attributable to working time spent in the UK during the period by members of the company’s workforce are attributable to time spent in Northern Ireland.

The company’s workforce

The company’s workforce comprises

- the directors of the company,
- the employees of the company,
- externally provided workers in relation to the company, and
- in the case of a close company (or a company which would be close if it were UK resident), individuals who are participators in the company.

‘Externally provided worker’ takes its meaning from CTA09/S1128 within CTA09/PART13, additional relief for R&D expenditure. The rule will cater for groups which make use of a group employment company. See, in particular, (b) of [CIRD84100](#), which gives guidance on applying CTA09/S1128.

‘Participator’ has the same meaning as in CTA10/s454, as expanded by s1069. The term is intended to cover any person with a share or interest in the company, including by way of loan; and any person who has a right to receive company distributions or payments in respect of loans. It is extended by s1069 to include associates of participators, as well as any person who is a participator in another company which controls the company in question.

Working time spent

Working time spent by members of the company’s workforce in a place means while providing services to the company. See [EIM10010](#) concerning what is a place of work.

In determining the amount of working time spent in a place by a participator in the company, time spent must be included if the participator spends that time providing services to a third party which results in the third party or a connected person making a payment to the company (whether that payment is made directly or indirectly); and that payment is connected with a right acquired by the company from the participator.

NICT02050 – The NICT scheme: basic definitions: Northern Ireland regional establishment (NIRE)

A company has a Northern Ireland regional establishment (NIRE) if the company has

- A fixed place of business in Northern Ireland through which the business of the company is wholly or partly carried on, or
- an agent acting on behalf of the company has and habitually exercises in Northern Ireland authority to do business on behalf of the company.

The NIRE legislation is based on the OECD international law principles, which are in turn reflected at CTA10/PART24/CHAPTER2 within domestic (UK) legislation. INTM265000 explains that Treaty law can in some circumstances affect the domestic charge to tax and distinguishes between a domestic law permanent establishment and Treaty permanent establishment. For NIRE purposes, it will be the domestic law definition which is relevant.

The following table compares the provisions in the Northern Ireland legislation and the international provisions and gives the International Manual (INTM) references. Note that the provisions which exclude preparatory and auxiliary arrangements from the scope of permanent establishment, CTA10/S1143, do not apply to the Northern Ireland regime. This is because the Northern Ireland definition is in general terms aimed at including qualifying activities within the scope, while permanent establishment status in international law is generally looked at as a taxable presence to be avoided.

Item	Northern Ireland provision CTA10/PART8A/CHAPTER5	International provision CTA10/PARA24/CHAPTER2	International manual (INTM) reference
Fixed place of business	S357L (2)	S1141 (2)	264050 (but excluding reference to preparatory/auxiliary activities)
Preparatory or auxiliary activities	Does not apply	S1143	
Agent of independent status	S357LA	S1142	264070 onwards
Alternative finance arrangements	S357LB	S1144	268020
Brokers	S357LC	S1145	269050
Investment managers	S357LD to S357LH & S357LJ	S1146 to S1150 & S1152	269010 onwards
Lloyd's agents	S357 LI	S1151	269040
Miscellaneous	S357LH	S1153	264050

Reference should be made to the relevant INTM paragraphs for detailed guidance.

NICT03010 – Northern Ireland profits and losses: SMEs: introductory

The Northern Ireland CT legislation distinguishes between SMEs (micro, small and medium-sized enterprises as defined at [NICT02048](#)) that are Northern Ireland employers and large companies together with SME companies that are not Northern Ireland employers. This enables a simpler approach to be adopted for SMEs that are Northern Ireland employers, which do not have to undertake the profit and loss attribution process which can be quite complex and demanding.

The scheme for SMEs that are Northern Ireland employers depends on meeting threshold conditions, the Northern Ireland workforce conditions. These relate to working time spent in Northern Ireland and related costs, and are explained at [NICT02049](#). If the company is a Northern Ireland company in an accounting period by virtue of the SME (Northern Ireland employer) condition in CTA10/S357KA (see [NICT02041](#)) and carries on a qualifying trade (see [NICT02042](#)) CTA10/S357M provides that it may have

- Northern Ireland profits or losses of the trade,
- mainstream profits or losses of the trade, or
- a combination of the two.

[NICT03020](#) explains how Northern Ireland profits or losses and mainstream profits or losses are calculated for SMEs.

The calculation of Northern Ireland profits or losses and mainstream profits or losses also depends on the rules which govern capital allowances (see [NICT05000](#) onwards), intangible fixed assets (see [NICT06000](#) onwards), and the various special reliefs (see [NICT07000](#) onwards, and subsequent chapters).

NICT03020 – Northern Ireland profits and losses: SMEs that are Northern Ireland employers: Northern Ireland profits or losses and mainstream profits or losses

Where a Northern Ireland company which satisfies the SME (Northern Ireland employer) condition (see [NICT02041](#)) in an accounting period carries on a qualifying trade (see NICT02042), then the profits or losses which arise from the trade are Northern Ireland profits or losses unless they arise from an excluded activity (see [NICT02046](#)).

This is subject to any other specific rules in the NICT scheme, for instance those governing intangible fixed assets, and to any specific rule which treats profits and losses as mainstream profits or losses – CTA10/S357MA (2).

There is a special rule at CTA10/S357KB (2) for back-office activities of certain financial trades – see [NICT03030](#).

Profits or losses of the trade for the accounting period which are not Northern Ireland profits or Northern Ireland losses are mainstream profits or mainstream losses.

NICT03030 – Northern Ireland profits and losses: SMEs that are Northern Ireland employers: Northern Ireland profits or losses and mainstream profits or losses: back-office activities

[NICT02042](#) explains that certain activities of financial trades which are not core profit-making activities attract special treatment. For SMEs that are Northern Ireland employers, this treatment is set out at CTA10/S357MB.

Where the trade is a qualifying trade by virtue of CTA10/S357KB (2), i.e. is an excluded trade within specified financial categories which may include back-office activities, profits calculated as below for an accounting period are Northern Ireland profits.

Profits imputed to back-office activities

The rule identifies

- a 'back-office deduction' to which the company is entitled in calculating the profits of an accounting period, which is in respect of back-office activities, and
- a 'relevant percentage', set at 5 per cent but which may be varied by regulations made by HM Treasury.

The back-office profits are calculated by multiplying each back-office deduction by the relevant percentage and adding together the results.

NICT04010 – Northern Ireland profits and losses: large companies and SMEs electing to use large company rules: introductory

[NICT03010](#) explains that the NICT legislation distinguishes between SMEs defined at [NICT02048](#) that are Northern Ireland employers and large companies and SMEs that are not Northern Ireland employers but which have a NIRE and have elected to use the rules applicable to large companies.

The scheme for large companies and SMEs electing to use those rules reflects internationally accepted principles that attribute profits to the permanent establishments of companies.

If the company is a Northern Ireland company for an accounting period by virtue of the large company condition or the SME (election) condition in CTA10/S357KA (see [NICT02041](#)) and it carries on a qualifying trade (see [NICT02042](#)) then CTA10/S357N provides that it may have

- Northern Ireland profits or losses of the trade, or
- mainstream profits or losses of the trade, or
- a combination of the two.

[NICT04020](#) onwards explains how Northern Ireland profits or losses and mainstream profits or losses are calculated for large companies.

The calculation also depends on the rules which govern capital allowances (see [NICT05000](#) onwards), intangible fixed assets (see [NICT06000](#) onwards) and various special reliefs (see [NICT07000](#) onwards, and subsequent NICT chapters).

NICT04015 – Northern Ireland profits and losses: SMEs electing to use large company rules: SME ‘disqualified close companies’ restriction

[NICT02041](#) explains that an SME company which does not meet the 75% employment tests but which carries on at least some trading activity via a NIRE, may elect to calculate its profits or losses attributable to its Northern Ireland trade according to the same rules applicable to large companies.

The election will allow the SME to use those rules providing that it is not a ‘disqualified close company’ for the relevant period. This restriction is intended to ensure that companies cannot move profits or losses from Great Britain to Northern Ireland by artificially contrived means, in order to benefit from the Northern Ireland rate.

CTA10/S357KEA explains what is meant by a ‘disqualified close company’. A company is a ‘disqualified close company’ if it is a close company or if it would be a close company if it were resident in the UK, and if both Conditions A and B below are met.

‘Close company’ takes the same meaning as in CTA10/S439. See [CTM60050](#) and the following pages, which give guidance on the various tests for deciding whether a company is close.

Condition A

Condition A is that the company has a NIRE in the relevant period as a result of ‘tax avoidance arrangements’. ‘Tax avoidance arrangements’ for this purpose means any arrangements where the main purpose is to ensure that profits or losses which would not otherwise fall to be treated as Northern Ireland profits or losses, are treated as such. The term ‘arrangements’ is not confined to transactions which might be legally enforceable, but includes any agreement, understanding, scheme, transaction or series of transactions.

Condition B

Condition B is that either –

- a) At least 50% of the working time spent in the UK by the company’s workforce during the relevant period is time spent otherwise than in Northern Ireland by participators in the company, or
- b) At least 50% of the company’s workforce expenses attributable to UK working time during the period, are attributable to working time spent otherwise than in Northern Ireland by participators in the company.

See [NICT2049](#) for an explanation of how to determine working time spent by a participator.

NICT04020 – Northern Ireland profits and losses: large companies and SMEs electing to use the large company rules: Northern Ireland profits or losses and mainstream profits or losses: attribution to the NIRE

Where a Northern Ireland company which satisfies the large company condition (see [NICT02041](#)) or the SME (election) condition in an accounting period carries on a qualifying trade (see [NICT02042](#)), then profits or losses which

- do not arise from an excluded activity (see [NICT02046](#)), and
- arise directly or indirectly through or from the company's NIRE (see [NICT02050](#)), or from property or rights used by or held by the company's NIRE, and
- are attributable to the company's NIRE

are Northern Ireland profits or Northern Ireland losses.

This is subject to any other specific rules in the NICT scheme, for instance those governing intangible fixed assets, and to any specific rule which treats profits and losses as mainstream profits or losses – CTA10/S357NA (2).

There is a special rule at CTA10/S357KB (2) for back-office activities of certain financial trades – see [NICT04030](#).

Profits or losses of the trade for the accounting period which are not Northern Ireland profits or Northern Ireland losses are mainstream profits or mainstream losses.

The rule for attributing profits and losses of a trade to a NIRE follows the internationally recognised 'separate enterprise principle' referred to at [INTM153080](#) in the context of double taxation agreements. The International Manual (INTM) gives further detail of how the principle is applied, see in particular [INTM267040](#). [NICT04040](#) onwards outlines the approach as it is applied in the context of Northern Ireland CT.

NICT04030 – Northern Ireland profits and losses: large companies and SMEs electing to use the large company rules: Northern Ireland profits or losses and mainstream profits or losses: back-office activities

[NICT02042](#) explains that certain activities of financial trades which are not core profit-making activities attract special treatment. For large companies and SMEs electing to use the large company rules, this treatment is set out at CTA10/S357NB.

Where the trade is a qualifying trade by virtue of CTA10/S357KB (2) (meaning it is an excluded trade within specified financial categories which may include back-office activities) profits for an accounting period in respect of back-office activities are Northern Ireland profits, calculated under a special rule.

Profits imputed to back-office activities

The rule identifies

- a 'back-office deduction' to which the company is entitled in calculating the profits of an accounting period, which is in respect of back-office activities, and
- a 'relevant percentage', set at 5 per cent but which may be varied by regulations made by HM Treasury.

The back-office profits are then calculated by multiplying each back-office deduction by the relevant percentage and adding together the results.

NICT04040 – Northern Ireland profits and losses: large companies and SMEs electing to use the large company rules: Northern Ireland profits or losses and mainstream profits or losses: the separate enterprise principle

This is referred to at [INTM267040](#) as the ‘separate entity principle’. The profits attributable to the NIRE are those which it would have made if it were a distinct and separate enterprise

- engaged in the same or similar activities under the same or similar conditions, and
- dealing wholly independently with the company.

For this purpose it is assumed that the NIRE has the same credit rating as the company and is appropriately capitalised. See [INTM267120](#).

In accordance with the principle, it is assumed that transactions taking place between the company’s NIRE and any other part of it take place on arm’s length terms. If the company provides goods or services to the NIRE, the arm’s length principle will apply if they are of a kind that the company supplies in the course of its trade. If not, the matter is dealt with as an expense of the company, under the principles set out at [NICT04050](#).

The separate enterprise principle is applied to attribute both profits and losses, and for the purpose of attribution ‘trade’ includes office, and carrying on a trade holding an office.

NICT04050 – Northern Ireland profits and losses: large companies and SMEs electing to use the large company rules: Northern Ireland profits or losses and mainstream profits or losses: deductions and receipts

For the purposes of calculating the profits attributable to the NIRE, a deduction is allowed for any allowable expenses incurred for the purposes of the NIRE, including executive and general administrative expenses, whether incurred in the NIRE or in the rest of the company. It does not matter whether the expenses were incurred by the NIRE or were recharged to it, but the expense must have been actually incurred by the company, and the amount to be taken into account is the actual cost to the company. Allowable expense for this purpose means allowable under the CT rules. If the NIRE is that of a non-UK resident company, CT principles are applied to it for this purpose.

In making the attribution, the assumptions mentioned in [NICT04040](#) regarding credit rating and capitalisation are applied.

Payments and receipts in respect of intangible assets

CTA10/S357NH (1) prohibits a deduction from the profits of a NIRE for internal company payments for the use of intangible assets, e.g. trade or brand names or any other intellectual property. Where such a payment is treated by the company as made by the NIRE to any other part of the company the payment is not allowed in calculating the NIRE profits. But a payment may be attributed to a NIRE for the use of intangible assets where the entity as a whole has made the payment externally wholly or partly in respect of the NIRE activity: CTA10/NH (2). For example, the company may pay royalties under a licence agreement to use particular software that is employed in the NIRE business. If the expense is not entirely in respect of NIRE business it may be apportioned.

Similarly, CTA10/S357NH (3) provides that no receipt may be brought into NIRE profits for any royalty or similar receipt from any other part of the company in respect of the use of intangible assets held by the company for the use of the NIRE, but a receipt may be attributed to the NIRE for any contribution received by it in respect of the costs of creation of an intangible asset: CTA10/S357NH (4).

For this purpose, CTA10/S357NH (5), intangible asset includes any intellectual property as defined in CTA09/S712 (3), and subject to that has its ordinary accounting meaning – see [CIRD11100](#).

The rules governing intangible fixed assets for NI Profits purposes are covered at [NICT06000](#) onwards.

Interest or other financing costs and receipts

CTA10/S357NI (1) prohibits a deduction from the profits of a NIRE for internal interest and other financing costs. Where such payments are treated by the company as made by the NIRE to any other part of it the payment is not allowed in calculating the NIRE profits.

Similarly, CTA10/S357NI (2) provides that no receipt may be brought into NIRE profits for any interest or other finance receipt from any other part of the company.

NICT05000 – Capital allowances: contents

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NICT05010 – Capital allowances: introductory and definitions

Introductory

The capital allowance code set out in CAA01 is adapted to deal with the Northern Ireland CT regime. The adaptations, set out in CTNIA15/SCH1, use some different terms compared with CTA10/PART8B dealing with CT profits.

Although there is quite a lot of detail, in broad terms the SCH1 provisions aim to ensure that the main rules adapt to deal with capital allowances in the context of the Northern Ireland CT regime, so that the expenditure qualifying for capital allowances in connection with 'NI rate activity' (see [NICT05020](#)) is taken into account in computing Northern Ireland profits or losses and that expenditure in connection with main rate activity is taken into account correspondingly.

Definitions

NIRE company

CAA01/S6A provides that a NIRE company is a company which is a Northern Ireland company for the purposes of CTA10/PART8B by virtue of the SME (election) condition at CTA10/S357KA (2A) or the large company condition at CTA10/S357KA (3).

SME (Northern Ireland employer) company

CAA01/S6A likewise provides that a Northern Ireland SME company that is a Northern Ireland employer is a company which is a Northern Ireland company for the purposes of CTA10/PART8B by virtue of the SME (Northern Ireland employer) condition in CTA10/S357KA (2).

[NICT02041](#) defines Northern Ireland company and explains the large company, SME (election) and SME (Northern Ireland employer) conditions.

Northern Ireland firm

CAA01/6B deals with adaptations for capital allowances where a company carries on a trade in partnership and there is a Northern Ireland firm of which it is a partner. See [NICT11011](#).

Northern Ireland Chapter 6 firm

This definition refers to profits of a firm determined under the SME (Northern Ireland employer) rules. See [NICT11020](#).

Northern Ireland Chapter 7 firm

This definition refers to profits of a firm determined under the large company or SME (election) rules. See [NICT11030](#).

NICT05020 – Capital allowances: NI rate activity

CAA01/S6C provides that NI rate activity means

- a qualifying trade (see [NICT02042](#)) carried on by a SME (Northern Ireland employer) company, except to the extent that it is an excluded activity (see [NICT02046](#))
- a qualifying trade, other than an excluded financial trade (see [NICT02045](#)), carried on by a NIRE company, to the extent that it is
 - carried on by a NIRE of the company, and
 - does not consist of an excluded activity
- the back-office activities of an excluded financial trade carried on by
 - a SME (Northern Ireland employer) company, or
 - a NIRE company, to the extent that the activities are carried on through a NIRE of the company

which has made the election mentioned at [NICT02042](#).

Qualifying partnership trade

Similar NI rate activity categories apply to a qualifying partnership trade, and back-office activities of an excluded financial trade, carried on by a company which is a partner in a Northern Ireland firm. See [NICT11014](#).

NI rate activity treated as a separate trade

CAA01/S6D provides that the NI rate activity is treated as a separate trade, distinct from any other activities carried on by the company as part of the trade. A similar treatment is applied to NI rate activity carried on by a Northern Ireland firm for the purposes of the corporate partner calculation. See [NICT11013](#).

NICT05030 – Capital allowances: giving effect to allowances and charges in NI rate activity cases

CAA01/S6E sets out how allowances and charges are given and imposed under the provisions of CAA01 which deal with

- trading plant and machinery allowances (CAA01/PART2)
- business premises renovation allowances (CAA01/PART3A)
- mineral extraction allowances (CAA01/PART5)
- research and development allowances (CAA01/PART6)
- dredging allowances (CAA01/PART9)

in the case of SME (Northern Ireland employer) companies, NIRE companies, and a Northern Ireland firm for the corporate partner calculation.

Any allowance is treated as an expense, and any charge as a receipt, in calculating the profits of the trade. If the allowance or charge relates to an NI rate activity, it is treated for the purposes of determining profits taxable at the Northern Ireland rate as forming part of the Northern Ireland profits or Northern Ireland losses of the trade. If the allowance or charge relates to a main rate activity, defined as so much of the trade as is not an NI rate activity, it is treated as forming part of the mainstream profits or mainstream losses of the trade. See [NICT02020](#).

NICT05040 – Capital allowances: amendments to the plant and machinery code: amendments to qualifying activity rules

CTNIA15/SCH1/PART3 makes amendments to CAA01/PART2, the plant and machinery code, to take account of the fact that that an NI rate activity (see [NICT05020](#)) is subject to a different rate of corporation tax.

CTNIA15/SCH1/PARA3 deals with the situation where a company

- does not have a NIRE
- incurs expenditure for the purposes of a trade including activities that would be NI rate activity if it were a NIRE company, and
- subsequently becomes a NIRE.

In these circumstances the expenditure is treated as incurred on the first day of becoming a NIRE company (see [NICT05010](#)).

A similar rule applies to a partnership subsequently becoming a Northern Ireland Chapter 7 firm (see [NICT11030](#)).

CTNIA15/SCH1/PARA4 adds CAA01/S15 (2ZA) which ensures in the context of qualifying activities for capital allowance purposes that NI rate activity treated by CAA01/S6D (1) as a separate trade (see [NICT05020](#)) is treated as an activity separate from any other activity of the company.

A similar rule (adding CAA01/S15 (2ZB)) applies to the activity of a Northern Ireland firm treated by CAA01/S6D (2) as a separate trade (see [NICT05020](#)) for the purposes of the corporate partner calculation (see [NICT11013](#)) and ensures that so far as it relates to the corporate partner calculation it is treated as an activity separate from any other activity of the Northern Ireland firm.

NICT05045 – Capital allowances: amendments to the plant and machinery code: Annual Investment Allowance

Annual Investment Allowance

As described in [NICT05020](#), NI rate activity is treated as a separate trade for the purpose of calculating the capital allowances available to the company. Under the normal rules for Annual Investment Allowance (AIA) a company which meets the conditions for AIA set out in CAA01/PART2/CHAPTER5 is entitled to a single AIA amount in respect of all its activities carried on in a chargeable period. Similarly, a group of companies or a collection of companies under common control may be restricted to a single AIA. These rules are described in [CA23080](#).

Subject to the rules described below, the company or companies can choose how to allocate single AIA amount between the NI rate activity and the mainstream CT rate activities.

CTNIA15/SCH1/PARA5 adds CAA01/S51JA. That section restricts the AIA available under CAA01/PART2/CHAPTER3A against mainstream CT rate activities where:

- AIA qualifying expenditure is incurred at least partly in respect of an NI rate activity and
- the NI rate is lower than the main CT rate for the financial year in which the expenditure is incurred.

In such cases, the maximum amount of AIA that can be allocated to mainstream CT rate activities is calculated according to the formula:

$$A \times \frac{(T - NI)}{T}$$

Where:

A is the amount of the single annual investment allowance that would otherwise be available for allocation;

T is the amount of the relevant AIA qualifying expenditure which is incurred in a year in which the NI rate is lower than the main CT rate;

NI is the amount of the relevant AIA qualifying expenditure which is incurred in a year in which the NI rate is lower than the main CT rate, and which is incurred in respect of an NI rate activity.

The remainder of the AIA available may be relieved against NI rate activity.

NICT05050 – Capital allowances: amendments to the plant and machinery code: disposal events and disposal values

[CA23240](#) explains that when there is a disposal event listed at CAA61/S61 (1) a person has to bring a disposal value to account, and [CA23250](#) contains the Table appearing at CAAS61 which relates to disposal events and disposal values.

CTNIA15/SCH1/PARA6 amends CAA01/S61 and adds items to the Table which have the effect that the sale will be treated as being at market value where an asset that is used for the purpose of a main rate activity is sold below market value to a company that is within the Northern Ireland CT regime.

NICT05055 – Capital allowances: effect of changes in status as an SME (Northern Ireland employer) company: company entering Northern Ireland CT regime

CTNIA15/SCH1/PARA7 adds S66B and S66C to CAA01, dealing with SME (Northern Ireland employer) companies entering the Northern Ireland CT regime.

CAA01/S66B ensures that where

- in an accounting period beginning on or after commencement day (see [NICT01030](#)) a company is a Northern Ireland company,
- the company was not in the Northern Ireland CT regime in the previous accounting period, and
- the company did not become a Northern Ireland company in the current period as the result of a back-office election (see [NICT02042](#))

and

- as a result of the operation of CAA01/S15 (2ZA) (see NICT05040) any assets are treated as ceasing to be used for the purpose of a main rate activity and beginning to be used for the purpose of an NI rate activity (see [NICT05020](#)),

then

- a capital allowances disposal event will not be treated as occurring.

If during the accounting period the only qualifying activity carried on by the company is an NI rate activity, any unrelieved qualifying expenditure in the main pool or special rate pool carried forward under CAA01/S59 to the period is treated as relating to plant and machinery used for the purposes of the NI rate activity. See [CA23210](#) regarding pools.

If the company carries on both NI rate activity and main rate activity during the accounting period, any unrelieved qualifying expenditure in the main pool or special rate pool carried forward under CAA01/S59 to the period is apportioned on a just and reasonable basis between main pools that relate to NI rate activity and main rate activity, and special rate pools that relate to NI rate activity and main rate activity.

CAA01/S66C is concerned with an SME (Northern Ireland employer) partnership entering the NICT regime. See [NICT11020](#).

NICT05056 – Capital allowances: SME (Northern Ireland employer) company leaving Northern Ireland CT regime

CTNIA15/SCH1/PARA7 adds S66D and S66E to CAA01, dealing with SME companies leaving the Northern Ireland CT regime.

CAA01/S66D provides that where

- in an accounting period beginning on or after commencement day a company is not in the Northern Ireland CT regime,
- the company was a SME (Northern Ireland employer) company in the previous accounting period, and
- during the reference accounting period the company carries on a qualifying activity

and

- as a result of the operation of CAA01/S15 (2ZA) (see [NICT05040](#)) any assets are treated as ceasing to be used for the purposes of an NI rate activity and beginning to be used for the purpose of the qualifying activity mentioned above

then

- a capital allowances disposal event will not be treated as occurring.

Any unrelieved qualifying expenditure which relates to plant or machinery used for the purposes of an NI activity and is carried forward to an accounting period is treated as relating to the qualifying activity carried on in the period.

CAA01/S66E adapts S66D to apply to an SME partnership leaving the NICT regime. See [NICT11020](#).

NICT05060 – Capital allowances: asset provided or used only partly for NI rate activity

CTNIA15/SCH1/PARA8 adds CHAPTER16ZA to CAA01, comprising S212ZA to S212ZF. These sections deal with assets provided or used only partly for NI rate activity.

CAA01/S212ZA deals with qualifying expenditure on plant and machinery which is used partly for NI rate activity and partly for main rate activity. For the purposes of any annual investment allowance or first year allowance the expenditure is apportioned on a just and reasonable basis between the NI rate activity and the main rate activity. If the allowance is reduced, for example because the plant and machinery is used only partly for qualifying activity as mentioned in CAA/S205, it is the reduced amount which is apportioned.

CAA01/S212ZB requires that where qualifying expenditure is incurred partially for NI rate activity and partially for main rate activity and it is to be allocated to a pool, it is allocated to a single asset pool. Where a company is required to bring a disposal value in an accounting period because an asset used previously for either NI rate activity or main rate activity begins to be used for both activities, an amount equal to the disposal value is allocated to a single asset pool for that accounting period. There is no disposal event for the single asset pool merely because there is increased NI rate or main rate activity use.

CAA01/S212ZC deals with allowances and charges on expenditure in a single asset pool by apportionment on a just and reasonable basis between the NI rate activity and main rate activity.

CAA01/S212ZD provides a rule dealing with the disposal value to be used where there is a significant change in circumstances affecting the use of plant and machinery in a single asset pool created under CAA01/CHAPTER16ZA. It applies to the 'relevant' accounting period in which the change takes place and to following accounting periods. Where

- no disposal value would otherwise be brought into account in the relevant accounting period, and
- the market value of the plant and machinery at the end of that accounting period exceeds £1m, then

a disposal value must be brought in for the relevant accounting period and the S212ZA apportionment is applied as if, at the beginning of the next accounting period, expenditure equal to the disposal value had been incurred.

CAA01/S212ZE applies the provisions of CAA01/CHAPTER16ZA to partnerships. See [NICT11010](#).

CAA01/S212ZF defines 'main rate activity' for the purposes of CAA01/CHAPTER16ZA as activity other than NI rate activity.

NICT05070 – Capital allowances: giving effect to allowances and charges

CTNIA15/SCH1/PARA9 amends CAA01/S247 which deal with giving effect to capital allowances and balancing charges in relation to trades. Allowances in respect of NI rate activity are relieved as deductions against Northern Ireland profits of the relevant accounting period.

CTNA15/SCH1/PARA10 provides for a Treasury power exercisable by order in relation to CAA01/SCHA1, which deals with first-year tax credits (see CA23176 onwards). It allows a different percentage to apply for the purposes of CAA01/SCHA1/PARA2 (1)(a) where the surrenderable loss relates to a qualifying Northern Ireland rate activity, and allows for the percentage to be substituted accordingly.

NICT05080 – Capital allowances: amendments to CAA01 for allowances other than plant and machinery allowances

CTNIA15/SCH1/PART4 deals with particular amendments required to capital allowances other than those applying to expenditure on plant and machinery.

Business premises renovation allowances

CTNIA15/SCH1/PARA11 amends CAA01/S360Z to provide that where a company (or partnership) carries on NI rate activity treated by virtue of CAA01/S6D as a separate trade (see [NICT05020](#)), and is as a result treated as carrying on two separate trades, the question whether an allowance or charge relates to NI rate activity or main rate activity is determined according to the purpose for which the qualifying building is used. A just and reasonable apportionment is made where the building is used for the purpose of both activities.

Mineral extraction allowances

CTNIA15/SCH1/PARA12 inserts CAA01/S394 (2A) which provides that where a company (or partnership) carries on NI activity treated by virtue of CAA01/S6D as a separate trade, and is as a result treated as carrying on two separate trades, each of them is treated as a mineral extraction trade where the trades together would amount to a mineral extraction trade.

CTNIA15/SCH1/PARA13 amends CAA01/S432 to ensure the allowances and charges can be given effect to in accordance with CAA01/S6E where there is NI rate activity (see [NICT05020](#)).

Research and development

CTNIA15/SCH1/PARA14 inserts CAA01/S439A which provides that, where a company incurs expenditure for the purposes of a trade on an activity that will, on the company becoming a NIRE company be an NI rate activity treated as a separate trade, the expenditure is treated as incurred on the first day of the accounting period in which the company is a NIRE company.

A similar provision applies where a partnership incurs expenditure for the purposes of its trade on an activity that will, on the firm becoming a Northern Ireland Chapter 7 firm be an NI rate activity treated as a separate trade, the expenditure is treated as incurred on the first day of the chargeable period in which the partnership is a Northern Ireland Chapter 7 firm. See [NICT11030](#) for the meaning of Northern Ireland Chapter 7 firm.

CTNIA15/SCH1/PARA15 amends CAA01/S450 to ensure that research and development allowances can be given effect to in accordance with CAA01/S6E where there is NI rate activity (see [NICT05020](#)).

Dredging allowances

CTNIA15/SCH1/PARA16 inserts CAA01/S484 (2A) which provides that, where a company (or partnership) carries on NI activity treated by virtue of CAA01/S6D as a separate trade, and as a result is treated as carrying on two separate trades, each of them is treated as a qualifying trade if the trades together would amount to a qualifying trade.

CTNIA15/SCH1/PARA17 amends CAA01/S489 to ensure that dredging allowances can be given effect to in accordance with CAA01/S6E where there is NI rate activity (see [NICT05020](#)).

NICT05090 – Capital allowances: consequential amendments and transitional provisions

CTNIA15/SCH1/PART5 deals with consequential amendments to CAA01 and PART6 with transitional provisions.

Consequential amendments: PART5

CTNIA15/SCH1/PARA18 adds to CAA01/SCH1, index of defined expressions, various terms used for NICT purposes:

Defined expression	Reference in CAA01	Reference in NICT
The corporate partner calculation	S6D (3)	NICT11013
NI rate activity	S6C	NICT11014
NIRE company	S6A	NICT11030
Northern Ireland Chapter 6 firm	S6B (3)	NICT11020
Northern Ireland Chapter 7 firm	S6B (4)	NICT11030
Northern Ireland firm	S6B(2)	NICT11010
SME (Northern Ireland employer) company	S6A	NICT11020

Transitional provisions: PART6

CTNIA15/SCH1/PARA19 defines the ‘transition period’ for a company or partnership as its accounting period that begins, or by virtue of NICT15/S5 (6) is treated as beginning, on the commencement day defined in NICT15/S5 (4). See [NICT01030](#).

Plant and machinery allowances: allocation of unrelieved expenditure to pools

CTNIA15/SCH1/PARA20 applies to a company or partnership if in the transition period

- a company is a NIRE company or SME (Northern Ireland employer) company, or
- a partnership is an NI Chapter 6 or NI Chapter 7 firm (see [NICT11020](#) and [NICT11030](#)).

It applies if as a result of CAA01/S6D an NI rate activity (see [NICT05020](#) and [NICT11014](#)) begins to be treated for the purposes of CAA01/PART2 (plant and machinery allowances) as a separate qualifying activity. PARA20 provides that any unrelieved qualifying expenditure on plant and machinery to be carried forward under CAA01/S59 into the transition period is apportioned on a just and reasonable basis into separate pools for the purposes of the NI rate activity and main rate activity. This does not give rise to a disposal event.

The provision applies to all pools, including main rate pools, special rate pools and single asset pools.

Know-how allowances: allocation of unrelieved expenditure to pools

CTNIA15/SCH1/PARA21 applies similarly in relation to know-how allowances under CAA01/PART7.

NICT06000 – Northern Ireland: Intangible Fixed Assets Regime: Contents

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NICT06010 – Northern Ireland: Intangible Fixed Assets regime: introduction

This section of guidance explains how CTA10/PART8B/CHAPTER8 adapts the UK corporation tax intangible fixed assets regime (CTA09/PART8) to apply to Northern Ireland Intangible Fixed Assets (NI-IFAs). The intangible fixed assets regime concerns the taxation of assets that are classified under generally accepted accounting practice as (a) intangible assets or (b) goodwill.

CTA10/PART8B/CHAPTER8 explains how NI-IFAs are identified and how gains and losses in connection with them should be taxed. It does not alter the operation of the UK regime. Full guidance on the UK regime can be found in the Corporate Intangibles, Research & Development Manual ([CIRD10000](#) onwards).

What are Northern Ireland Intangible Fixed Assets?

NI-IFAs are intangible fixed assets held by a company for the purpose of a trade carried on by it in Northern Ireland. The rules set out in CTA10/PART8B/CHAPTER8 only apply to assets that were created on or after the commencement of CTNIA15 provisions which add PART8B to CTA10.

Any assets created before the commencement date are “pre-commencement assets”, which will be taxed according to the UK rules without modification.

The general rule is that any debits or credits arising in respect of a pre-commencement asset held by a company for the purpose of its Northern Ireland trade should be taxed or relieved under the UK rules and at the UK rate.

Northern Ireland profits or losses that include intangibles debits and/or credits are arrived at by taking the following steps:

1. Calculate the Northern Ireland profits or losses without including any debits or credits attributable to intangible fixed assets.
2. Add the total Northern Ireland intangibles credits (see [NICT06050](#) and [NICT06060](#)).
3. Deduct the total Northern Ireland intangibles debits (see [NICT06050](#) and [NICT06060](#)).

NICT06020 – Northern Ireland: Intangible Fixed Assets regime: background to the UK regime

This paragraph gives background information on the UK intangible fixed assets regime. The Corporate Intangibles and Research and Development manual (CIRD) gives more detail.

What are intangible assets?

The rules in CTA09/PART8 (previously contained in FA02/SCH29) apply to a company's assets that are defined as intangible fixed assets or goodwill under Generally Accepted Accounting Practice (GAAP). CTA09/PART8 only applies to intangible fixed assets created on or after 1 April 2002, or acquired from an unrelated party on or after that date. Intangible fixed assets that are created before 1 April 2002 or are acquired from an unrelated party before that date are known as 'pre-FA02 assets'. See [CIRD11505](#) onwards.

The term "intangible asset" includes intellectual property, which is defined as including:

- patents
- copyrights
- trademarks
- know-how.

The term also encompasses a variety of other assets with commercial value, such as agricultural quotas, payment entitlements under the single payment scheme for farmers, franchises and telecommunication rights.

'Goodwill', in accounting terms, represents the difference between the cost of an acquired entity, and the aggregate of the fair values of that entity's identifiable assets and liabilities. Only goodwill that is recognised in company level accounts falls within the regime. Goodwill in consolidated accounts is excluded.

Certain assets are explicitly excluded. These are specified in the legislation (CTA09/PART8/CHAPTER10) and include:

- rights in respect of tangible assets
- oil licences
- financial assets
- rights in companies, trusts and partnerships.

Taxation of intangible assets

CTA09/PART8 links the tax treatment of intangible fixed assets to the debits and credits that arise under GAAP. Subject to certain statutory exclusions and adjustments, the regime identifies the relevant entries in a company's accounts and brings them into an income-based regime for CT purposes.

Intangible fixed assets created before 1 April 2002 or acquired from an unrelated party before that date are generally taxed under the capital gains rules. But royalties are brought within CTA09/PART8 even if the intangible fixed assets fail the 2002 rule (see [CIRD11710](#)).

NICT06030 – Northern Ireland: Intangible Fixed Assets regime: policy design

The NI-IFA rules reflect:

- the need to be attractive to business and incentivise commercial activity involving intangibles in Northern Ireland,
- the need to protect against tax avoidance arising from the shifting of income streams and/or manipulation of disposals of assets.

Intangible assets are, by their nature, readily transferrable. The NI-IFA rules aim both to encourage innovation, business growth and the generation of new intangibles in Northern Ireland and to protect against loss of CT from tax motivated asset transfers.

If the Northern Ireland CT rate is lower than the UK main rate, there is an incentive to arrange for income and sales proceeds to be taxed at the Northern Ireland CT rate while expenditure is relieved at the UK rate. Such arrangements may generate a tax advantage without producing an increase in commercial activity in Northern Ireland.

CTA09/S775 provides for tax neutral transfer of chargeable intangible assets between members of a group of companies. It follows that a company in the rest of the UK that holds an intangible fixed asset could transfer the asset to a Northern Ireland company in the same group without tax consequence.

Profit shifting: Income streams

The pre-commencement rule provides that existing intangible fixed assets are excluded from the Northern Ireland CT regime. This means that these assets cannot readily be transferred from the UK to the Northern Ireland regime to benefit from a lower tax rate when they may have benefited from tax relief at a higher rate.

The Northern Ireland regime's separate enterprise principle (see [NICT04040](#)) ensures that attributions of income and relief for a period of account are apportioned on a just and reasonable basis. CTNIA15 also provides that intangible fixed assets created after the commencement date may not be taxed at the Northern Ireland CT rate on disposal if they have previously received relief at the main rate.

Profit shifting: disposals

If a company disposes of a post-commencement NI-IFA that has been used in both Northern Ireland and the rest of the UK, profit shifting rules require a just and reasonable apportionment to be carried out to reflect use in each place.

For example, if an asset were used equally in each, any gain arising on disposal would be apportioned 50:50 between the main CT rate and the Northern Ireland rate to reflect that use.

In making the apportionment, both length of time and extent of use in the trade or trades of the company will be taken into account.

NICT06040 – Northern Ireland: Intangible Fixed Assets regime: Rules affecting the calculation of Northern Ireland profits or losses

CTA10/S3570A provides that if, at any point during an accounting period, a company meets the definition of a Northern Ireland company then it must include any credits or debits that arise in that period in respect of Northern Ireland intangibles in the computation of its Northern Ireland profits or losses.

Any other intangibles debits or credits arising in that accounting period will be treated as part of the company's mainstream profit or loss computation, reflecting the "separate enterprise principle" (see [NICT04040](#)).

For Northern Ireland credits and debits relating to SMEs see [NICT06050](#).

For Northern Ireland credits and debits relating to large companies see [NICT06060](#).

NICT06045 – Northern Ireland: Intangible Fixed Assets regime: payments and receipts in respect of intangible assets

CTA10/S357NH explains how payments and receipts in respect of intangible assets relating to transactions between a company's Northern Ireland Regional Establishment (NIRE) and the rest of the company are to be included in the company's NIRE CT computation.

When calculating the profits or losses attributable to a company's NIRE, the following items are included:

- deductions for any contributions made by the NIRE to other parts of the company in respect of the costs of creation of an intangible asset, and
- receipts for any contributions received by the NIRE from other parts of the company in respect of the costs of creation of an intangible asset.

The following items are **not** included:

- deductions for royalties or similar payments made by the NIRE to other parts of the company in respect of the use of intangible assets held by the company, and
- receipts for royalties or similar payments received by the NIRE from other parts of the company in respect of the use of intangible assets held by the company for the purpose of the NIRE.

NICT06050 – Northern Ireland: Intangible Fixed Assets regime: Northern Ireland intangibles debits and credits: SME (Northern Ireland employer) companies

CTA10/S3570B provides that if the company is a SME (Northern Ireland employer) company (see [NICT02041](#))) carrying on a qualifying trade (see [NICT02042](#)) then its Northern Ireland intangibles credits for the accounting period are determined by:

- including any credits that are receipts of the qualifying trade under CTA09/S747 (2) (see [CIRD13520](#)),
- excluding any credits attributable to pre-commencement assets (see [NICT06090](#)),
- excluding any realisation credits identified under CTA09/CHAPTER4,
- including the Northern Ireland element of any realisation credits (see [NICT06075](#)), and
- excluding any credits attributable to assets held for the purpose of an excluded activity.

If the company is a SME (Northern Ireland employer) company and carrying on a qualifying trade then its Northern Ireland intangibles debits for the accounting period are determined by:

- including any debits that are expenses of the qualifying trade under CTA09/S747 (3) (see [CIRD13520](#)),
- excluding any debits attributable to pre-commencement assets,
- excluding any realisation debits identified under CTA09/PART8/CHAPTER4,
- including the Northern Ireland element of any realisation debits, and
- excluding any debits attributable to assets held for the purpose of an excluded activity.

NICT06060 – Northern Ireland: Intangible Fixed Assets regime: Northern Ireland intangibles debits and credits – large companies and SMEs electing to use the large company rules

CTA10/S3570C provides that if the company is a Northern Ireland company (see [NICT02041](#)) under the large company condition or SME (election) condition and carries on a qualifying trade (see [NICT02042](#)) then its Northern Ireland intangibles credits for the accounting period are determined by:

- applying the separate enterprise principle to identify only credits that are attributable to the company's NIRE (see [NICT04040](#)),
- from among those credits including any that are receipts of the qualifying trade under CTA09/S747 (2) (see [CIRD13520](#)),
- excluding any credits attributable to pre-commencement assets (see [NICT06090](#)),
- excluding any credits attributable to an asset that is held for the purpose of an excluded activity (see [NICT02046](#)),
- excluding any realisation credits identified under CTA09/CHAPTER 4, and
- adding back the Northern Ireland element of any realisation credits (see [NICT06075](#)).

The Northern Ireland intangibles debits for the accounting period are determined by:

- applying the separate enterprise principle to identify only debits that are attributable to the company's NIRE (see [NICT04040](#)),
- from among those debits including any that are expenses of the qualifying trade under CTA09/S747 (2) (see [CIRD13520](#)),
- excluding any debits attributable to pre-commencement assets (see [NICT06090](#)),
- exclude any debits attributable to an asset that is held for the purpose of an excluded activity (see [NICT02046](#)),
- excluding any realisation debits identified under CTA09/CHAPTER4, and
- adding back the Northern Ireland element of any realisation debits (see [NICT06075](#)).

NICT06070 – Northern Ireland: Intangible Fixed Assets regime: realisation credits and debits: introductory

There is a realisation of an asset for the purposes of the intangible fixed assets regime when there is a realisation of that asset for accounting purposes, that is, when a transaction results in one of the following:

- the asset ceasing to be recognised in the company's balance sheet altogether, or
- a reduction in the amount at which it is carried in the balance sheet (a "part realisation").

The proceeds of realisation equate to the amount recognised for accounting purposes as those proceeds net of the incidental costs, subject to tax adjustments. For the purpose of the Intangible Fixed Assets regime, this can give rise to either a debit or a credit. See [CIRD13230](#) for guidance on the treatment of realisation credits and debits.

If there is a Northern Ireland element to a realisation debit or credit (see [NICT06075](#)), it must be included in the Northern Ireland computation.

NICT06075 – Northern Ireland: Intangible Fixed Assets regime: realisation credits and debits: Northern Ireland element

The Northern Ireland element of a realisation credit or debit is the amount that will be charged or relieved at the Northern Ireland rate of corporation tax.

CTA10/S357OD defines realisation credit or debit in relation to a trade carried on by a company in an accounting period as a debit or credit which

- is brought to account by the company under CTA09/PART8 for the period as a result of PART8/CHAPTER4 (realisation of intangible fixed assets),
- is treated under CTA09/S747 as a receipt or expense of the trade, and
- does not relate to a pre-commencement asset (see [NICT06030](#)).

A realisation credit or debit will only contain a Northern Ireland element if one of the conditions set out in CTA10/S357OE is satisfied:

- (a) the company was a Northern Ireland company during an accounting period in which it held the intangible fixed asset and the asset was held wholly or partly for the purpose of a qualifying trade (see [NICT02042](#)) carried on by the company (except to the extent that the trade consists of an excluded activity, see [NICT02046](#)); or
- (b) in the case of a realisation credit, roll-over relief has previously been given in respect of such an asset under CTA09/PART8/CHAPTER7.

Calculating the Northern Ireland element

CTA10/S357OF provides a formula (known as the “general rule”) which is applied unless the asset was subject to roll-over relief under CTA09/CHAPTER7 when it was acquired. Roll-over relief assets are dealt with under a different process, set out in CTA10/S357OG (see [NICT05080](#)).

Under the general rule, the Northern Ireland element of a realisation credit or debit is calculated using the following formula:

$$\text{Northern Ireland element} = A \times \left(\frac{NI}{C - TWDV} \right)$$

Where

A = the amount of the realisation credit or realisation debit

NI = the total net Northern Ireland debits (see [NICT05030](#))

C = the cost of the asset recognised for tax purposes as defined by CTA09/S742 (2) or 743(2)

TWDV = the tax written-down value of the asset as defined in CTA09/PART8/CHAPTER5.

If a realisation credit or debit arises under CTA09/S736 (assets not written down for tax purposes) or CTA09/S738 (assets not shown in the balance sheet), the Northern Ireland element is determined by attributing a portion of the overall credit or debit on a just and reasonable basis, taking into account the extent to which the asset is held for the purpose of the relevant Northern Ireland trade (see [NICT05030](#)).

NICT06080 – Northern Ireland: Intangible Fixed Assets regime: realisation credits and debits - Northern Ireland element: assets subject to rollover relief

The general rule (see [NICT06070](#)) does not apply where the asset in question was subject to roll-over relief when it was acquired. In such cases, CTA10/S357OG applies the following steps:

- Step 1 Calculate the part (if any) of the realisation credit that is attributable to the total net debits (see [NICT06030](#)) in respect of the new asset.
- Step 2 Calculate the Northern Ireland element of the result of Step 1 by applying to it the proportion that the total net Northern Ireland debits (see [NICT06030](#)) bears to the total net debits.
- Step 3 If the realisation credit exceeds the total net debits, calculate any part of the excess that is attributable to the reduction in the cost of the new asset recognised for tax purposes that resulted from the roll-over relief.
- Step 4 If, in the absence of roll-over relief, a proportion of the realisation credit on the realisation of the old asset would in accordance with CTA10/S357OF have been a Northern Ireland element, calculate the Northern Ireland element of the result of Step 3 by applying that proportion to it.
- Step 5 If any remaining amount of the realisation credit has not been attributed under Step 1 or 3, calculate the Northern Ireland element of that remaining amount by determining how much of that remaining amount can on a just and reasonable basis be attributed to the holding of the new asset for the purposes of the relevant Northern Ireland trade.

NICT06090 – Northern Ireland: Intangible Fixed Assets regime: pre-commencement assets

Pre-commencement assets are excluded from the scope of the Northern Ireland CT regime. Any debits or credits relating to such assets are determined under the Intangible Fixed Assets regime set out CTA09/PART8. The presumption is that pre-commencement assets will have been relieved at the main CT rate. This provision is designed to discourage profit shifting through the migration of valuable intellectual property to the Northern Ireland regime purely for the purpose of obtaining a lower CT rate, typically in respect of a profit arising on a subsequent realisation.

Pre-commencement asset

CTA10/S357OH provides that an intangible fixed asset is a pre-commencement asset if it was created before the commencement day given by CTNIA15/S5 (4). Intangible fixed assets are treated as having been created before the commencement day if they were held by the company or another person at any time before that day. [CIRD11670](#) to [CIRD11685](#) give additional guidance on the creation of assets.

There are special rules relating to goodwill and expenditure on film production.

Goodwill: CTA10/S357OI

Goodwill is treated as created before the commencement day if the business in question was carried on by any person before that date.

Films: CTA10/S357OJ

In the case of an asset representing production expenditure on a film, the asset is treated as created when the film is completed. “Completed” is defined in CTA09/S1181 (5) as being “first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public”.

NICT06095 – Northern Ireland: Intangible Fixed Assets regime: pre-commencement assets and profit shifting

The NI-IFA regime is designed to encourage commercial activity in relation to intangible fixed assets in Northern Ireland. As explained in [NICT06090](#), the pre-commencement rule applies in order to ensure that transactions following the migration of existing intangible fixed assets are relieved or taxed at the appropriate rate. This also ensures that only the generation of genuine new assets in Northern Ireland are taxed and relieved at the appropriate rate under CTA09/CHAPTER8.

CTA10/S357OM and S357OO support this aim. Under these provisions, assets that purport to be new NI-IFAs but are derived from existing intangible fixed assets are excluded from the regime. S357OM applies where an asset derives its value in whole or part from a pre-commencement asset (see [NICT06120](#)). S357OO applies where an asset is acquired in connection with a previously disposed of pre-commencement asset (see [NICT06130](#)).

These provisions address in particular “licence scheme avoidance” type arrangements. These have been encountered and considered in the *Iiffe* case (*Iiffe News and Media Ltd & Ors v HMRC* [2012] UKFTT 696 (TC), 1 November 2012). Under such arrangements, a company grants a licence to another group member in respect of an existing intangible fixed asset for a lump sum fee. The parties claim that the licence is the creation of a new, post-commencement intangible fixed asset. S357OM and S357OO counter such arrangements by deeming such derivative assets to be pre-commencement assets for the purposes of Northern Ireland CT.

NICT06100 – Northern Ireland: Intangible Fixed Assets regime: fungible assets

Fungible assets are interchangeable, mutually substitutable assets that can form the subject of a transaction without individual units being specifically identified. Agricultural quotas are an example of fungible intangible fixed assets. [CIRD10220](#) gives more guidance on fungible assets in general.

CTA09/S858 provides that fungible assets of the same kind held by the same person should be treated as a single asset. If a Northern Ireland company possesses fungible assets that are treated as a notional single asset under S858 and some of those assets are pre-commencement assets (see [NICT06090](#)) and some are not, then CTA10/S357OK provides that:

- the pre-commencement assets will be treated as a single pre-commencement asset, and
- the assets that are not pre-commencement assets will be treated as a single asset that is not a pre-commencement asset.

Any disposals from among the fungible assets will be treated as reducing the pre-commencement asset first.

Any subsequent acquisitions of similar types of fungible asset will be treated as pre-commencement assets if they can be identified with existing pre-commencement assets by applying the following rules:

Rule 1 The assets acquired are identified with pre-commencement assets of the same kind realised by the company within the period beginning 30 days before and ending 30 days after the date of the acquisition. Assets “of the same kind” are those that would be treated as a single asset under CTA09/S858.

Rule 2 The assets realised earlier are identified before assets realised later.

Rule 3 The assets acquired earlier are identified before assets acquired later.

[NICT06110](#) gives an illustrative example.

NICT06110 – Northern Ireland: Intangible Fixed Assets regime: fungible assets: example

Example

Farming Limited holds 100,000 units of a fungible asset on the commencement day. One month after commencement, it buys another 20,000 units. It goes on to sell 40,000 units but, two weeks later, acquires a further 50,000 units. The purchases are from unrelated parties. Finally, it sells 30,000 units.

Tax treatment under CTA09/CHAPTER8

As a result of the first post-commencement acquisition, the company is regarded as holding two assets: 100,000 units of existing asset and 20,000 of new asset.

The 40,000 units sold first are regarded as diminishing the existing asset in priority so that immediately afterwards the company has 60,000 units of existing asset and 20,000 of new asset.

The 50,000 units subsequently acquired are regarded as augmenting the existing asset to the extent of 40,000 units under the 30 day rule (Rule 1). As a result, immediately following that acquisition, the company holds 100,000 units of existing asset and 30,000 of new asset.

NICT06120 – Northern Ireland: Intangible Fixed Assets regime: assets derived from pre-commencement assets

CTA10/S3570M ensures that only the creation of genuinely new intangible fixed assets will give rise to tax relief under the NI-IFA regime. In other words, supposedly new assets cannot be created through the manipulation of existing assets.

An asset that is not a pre-commencement asset will be treated, wholly or partly, as though it were a pre-commencement asset if the following conditions are met:

- on or after the commencement day, a company (“the acquiring company”) acquires an intangible fixed asset (“the acquired asset”) from a person (“the transferor”),
- the acquired asset is created on or after the commencement day,
- the value of the acquired asset derives in whole or in part from any other asset (“the other asset”), and
- the other asset meets the pre-commencement status conditions at CTA10/S3570N, namely either
 - a. it was created before the commencement day, or
 - b. it has been a pre-commencement asset in the hands of the transferor or any other person.

The acquired asset is deemed to be a pre-commencement asset to the extent that its value derives from the other asset. If only part of the acquired asset’s value derives from the other asset, the acquired asset will be treated as though it were two separate assets: one pre-commencement and one created on or after commencement. The apportionment of value between the two is on a just and reasonable basis.

Value is considered to be derived by one asset from another where the assets:

- have been merged or divided, or
- have changed their nature, or
- rights or interests in or over the assets have been created or extinguished.

NICT06130 – Northern Ireland: Intangible Fixed Assets regime: assets acquired in connection with disposals of pre-commencement assets

CTA10/S35700 provides that where a company acquires an intangible fixed asset directly or indirectly in consequence of, or in connection with, a disposal by a person of either

- a pre-commencement asset, or
- an asset that is not an intangible fixed asset but which was created before the commencement date,

then the acquired asset is treated as a pre-commencement asset in the hands of the company.

A disposal for this purpose includes:

- part-disposal or other disposal under TCGA92,
- realisation of an asset under CTA09/PART8, and
- the grant of a licence.

This rule will apply regardless of whether:

- the asset disposed of is the same asset as the asset acquired by the company,
- the acquired asset is acquired at the time of the disposal, or
- the acquired asset is acquired by the merging of assets or otherwise.

NICT06140 – Northern Ireland: Intangible Fixed Assets regime: partnerships

The computational rules in respect of intangible fixed assets in CTNIA15/PART8B/CHAPTER8 apply only to Northern Ireland companies. However Northern Ireland Companies that are members of a “firm” compute their share of partnership profits as if the trade was carried on by a company (CTA09/S1259). The CTA09/PART8 rules will therefore apply to the computation of those profits.

[NICT11040](#) provides a table that sets out how the main rules in relation to a company apply to a Northern Ireland firm. In particular, in relation to intangible fixed assets, CTA10/S357WF provides that, where the taxpayer in question is a partnership:

- references to “qualifying trade” apply as though they were to a “qualifying partnership trade”;
- references to a “company” apply as though they were to a “firm”;
- references to an “accounting period of a company” apply as though they were to an “accounting period of a firm”;
- references to a “Northern Ireland company” apply as though they were to a “Northern Ireland firm”;
- references to the “SME (Northern Ireland employer) condition” apply as though they were to the “SME (Northern Ireland employer) partnership condition”; and
- references to the “large company condition” and “SME (election) condition” apply as though they were to the “large partnership condition” and “SME (election) partnership condition”.

NICT06150 – Northern Ireland: Intangible Fixed Assets regime: realisation of assets previously subject to the Northern Ireland rate

CTNIA15/SCH2/PARA1 adds CTA09/S738A to the intangible fixed assets rules at CTA09/PART8. This provision ensures that realisation credits or debits arising in respect of an intangible asset that has previously been subject to the Northern Ireland regime for intangible assets will be restricted to reflect the portion of the asset that has been subject to the Northern Ireland regime so that, where a credit arises on a disposal, the right tax is paid. The restriction is referred to as an “appropriate reduction”.

The appropriate reduction applies where:

- a company is required to bring into account for an accounting period a realisation credit or debit under CTA09/S735 (asset written down for tax purposes), CTA09/S736 (asset shown in balance sheet not written down for tax purposes) or CTA09/S738 (asset not shown in balance sheet),
- the company is not a Northern Ireland company (see [NICT02041](#)) in the relevant period,
- the asset is not a pre-commencement asset (see [NICT06090](#)),
- the realisation credit or debit is treated as including a Northern Ireland element (see [NICT06075](#)), and
- at any time during the accounting period, the applicable rate of CT in Northern Ireland was lower than the main rate.

If the accounting period in question falls into one financial year only, the appropriate reduction is given by the formula $E \times \frac{MR - NIR}{MR}$, where:

E is the Northern Ireland element of the credit or debit

MR is the main rate for the financial year.

NIR is the Northern Ireland rate.

If the accounting period falls into more than one financial year, an apportionment process must be carried out as follows:

- Step 1 Apportion the Northern Ireland element of the credit or debit between the financial years on a time basis according to the respective lengths of the parts of the relevant period falling within those years.
- Step 2 Where an amount is apportioned under Step 1 to a financial year in which the Northern Ireland rate is lower than the main rate, multiply it by fraction $(MR - NIR)/MR$, where **MR** and **NIR** have the same meanings as above.
- Step 3 The appropriate reduction is the sum of amounts determined under Step 2.

NICT06160 – Northern Ireland: Intangible Fixed Assets regime: glossary

[NICT02040](#) onwards give the general Northern Ireland regime definitions.

The following terms are specific to the intangible fixed assets regime:

Intangible asset

Intangible asset has the meaning given in CTA09/S712. This follows the accounting definition of intangible asset and includes intellectual property. [CIRD11150](#) gives more guidance on the meaning of “intangible asset”.

Intangible fixed asset

Intangible fixed asset has the meaning given in CTA09/S713, namely an intangible asset acquired or created by the company for use on a continuing basis in the course of the company's activities, including an option or other right to acquire or to dispose an intangible asset that would be a fixed intangible asset. [CIRD11170](#) gives more guidance on the meaning of “intangible fixed asset”.

Northern Ireland element

The Northern Ireland element of a realisation credit or debit is defined by CTA10/S357OE as the amount that will be charged or relieved at the Northern Ireland rate of CT. See [NICT06075](#).

Pre-commencement asset

An intangible fixed asset is a “pre-commencement asset” if it was created before the commencement day defined by CTNIA15/S5 (4). See [NICT06090](#).

Realisation credits and realisation debits

A realisation credit or realisation debit arises on the disposal of all or part of an asset. It is more specifically defined at CTA10/S357OD as a credit or debit which is:

- brought into account under CTA09/PART8/CHAPTER4,
- treated under CTA09/S747 as a receipt or expense of the trade, and
- does not relate to a pre-commencement asset.

Relevant Northern Ireland trade

CTA10/S357OG (4) provides that relevant Northern Ireland trade means a qualifying trade (apart from any excluded activities) carried on by the company in an accounting period in which it was a Northern Ireland company.

Roll-over relief

Roll-over relief refers to relief given under CTA09/CHAPTER7.

Total Northern Ireland debits

CTA10/S357OF (2) provides that total Northern Ireland debits means:

- In relation to assets written down on an accounting basis (where the tax written down value is determined under CTA09/S742):
 - the total intangibles debits previously brought into account for tax purposes under CTA09/PART8 in respect of the asset so far as they were Northern Ireland debits

- less the total intangibles credits previously brought into account for tax purposes so far as they were Northern Ireland credits;
- In relation to assets written down at the fixed rate (under CTA09/S743), the total debits previously brought into account for tax purposes under CTA09/PART8 in respect of the asset so far as they were Northern Ireland intangibles debits.

Total Net Debits

CTA10/S357OG (4) provides that total net debits means:

- in relation to assets written down on an accounting basis (under CTA09/S742), the total debits previously brought into account for tax purposes under CTA09/PART8 in respect of the asset less the total credits previously brought into account for tax purposes, and
- in relation to assets written down at the fixed rate (under CTA09/S743), the total debits previously brought into account for tax purposes under CTA09/PART8 in respect of the asset.

NICT07000 – R&D tax reliefs: contents

NICT07010	Background and introductory
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NICT07030	Definitions
NICT07040	R&D expenditure credit
NICT07050	Additional deduction for SMEs
NICT07051	Additional deduction for SMEs: examples
NICT07060	Tax credit for SMEs: amount of loss a Northern Ireland company can surrender
NICT07061	Tax credit for SMEs: qualifying surrenderable loss: examples
NICT07070	Tax credit for SMEs: amount of tax credit
NICT07080	Tax credit for SMEs: carrying forward losses

NICT07010 – R&D tax reliefs: background and introductory

CTA10/PART8B/CHAPTER9 deals with the treatment under the Northern Ireland CT regime of research and development expenditure (R&D expenditure). It covers:

- R&D Expenditure Credits (RDEC) under CTA09/PART3/CHAPTER6A,
- relief under CTA09/PART13/CHAPTER2 for cost of R&D incurred by SMEs, including the additional deduction and the tax credit

R&D tax reliefs are delivered as a deduction from profits or a tax credit (both under the SME scheme) or as a taxable income item (RDEC) and CHAPTER9 adapts the legislative schemes so that R&D activity undertaken by Northern Ireland companies within the CT regime is treated in the same way, and with the same level of incentive, as that undertaken by other UK companies.

It follows that the provisions in CHAPTER9 are concerned with:

- identifying the R&D expenditure connected with a Northern Ireland company, and
- calculating how much additional deduction, or tax credit, or RDEC, is available.

CTA10/PART8B/CHAPTER9 does not affect the underlying structure of the UK-wide R&D tax relief schemes. This means that the rules about what qualifying R&D is, and what qualifying expenditure is, are unaffected by NICTA15. See [CIRD80000](#) onwards.

Qualifying trades and SME payable tax credits

The Northern Ireland CT rules include the concept of a ‘qualifying trade’, see [NICT02042](#), which is not a feature of the UK R&D tax relief schemes. It applies in particular to the rules governing SME tax credits, see [NICT07050](#) onwards. If there is no qualifying trade, the normal rules at [CIRD90500](#) onwards apply.

R&D expenditure credit

Guidance on the provisions governing the treatment of R&D expenditure credits within the Northern Ireland CT regime is at [NICT07040](#).

Relief for SMEs

Guidance on the additional deduction is at [NICT07050](#), and on tax credits at [NICT07060](#) onwards, including at [NICT07080](#) guidance on restricting carried forward losses.

NICT07020 – R&D tax reliefs: structure of the legislation

CTA10/PART8B/CHAPTER9 comprises the following sections.

S357P introduces R&D provisions for Northern Ireland CT and provides certain definitions.

S357PA deals with the R&D Expenditure Credit (RDEC) and explains how it applies to a Northern Ireland company. Further guidance is at [NICT07040](#).

S357PB is about the additional deduction for SMEs with qualifying R&D expenditure, and explains how to work out the additional deduction in Northern Ireland cases. Further guidance is at [NICT07050](#).

S357PC is about entitlement to a payable tax credit for SMEs, and explains how to work out the amount of surrenderable loss in Northern Ireland cases. Further guidance is at [NICT07050](#) and [NICT07060](#).

S357PD deals with the calculation of the amount of the payable tax credit. Further guidance is at [NICT07070](#).

S357PE deals with the calculation of the amount of the loss that can be carried forward once an R&D tax credit is claimed for a period. Further guidance is at [NICT07080](#).

NICT07030 – R&D tax reliefs: definitions

See [NICT02040](#) onwards for the main definitions for the Northern Ireland CT regime.

The terms which follow are specific to the R&D scheme in CTA10/PART8B/CHAPTER 9.

‘Northern Ireland expenditure’ means expenditure incurred in a trade to the extent that the expenditure forms part of the Northern Ireland profits or Northern Ireland losses of the trade.

‘Qualifying Chapter 2 expenditure’ has the same meaning as in CTA09/PART13 (at S1051).

‘Northern Ireland qualifying Chapter 2 expenditure’ means so much of any qualifying Chapter 2 expenditure as forms part of the Northern Ireland profits or Northern Ireland losses of a trade.

‘Qualifying Chapter 7 expenditure’ has the same meaning as in CTA09/PART13 (at S1098).

‘Northern Ireland qualifying Chapter 7 expenditure’ means so much of any qualifying Chapter 7 expenditure as forms part of the Northern Ireland profits or Northern Ireland losses of a trade.

NICT07040 – R&D tax reliefs: R&D Expenditure Credit

CTA10/S357PA deals with R&D expenditure credit under CTA09/PART3/CHAPTER6A.

If a company is a Northern Ireland company (see [NICT02041](#)) in an accounting period and is entitled to an R&D Expenditure Credit (RDEC), any RDEC will form part of the mainstream profits and losses of the trade.

Large company condition or SME (election) condition applies

It does not matter if the qualifying expenditure giving rise to the RDEC is expended by or through the NIRE, the RDEC will still form part of the company's mainstream profits or losses.

SME (Northern Ireland employer) condition applies

It does not matter if the SME has qualifying staff costs for R&D purposes that relate to its Northern Ireland employer status, the RDEC will still form part of the company's mainstream profits and losses.

NICT07050 – R&D tax reliefs: additional deduction for SMEs

CTA10/S357PB provides that where a company is for an accounting period entitled to an additional deduction under CTA09/PART13/CHAPTER2/S1044, and it is a Northern Ireland company in the period, then:

- the amount of the additional deduction may be different from that applying to a non-Northern Ireland company, and
- that additional deduction forms part of the company's Northern Ireland profits or losses.

Is the company entitled to an additional deduction that is liable to Northern Ireland CT treatment?

To decide this, the questions are:

- Is the company a Northern Ireland company? See [NICT02041](#).
- Does it have qualifying expenditure under CTA09/S1051 to S1053, namely does it have in-house expenditure on R&D or contracted out R&D expenditure?
- Is any part of that qualifying expenditure part of the Northern Ireland profits or losses of the trade?

See Example 1 in [NICT07051](#).

What is the amount of the additional deduction?

If the company fulfils the above conditions, CTA09/S357PB (3) applies the following formula to arrive at the additional deduction:

Additional deduction = Northern Ireland qualifying CHAPTER2 expenditure x $(A \times \frac{MR}{NIR})$, where

A is the percentage specified in CTA09/S1044 (8). For 2015-16, this is 130 per cent,

MR is the main rate of CT, and

NIR is the Northern Ireland rate of CT.

See Example 2 in [NICT07051](#).

NICT07051 – R&D tax reliefs: additional deduction for SMEs: examples

Example 1

In the period ending 31 March 2017, Aries Ltd has 20 employees, a turnover of £11m and a balance sheet total of £14m. All but two of its employees spend 100 per cent of their working time in Northern Ireland. It undertakes £2m of qualifying in-house R&D expenditure, all of which forms part of the Northern Ireland profits or losses of the trade.

In the case of Aries Ltd, the company is a Northern Ireland company by virtue of its employee working time. It is clearly an SME (see [CIRD91400](#)), and its qualifying expenditure is also NI qualifying expenditure.

Example 2

In the case of Aries Ltd, using purely illustrative figures for the rates prevailing in 2016-17 and assuming a rate of NI CT of 10%, the additional deduction is as follows:

£2m [qualifying expenditure] $\times (130\% \times \frac{20}{10}) = £2m \times 260\% = £5,200,000$.

The additional deduction of £5,200,000 forms part of Aries Ltd's Northern Ireland profits and losses.

NICT07060 - R&D tax reliefs: tax credit for SMEs: qualifying surrenderable loss

An SME may claim a payable R&D tax credit for an accounting period in which it has a CTA09/PART13/CHAPTER2 surrenderable loss. This applies equally to companies under the Northern Ireland CT regime. CTA10/S357PC explains how this works in the Northern Ireland CT context.

There are two questions to address:

- Does the company have a surrenderable loss?
- If so, how much is the surrenderable loss?

Does the company have a CHAPTER2 surrenderable loss?

The company has a CHAPTER2 surrenderable loss if:

- it obtains an additional deduction under CTA10/S1044, and it has
- a Northern Ireland loss for the period, **or**
- a mainstream loss of the period.

How much is the CHAPTER2 surrenderable loss?

There are two types of CHAPTER2 surrenderable loss.

Northern Ireland CHAPTER2 surrenderable loss: this is a CHAPTER2 surrenderable loss of the trade in the period that a company has by virtue of a loss in the Northern Ireland trade.

Mainstream CHAPTER2 surrenderable loss: this is a CHAPTER2 surrenderable loss of the trade in the period that a company has by virtue of a loss in the mainstream trade.

The amount of a Northern Ireland CHAPTER2 surrenderable loss is:

- the unrelieved amount of CHAPTER2 Northern Ireland loss, or if less
- the Northern Ireland qualifying expenditure which gave rise to the relief, multiplied by 'the adjusted section 1044 percentage'.

See Example 1 in [NICT07061](#).

The amount of a mainstream surrenderable loss is

- the unrelieved amount of CHAPTER2 mainstream loss, or if less
- the mainstream qualifying expenditure which gave rise to the relief, net of Northern Ireland qualifying expenditure, multiplied by 'the adjusted section 1044 percentage'.

See Example 2 in [NICT07061](#).

The adjusted section 1044 percentage

CTA10/S357PC (6) applies the following formula to arrive at the 'adjusted section 1044 percentage':

Adjusted section 1044 percentage = $100 + (A \times MR / NIR)$, where

A is the percentage specified in CTA09/S1044 (8). For 2015-16, this is 130%.

MR is the main rate of CT

NIR is the Northern Ireland rate of CT.

NICT07061 – R&D tax reliefs: tax credit for SMEs: qualifying surrenderable loss: examples

In the examples below, and using illustrative CT rates as in NICT07051, the 'adjusted section 1044 percentage' is 360 per cent.

Example 1

Taurus Ltd is an SME that undertakes qualifying R&D expenditure. It is a qualifying Northern Ireland company and it has a Northern Ireland trade.

In the period to 31 March 2017, it has a loss for tax purposes of £8m. This is after the deduction of £1.5m in R&D expenditure and an additional deduction under CTA10/S357PB of £3.9m. It has set £2m of its trading losses against total profits.

The surrenderable amount is the lesser of:

- the unrelieved Northern Ireland loss – this is £6m (£8m minus the £2m set against total profits), and
- the Northern Ireland qualifying expenditure (£1.5m) multiplied by the 'adjusted S1044 percentage' - this is £1.5m x 360 per cent equals £5.4m.

Taurus Ltd can surrender £5.4m of its loss to obtain a payable tax credit.

Example 2

Virgo Ltd is an SME that undertakes qualifying R&D expenditure. It is a qualifying Northern Ireland company and it has a Northern Ireland trade and another trade subject to mainstream CT. It undertakes qualifying R&D expenditure in its mainstream trade.

In the period to 31 March 2017, Virgo Ltd has a loss in its mainstream trade of £5m. This is after the deduction of £4m in R&D expenditure and an additional deduction of £5.2m. It has set £50,000 of its trading losses against its total profits.

The surrenderable amount is the lesser of:

- the unrelieved mainstream loss – this is £4.95m (£5m minus the £50,000 set against total profits), and
- the qualifying expenditure [£4m] multiplied by 230 per cent equals £9.2m.

Virgo Ltd can surrender £4.95m of its loss to obtain a payable tax credit. The 230 per cent referred to in the example is the figure taken from CTA10/S1055 (2)(b).

NICT07070 - R&D tax reliefs: tax credit for SMEs: amount of tax credit

CTA10/S357PD explains how the amount of payable tax credit is calculated where a loss is surrendered in exchange for it under CTA09/PART13/CHAPTER2/S1054.

There are three calculation rules that apply in the following circumstances, namely

- if there is a Northern Ireland CHAPTER2 surrenderable loss, but no mainstream loss,
- if there is a mainstream CHAPTER2 surrenderable loss, but no Northern Ireland loss, and
- if there is both a Northern Ireland CHAPTER2 surrenderable loss and a mainstream loss.

Northern Ireland CHAPTER2 surrenderable loss, but no mainstream loss

In this case, the tax credit is calculated by multiplying the Northern Ireland CHAPTER2 surrenderable loss by the 'relevant percentage', as defined in CTA10/S357PD (5) by the following formula.

Relevant percentage = $A \times \left(\frac{100 + B}{C} \right)$, where

A is the percentage specified in CTA09/S1058 (1)(a),

B is the percentage specified in CTA09/S1044 (8), and

C is the 'adjusted section 1044 percentage' as defined by CTA10/S357PC (6) (see [NICT07060](#)).

Example 1

Using the example of Taurus Ltd from [NICT07061](#), this company had a Northern Ireland CHAPTER2 surrenderable loss of £5.4m.

Its payable tax credit is $£5.4m \times 14.5\% \times \left(\frac{100 + 130}{360} \right)$, which equals £500,250.

Mainstream CHAPTER2 surrenderable loss, but no Northern Ireland loss

In this case, the tax credit is calculated by multiplying the mainstream CHAPTER2 surrenderable loss by the percentage specified in CTA09/S1058 (1)(a).

Example 2

Using the example of Virgo Ltd from [NICT07061](#), this company had a Northern Ireland CHAPTER2 surrenderable loss of £4.95m.

Its payable tax credit is $£4.95m \times 14.5\%$, which equals £717,750.

Both Northern Ireland CHAPTER2 surrenderable loss and mainstream loss

In this case, the total tax credit is the sum of the tax credits calculated using the two methods described above. The tax credit for Northern Ireland surrenderable losses is calculated using the method shown for Taurus Ltd, and the tax credit for the mainstream surrenderable losses is worked out using the method shown for Virgo Ltd. The two figures are then added together.

NICT07080 - R&D tax reliefs: tax credit for SMEs: carrying forward losses

CTA10/S357PE provides a restriction on losses available to carry forward where for an accounting period in which an SME is a Northern Ireland company it surrenders losses of a qualifying trade in order to claim a payable R&D tax credit.

Northern Ireland loss

If the company has a Northern Ireland loss in the period, the loss is treated as reduced by the amount of Northern Ireland loss surrendered.

Example 1

Using the first example from [NICT07061](#), Taurus Ltd had a Northern Ireland loss of £8m. Of this, £2m was set off against total profits. It then surrendered £5.4m of its Northern Ireland loss to obtain a tax credit. Its Northern Ireland losses to carry forward are therefore £600,000.

Mainstream loss

If the company has a mainstream loss in the period, the loss is treated as reduced by the amount of mainstream loss surrendered.

Example 2

Using the second example from [NICT07061](#), Virgo Ltd had a mainstream loss of £5m. Of this, £50,000 was set off against other profits. It then surrendered £4.95m of its mainstream loss to obtain a tax credit. Its mainstream losses to carry forward are therefore zero.

NICT08000 – Remediation of contaminated or derelict land: contents

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NICT08020	Structure of the legislation
NICT08030	Definitions
NICT08040	Additional deduction
NICT08050	Tax credit: qualifying land remediation loss
NICT08060	Tax credit: amount of tax credit
NICT08070	Tax credit: carrying forward losses

NICT08010 – Remediation of contaminated or derelict land: background and introductory

CTA10/PART8B/CHAPTER10 deals with the treatment under the Northern Ireland CT regime of expenditure by Northern Ireland companies incurred for the purpose of remedying contaminated or derelict land. It deals with

- the deduction for capital expenditure in calculating the profits of a trade carried on by a Northern Ireland company (CTA09/S1147),
- the additional deduction for expenditure allowed as a deduction in calculating the profits of such a trade (CTA09/S1149), and
- land remediation tax credits where the company makes a loss in such a trade (CTA09/S1151).

The reliefs are referred to together here as ‘land remediation relief’ or LRR. LRR was introduced in 2001 to address market failure, in bringing back into use land that had been blighted by previous use for industrial purposes. In 2009 it was extended to bring long term derelict land back into use.

[CIRD60050](#) gives further detail.

Adjustment of relief for Northern Ireland companies

The CHAPTER10 legislation provides for an adjustment to the amount of the additional deduction to reflect any variation of CT rates between Northern Ireland and the rest of the UK. The adjustment ensures that the same amount of incentive is provided to Northern Ireland companies who incur qualifying land remediation relief expenditure as to other UK companies. See [NICT08040](#).

Entitlement to tax credit and restriction of losses carried forward

The CHAPTER10 legislation also makes adjustments to LRR tax credits to reflect any variation in CT rates between Northern Ireland and the rest of the UK. These credits arise where LRR is due but the company has unrelieved trading losses in the accounting period. The adjustments provide that an equivalent level of tax credit are available to Northern Ireland companies as to other UK companies. See [NICT08050](#) and [NICT08060](#).

Losses carried forward after a claim for LRR tax credits are reduced appropriately to reflect losses surrendered for tax credit. See [NICT08070](#).

NICT08020 – Remediation of contaminated or derelict land: structure of the legislation

CTA10/PART8B/CHAPTER10 comprises the following sections.

S357Q introduces land remediation relief (LRR) provisions for Northern Ireland CT and provides certain definitions.

S357QA deals with the additional deduction available under CTA09/S1149 and explains how it applies to a Northern Ireland company. Further guidance is at [NICT08040](#).

S357QB is about entitlement to a payable tax credit under CTA09/S1151. Further guidance is at [NICT08050](#).

S357QC deals with the calculation of the amount of the payable tax credit. Further guidance is at [NICT08060](#).

S357QD deals with the calculation of the amount of loss that can be carried forward once an LRR tax credit is claimed for a period. Further guidance is at [NICT08070](#).

NICT08030 – Remediation of contaminated or derelict land: definitions

See [NICT02040](#) onwards for the main definitions for the Northern Ireland regime.

Some terms are specific to the land remediation relief scheme in CTA09/PART14.

‘Northern Ireland expenditure’ means expenditure incurred in a trade to the extent that the expenditure forms part of the Northern Ireland profits or Northern Ireland losses of a trade.

‘Qualifying land remediation expenditure’ has the same meaning as in CTA09/PART14 (at S1144).

‘Northern Ireland qualifying land remediation expenditure’ means so much of any qualifying land remediation expenditure as forms part of the Northern Ireland profits or Northern Ireland losses of a trade.

NICT08040 – Remediation of contaminated or derelict land: additional deduction

CTA10/S357QA provides that where a company is for an accounting period entitled to an additional deduction under CTA09/S1149, and it is a Northern Ireland company, then

- The amount of the additional deduction may be different from that applying to a non-Northern Ireland company, and
- That additional deduction forms part of the company's Northern Ireland profits or losses.

Is the company entitled to an additional deduction that is liable to Northern Ireland CT treatment?

To decide this, the questions are:

- Is the company a Northern Ireland company? See [NICT02041](#).
- Does it have qualifying expenditure under CTA09/S1149? See [CIRD63050](#).
- Is any part of that qualifying expenditure part of the Northern Ireland profits or losses of the trade?

What is the amount of the additional deduction?

If the company fulfils the above conditions, CTA09/S357QA (3) applies the following formula to arrive at the additional deduction:

Additional deduction = Northern Ireland qualifying S1149 expenditure x A x $\frac{MR}{NIR}$, where

A is the percentage specified in CTA09/S1149 (8). For 2015-16, this is 50 per cent,

MR is the main rate of CT, and

NIR is the Northern Ireland rate of CT.

NICT08050 – Remediation of contaminated or derelict land: tax credit: qualifying land remediation loss

A company may claim a qualifying land remediation loss for an accounting period. This applies equally to companies under the Northern Ireland CT regime. CTA10/S357QB explains how this works in the Northern Ireland context.

The questions are:

- Does the company have a qualifying land remediation loss?
- If so, how much is the qualifying land remediation loss?

Does the company have a qualifying land remediation loss?

The company had a qualifying land remediation loss for an accounting period if:

- it obtains an additional deduction under CTA09/S1149, and it has
- a Northern Ireland loss in the period, or
- a mainstream loss in the period.

How much is the qualifying land remediation loss?

There are two types of qualifying land remediation loss.

Northern Ireland land qualifying remediation loss: this is a qualifying land remediation loss in the period that a company has by virtue of a loss in the Northern Ireland trade.

Mainstream qualifying land remediation loss: this is a qualifying land remediation loss in the period that the company has by virtue of a loss in the mainstream trade.

The amount of a Northern Ireland qualifying land remediation loss is

- the unrelieved amount of Northern Ireland loss, or **if less**
- the Northern Ireland qualifying land remediation expenditure which gave rise to the relief, multiplied by 'the adjusted section 1152 percentage'.

The amount of a mainstream qualifying land remediation loss is

- the unrelieved amount of mainstream loss, or if less
- the qualifying land remediation expenditure which gave rise to the relief, net of Northern Ireland qualifying land remediation expenditure, multiplied by 'the adjusted section 1152 percentage'.

The adjusted section 1152 percentage

CTA09/S357QB (6) applies the following formula to arrive at the adjusted section 1152 percentage.

Adjusted section 1152 percentage = $100 + (A \times \frac{MR}{NIR})$, where

- A** is the percentage specified in CTA09/S1149 (9). For 2015-16, this is 50 per cent.
- B** is the main rate of CT, and
- NIR** is the Northern Ireland rate of CT.

NICT08060 – Remediation of contaminated or derelict land: tax credit: amount of tax credit

CTA10/S357QC explains how the amount of remediation tax credit is calculated where in an accounting period a company is a Northern Ireland company carrying on a qualifying trade.

There are three calculation rules that apply in the following circumstances, namely

- If there is a Northern Ireland qualifying land remediation loss, but no mainstream qualifying land remediation loss,
- If there is a mainstream qualifying land remediation loss, but no Northern Ireland qualifying land remediation loss, and
- If there is both a mainstream qualifying land remediation loss, and a Northern Ireland qualifying land remediation loss.

Northern Ireland qualifying land remediation loss, but no mainstream qualifying land remediation loss

In this case, the tax credit is calculated by multiplying the Northern Ireland qualifying land remediation loss by 'the relevant percentage', defined in CTA10/S357QC (5) by the following formula.

Relevant percentage = $A \times \left(\frac{100 + B}{C}\right)$, where

A is the percentage specified in CTA09/S1154 (1),

B is the percentage specified in CTA09/S1149 (8), and

C is the 'adjusted section 1152 percentage' as defined by CTA10/S357QB (6), see [NICT08050](#).

Mainstream qualifying land remediation loss, but no Northern Ireland qualifying land remediation loss

In this case, the tax credit is calculated by multiplying the mainstream qualifying land remediation loss by the percentage specified in CTA09/S1154 (1).

Both Northern Ireland qualifying land remediation loss and mainstream qualifying land remediation loss

In this case, the total tax credit is the sum of the tax credits calculated using the two methods described above.

NICT08070 – Remediation of contaminated or derelict land: tax credit: carrying forward losses

CTA10/S357QD provides a restriction on losses available to carry forward where a Northern Ireland company carries on a qualifying trade in an accounting period.

Northern Ireland loss

If the company has a Northern Ireland loss in the period, the loss is treated as reduced by the amount of Northern Ireland loss surrendered in favour of a tax credit.

Mainstream loss

If the company has a mainstream loss in the period, the loss is treated as reduced by the amount of mainstream loss surrendered in favour of a tax credit.

NICT09000 – Creative industries: contents

NICT09010	Background and introductory
NICT09020	Structure of the legislation
NICT09030	Definitions
NICT09040	Northern Ireland additional and supplementary deductions
NICT09041	Northern Ireland additional and supplementary deductions: example
NICT09050	Use of losses

NICT09010 – Creative industries: background and introductory

The creative industries reliefs cover four separate aspects: Film, Television Production, Video Games Development and Theatrical Productions. For details of these reliefs see the relevant guidance manuals FPC, TPC, VGDC and TTR. The related Northern Ireland CT legislation is similar for each relief and is dealt with as a composite set within this guidance. The following table gives the applicable legislation.

Relief	Industry legislation CTA09	NICT legislation CTA10/PART8B	Sections of CTA10/PART8B
Film	PART15	CHAPTER11	357R to 357RH
Television Production	PART15A	CHAPTER12	357S to 357SH
Video Games Development	PART15B	CHAPTER13	357T to 357TH
Theatrical Productions	PART15C	CHAPTER14	357U to 357UI
Orchestra Tax Relief	PART15D	CHAPTER14A	357UJ TO 357UQ

Claims by companies to a tax credit under the legislation relevant to the particular relief remain the responsibility of the UK government and will be administered in the usual way.

The Northern Ireland CT legislation deals with the residual situation where companies either do not have losses to surrender, do not make a claim to surrender any losses, or only make a partial surrender of losses.

NICT09020 – Creative industries: structure of the legislation

The following table explains the provisions governing the individual reliefs.

	Film	Television Production	Video Games	Theatrical Productions	Orchestras
NI additional deduction	357RA	357SA	357TA	357UA	357UK
NI supplementary deduction	357RB	357SB	357TB	357UB	357UL
NI supplementary deduction amount:	357RC	357SC	357TB	357UC	357UM
Tax credit: NI supplementary deduction ignored	357RD	357SD	357TD	357UD	357UN
Artificially inflated claims for additional deduction	357RE	357SE	357TE	357UE*	
Restriction on use of losses while film etc in production	357RF	357SF	357TF	357UF**	357UO**
Use of losses in later periods	357RG	357SG	357TG	357UG***	357UP***
Terminal losses	357RH	357SH	357TH	357UH	357UQ
Provisional entitlement to relief				357UI	

*Transactions not entered into for genuine commercial reasons

** Restriction on losses before completion period

*** Use of losses in the completion period

NICT09030 – Creative industries: definitions

See [NICT02040](#) onwards for the main definitions for the Northern Ireland CT regime.

Some terms are specific to the respective creative relief schemes.

Northern Ireland expenditure

This means expenditure incurred in a trade to the extent that it forms part of Northern Ireland profits or Northern Ireland losses.

The separate film etc trade

This are given meanings as in the following table.

Relief	Film tax	Television production	Video games development	Theatrical productions	Orchestras
Reference in CTA09	S1195 (5)	S1216C (6)	S1217C (7)	S1217I	S1217Q

Qualifying expenditure

This is given meanings as in the following table.

Relief	Film tax	Television production	Video games development	Theatrical productions	Orchestras
Reference in CTA09	S1199 (3)	S1216CF (3)	S1217CF (3)	S1217JA	S1217RF

NICT09040 – Creative industries: Northern Ireland additional and supplementary deductions

A Northern Ireland additional deduction calculated by reference to qualifying expenditure that is Northern Ireland expenditure (see [NICT09030](#)) forms part of the Northern Ireland profits or Northern Ireland losses of the separate trade. The additional deduction is that provided for in accordance with the following table, which also contains the references for the surrenderable loss, supplementary deduction formulae and artificially inflated claims etc rules mentioned below.

Relief	Film tax	Television production	Video games development	Theatrical productions	Orchestras
Additional deduction: CTA09	S1199	S1216CF	S1217CF	S1217H	S1217RD
Surrenderable loss: CTA09	S1201	S1216CH	S1217CH	S1217KA	S1217RH
Supplementary deduction: CTA10	S357RC	S357SC	S357TC	S357UC	S357UM
Artificially inflated claims etc: CTA09	S1205 (1)(a) and (2)(a)	S1216CL (1)(a) and (2)(a)	S1219CL (1)(a) and (2)(a)	S1217LB*	S1217RM

*Transactions not entered into for commercial reasons.

Where a company is a Northern Ireland company in an accounting period and has an additional deduction which is at least in part a Northern Ireland additional deduction and the company

- does not have a surrenderable loss for the period, or
- has a surrenderable loss but does not make a claim, or
- has a surrenderable loss but does not make a claim,

it will be entitled to make another deduction, “a Northern Ireland supplementary deduction” in respect of qualifying expenditure. The supplementary deduction is made in computing the profit or loss of the separate trade and forms part of its Northern Ireland profits or Northern Ireland losses.

Amount of supplementary deduction

The amount of Northern Ireland supplementary deduction = $(A - B) \times \frac{MR - NIR}{NIR}$, where

A is the Northern Ireland deduction for the period,

B is the amount of the Northern Ireland losses surrendered,

MR is the main CT rate for the financial year, and

NIR is the Northern Ireland CT rate for the financial year.

See NICT09041 for an example of the application of the formula.

If the accounting period straddles more than one financial year, the Northern Ireland supplementary deduction is obtained by pro rata by reference to calculations for the financial years.

Creative industries tax credit

The supplementary deduction is ignored for the purpose of calculating creative industries tax credit.

Artificially inflated claims and transactions not entered into for genuine commercial reasons

These provisions are extended to include the supplementary deduction along with the additional deduction.

NICT09041 – Creative industries: Northern Ireland additional and supplementary deductions: example

A company has an additional deduction for its accounting period of £3m and surrenders £1m of that in a claim. The main CT rate is 20 per cent and the Northern Ireland CT rate is 10 per cent.

The amount of Northern Ireland supplementary deduction is therefore

$$(3 - 1) \times \frac{20\% - 10\%}{10\%}$$

which comes to £2m.

A company not operating in Northern Ireland would be able to utilise the £2m not surrendered at the main rate of 20 per cent and receive a deduction of £400,000. As a result of the supplementary deduction a Northern Ireland company now has both the £2m not surrendered and the supplementary deduction of £2m. It can now utilise this £4m at the Northern Ireland rate and achieve the same deduction of £400,000.

NICT09050 – Creative industries: use of losses

The rules depend on the stage of the creative undertaking.

Production periods

The use of losses not surrendered for tax credit in all the creative industries is restricted while the film or other creative development is in production. This is referred to as the pre-completion period, or in the case of theatrical productions the period before the completion period. References to restrictions are given in the following table.

Relief	Film tax	Television production	Video games development	Theatrical productions	Orchestras
Production restriction: CTA09	S1209	S1216DA	S1217DA	S1217MA	S1217SA
Use in later periods: CTA09	S1210	S1216DB	S1217DB	S1217MB	S1217SB
Terminal losses: CTA09	S1211	S1216DC	S1217DC	S1217MC	S1217SC

The Northern Ireland CT legislation mirrors this for Northern Ireland losses **except** where

- a company is a Northern Ireland company in an accounting period and it makes a loss in a separate creative trade, and there are
- Northern Ireland losses of the separate trade and mainstream profits of the trade, or
- mainstream losses of the separate trade and Northern Ireland profits of the trade.

While the development is in production losses may generally only be carried forward under CTA10/S45. However, in the above situation, the company may set Northern Ireland losses of the separate creative trade against mainstream profits of the separate trade, or mainstream losses of the separate creative trade against Northern Ireland profits of the separate trade, of the same accounting period.

Use of losses in later periods

The same principle applies as for production periods. Any loss brought forward is identified as a Northern Ireland loss or mainstream loss of the separate creative trade of a company for an accounting period in which it was a Northern Ireland company, and the company may set Northern Ireland losses of the separate creative trade against mainstream profits of the separate trade, or mainstream losses of the separate creative trade against Northern Ireland profits of the separate trade, of a later accounting period. Any loss in an accounting period not attributable to a creative relief is under CTA09/S1210 etc calculated by deducting from the total loss the creative trade loss net of additional relief. This is also net of any supplementary deduction (see [NICT09040](#)).

Terminal losses

Where a company has terminal losses it may, on election, carry them forward against production activities within the same creative industry. It may also surrender them to another group company carrying on a similar creative industry trade.

Where Northern Ireland losses are carried forward these may only be carried forward or be surrendered to another group company where a Northern Ireland trade in the same creative industry is being carried on, either by the company itself by the group member to which the loss is surrendered.

Theatrical productions – provisional entitlement to relief

The Northern Ireland supplementary deduction (see NICT09040) is included along with the additional deduction for the purposes of calculating the provisional entitlement to relief under CTA09/S1217N (3).

NICT10000: Patent box: contents

NICT10010	Background and introductory
NICT10020	Structure of the legislation
NICT10030	Definitions
NICT10040	Modification of the deduction
NICT10050	Relevant Northern Ireland profits: SMEs
NICT10055	Relevant Northern Ireland profits: large companies
NICT10060	Relevant IP losses

NICT10010: Patent Box: background and introductory

CTA10/PART8B/CHAPTER15 deals with the treatment under the Northern Ireland CT regime of Patent Box, referred to in the legislation as “profits arising from the exploitation of patents etc”. Patent Box allows qualifying companies to elect to apply a 10 per cent rate of CT to profits attributable to qualifying patents. These profits are taxed by reference to a prescribed formula which leads to the effective 10 per cent rate. Other profits are charged as normal. See [CIRD200100](#) onwards for further detail. The Patent Box legislation is in CTA10/PART8A.

The Northern Ireland CT legislation applies to Patent Box where

- the company has made an election in relation to a trade for an accounting period for special treatment within CTA10/S357A, and
- it is a Northern Ireland Company (see [NICT02041](#)) in that period.

The aim of the Northern Ireland CT Patent Box legislation is to achieve neutrality, so that the Patent Box benefit is the same regardless of whether the activities fall within the scope of the Northern Ireland CT legislation or not.

NICT10020: Patent Box: structure of the legislation

CTA10/PART8B/CHAPTER15 comprises the following sections.

S357V introduces the Patent Box provisions for Northern Ireland CT and contains a definition.

S357VA sets out the modifications needed to achieve the neutrality mentioned at [NICT10010](#).

S357VB identifies the “relevant Northern Ireland IP profits” for SMEs.

S357VC identifies the “relevant Northern Ireland IP profits” for large companies.

S357VD deals with relevant IP losses.

S357VE defines terms used within CHAPTER15.

NICT10030: Patent Box: definitions

See [NICT02040](#) onwards for the main definitions for the Northern Ireland CT regime.

Some terms are specific to the Patent Box regime in CTA10/PART8B/CHAPTER15.

The following terms are defined by reference to the Patent Box regime.

Term	Reference in CTA10/PART8A
Exclusive licence	S357BA
Qualifying company	S357B
Qualifying IP right	S357B (4)
Relevant IP profits in relation to a trade	CHAPTER3 (subject to CTA10/S357V)

Relevant period is defined at CTA10/S357V as the accounting period in relation to which the company has made an election with respect to a trade and in which it is a Northern Ireland company.

NICT10040: Patent Box: modification of deduction

CTA10/S357VA operates by dividing the relevant IP profits (see [NICT10030](#)) into relevant mainstream IP profits and relevant Northern Ireland IP profits. Relevant mainstream IP profits are those relevant IP profits of the trade which are not characterised as relevant Northern Ireland IP profits by

- CTA10/S357VB for SMEs that are Northern Ireland employers, see [NICT10050](#), and
- CTA10/S357VC for large companies and SMEs that are outside the definition of Northern Ireland employer and that are electing to use the large company rules, see [NICT10060](#).

The relevant mainstream IP profits are allowed the normal Patent Box deduction calculated in accordance with CTA10/S357A (3).

The relevant Northern Ireland IP profits are allowed a deduction in accordance with the following formula.

Northern Ireland deduction = $RNIP \times (NIR - IPR) / NIR$, where

RNIP is the relevant Northern Ireland IP profits of the company (for SMEs that are Northern Ireland employers or for large companies and SMEs electing to use the large company rules as appropriate, see above),

NIR is the Northern Ireland rate of CT, and

IPR is the special IP rate of CT provided in CTA10/S357A (4), see [CIRD201010](#).

The Northern Ireland deduction is allowed only if in the relevant period (or its part) the Northern Ireland rate is higher than the special IP rate of CT.

Example

This example **assumes** the special IP rate of CT is 10 per cent, and the Northern Ireland rate of CT is 15 per cent.

The relevant Northern Ireland IP profits are 75.

The deduction allowed in the Northern Ireland CT computation is $75 \times (15 - 10) / 15$, which comes to 25.

The tax due on the Northern Ireland IP profits will be $(75 - 25) \times 15\% = 7.5$.

The tax due on the same amount of mainstream IP profits would be $75 \times 10\% = 7.5$.

This is the correct result. The effect of the lower Northern Ireland CT rate has been compensated for and the tax is the same.

NICT10050: Patent Box: relevant Northern Ireland IP profits: SMEs that are Northern Ireland employers

There are separate rules for SMEs that are Northern Ireland employers and for large companies and SMEs that are not within the definition of Northern Ireland employer and that are electing to use the large company rules. See [NICT10055](#) regarding relevant Northern Ireland profits for large companies and SMEs electing to use the large company rules.

Relevant Northern Ireland IP profits: SMEs that are Northern Ireland employers

If a company is

- a Northern Ireland company in the relevant period by virtue of the SME (Northern Ireland employer) condition in CTA10/S357KA (see [NICT02041](#)), and
- the trade is not an excluded trade (see [NICT02043](#)), then

the company's relevant Northern Ireland IP profits are

- the profits which under CTA09/S357OA form part of the Northern Ireland profits or Northern Ireland losses of the trade in relation to intangible fixed assets within CTA09/PART8 , but excluding
- any IP profits attributable to a qualifying IP right (or exclusive licence in respect of an IP right) held by the company for the purposes of an excluded activity (see [NICT02046](#)).

NICT10055 - Patent Box: Relevant Northern Ireland profits: SMEs electing to use the large company rules, and large companies

If a company is

- a Northern Ireland company in the relevant period by virtue of the SME (election) condition or the large company condition in CTA10/S357KA (see [NICT02041](#)), and
- the trade is a qualifying trade by virtue of CTA10/S357KB (1), i.e. a trade other than excluded trade (see [NICT02043](#)), then

the company has relevant Northern Ireland IP profits for the period only if IP-related profits that form part of its Northern Ireland profits or Northern Ireland losses (see [NICT03020](#)) amount to Northern Ireland profits (in contrast to losses).

The relevant Northern Ireland profits are arrived at by applying an “appropriate proportion” to the relevant IP profits. For this purpose

- the appropriate proportion is **NI/IP**, where
 - **NI** is the element of IP-related profits which forms part of Northern Ireland profits,
 - **IP** is the IP-related profits, and
- IP-related profits mean the company’s trade profits for the accounting period attributable to qualifying IP rights held by the company (or exclusive licences held by the company in respect of qualifying IP rights).

Where a company’s profits arise both in Northern Ireland and in Great Britain they must be attributed between the NIRE and the rest of the UK (rUK). However, if the profits do not wholly relate to qualifying IP activity it cannot be assumed that the same allocation applies to calculate the relevant IP profits as applies to the attribution of total profits. Allocation of relevant IP profits follows the principles set out at [CIRD220110](#). The percentage of gross income relating to qualifying IP is calculated for Northern Ireland and for Great Britain accordingly.

Example

Attribution of trading profits 200 of a large company with a NIRE (see [NICT02050](#)) is 120 to rUK and 80 to NIRE.

Relevant IP profits are 100 out of the total 200. The *product sales* show that the 100 is allocated 25 to rUK and 75 to NIRE, i.e. a different proportion compared with overall profit attribution (see [CIRD2200110](#) for the principles of allocating IP profits).

Thus more products with qualifying IP are sold in the NIRE than in rUK and 75 of the 80 NIRE profits will be Patent Box relevant profits.

NICT10060: Patent Box: relevant IP losses

CTA10/S357VD (2) defines what are generally referred to as losses as “set-off provisions” as follows

- “set-off of company with more than one trade” under CTA10/S357EA (3) – sideways
- “allocation of set off within a group” under S357EB (4) – group relief
- “carry-forward of set-off amount” under S357EC (4) – carry-forward.

If any of these set-off provisions prevents the Patent Box election under CTA10/S357A from applying to an amount of relevant IP profits of the trade of the company for the relevant period, the amount to which the Northern Ireland Patent Box rules apply is reduced accordingly, so that the normal Patent Box rules apply.

No adjustment is therefore needed.

NICT11000 – Northern Ireland profits and losses etc: partnerships: contents

11010	Introductory
11011	Northern Ireland firm
11012	'Qualifying partnership trade'
11013	'Northern Ireland workforce partnership conditions'
11014	'Disqualified firm'
11015	'Corporate partner calculation'
11016	NI rate activity
11020	Determining profits etc of a firm as though it were an SME
11030	Determining profits etc of a firm as though it were a large company
11040	Modifications to the main rules
11050	Allocation of Northern Ireland profits etc of firm to company

NICT11010 – Northern Ireland profits and losses etc: partnerships: introductory

NICT15/CHAPTER16 deals with the situation where a qualifying trade is carried on in Northern Ireland by a partnership of which at least one member is a company. In this context the trading partnership is referred to as a 'firm' and the NICT provisions are applied to it in a similar manner as if it were a Northern Ireland company, see [NICT02020](#) and [NICT02041](#), with suitable adaptations.

NICT15/S357W provides that the profits or losses of a trade carried on by a company as a partner in a Northern Ireland firm (see [NICT11011](#)) are

- Northern Ireland profits or losses of the trade, or
- mainstream profits or losses of the trade, or
- a combination of the two.

The meaning of 'firm' is given at CTA09/1257 (1), namely persons carrying on a trade in partnership, taken collectively.

NICT11011 – Northern Ireland profits and losses etc: partnerships: Northern Ireland firm

A firm is a 'Northern Ireland firm' in the firm's accounting period if

- it carries on a qualifying partnership trade (see [NICT11012](#)) in the period, and
- either
 - the 'SME (Northern Ireland employer) partnership condition', or
 - the SME (election) partnership condition or
 - the 'large partnership condition'

is met.

The SME (Northern Ireland employer) partnership condition

The SME (Northern Ireland employer) partnership condition is that the firm is, in relation to its accounting period

- an SME, see [NICT02048](#), and
- a Northern Ireland employer, meeting the Northern Ireland workforce partnership conditions – see [NICT11013](#)

The SME (election) partnership condition

The SME (election) partnership condition is that the firm is, in relation to its accounting period

- an SME, and
- not a Northern Ireland employer
- has a Northern Ireland regional establishment, or NIRE in the period
- the firm is not a disqualified firm in relation to the period – see [NICT11014](#), and
- an election by the firm for the purposes of this subsection has effect in relation to that period

The election must be made to an officer of HMRC. It must specify the accounting period for which it is to have effect, and must be made within 12 months of the end of that accounting period. In practice, this may be achieved by a company checking the relevant box on its tax return for the accounting period in question, providing that the return is submitted within the normal 12 month submission period.

The large partnership condition

The large company condition is that the firm is, in relation to its accounting period

- not an SME, and
- has a Northern Ireland regional establishment, or NIRE in the period (see [NICT02050](#)).

NICT11012 – Northern Ireland profits and losses etc: partnerships: 'qualifying partnership trade'

Qualifying partnership trade means a trade carried on by a firm where the trade is not an excluded trade (see [NICT02043](#)).

Qualifying partnership trade also includes back-office activities (see [NICT02042](#)) of the following excluded financial trades, where the firm makes an election under NICT15/S357WB (3):

- lending and investment,
- investment management, or
- reinsurance.

See [NICT02042](#) regarding the making of an election.

NICT11013 – Northern Ireland profits and losses etc: partnerships: 'Northern Ireland workforce partnership conditions'

The Northern Ireland workforce partnership conditions are set out at CTA10/S357WBA and S357WBB. These conditions apply to determine whether a SME partnership is a Northern Ireland firm for an accounting period of the firm (see [NICT11011](#)).

The Northern Ireland workforce partnership conditions in relation to a period are:

- that 75 per cent or more of the working time that is spent in the UK during the period by members of the firm's workforce is spent in Northern Ireland, and
- that 75 per cent or more of the firm's workforce expenses that are attributable to working time spent in the UK during the period by members of the firm's workforce are attributable to time spent in Northern Ireland.

The firm's workforce

The firm's workforce for this purpose comprises:

- employees of the firm,
- externally provided workers in relation to the firm, and
- individuals who are partners in the firm.

'Externally provided worker' takes its meaning from CTA09/S1128 within CTA09/PART13, additional relief for R&D expenditure. See, in particular, (b) of [CIRD84100](#), which gives guidance on applying CTA09/S1128.

Working time spent

Working time spent by members of the firm's workforce in a place means while providing services to the firm. See [EIM10010](#) concerning what is a place of work.

The firm's workforce expenses

Where the period referred to above is an accounting period of the firm, the firm's workforce expenses means the total of the deductions made by the firm in the period in respect of members of the workforce in calculating the profits of the firm's trade. This will include remuneration by way of commissions or bonuses as well as normal wages and salaries, but not expenses or travel and subsistence.

Where the period is not an accounting period, the deductions are

- those for any accounting period falling wholly within the period, together with
- the rateable proportion of deductions for any accounting period which falls partly within the period, determined on a daily basis.

The Commissioners for HMRC have the power to specify in regulations descriptions of deductions that are, or are not, to be regarded as made in respect of members of the firm's workforce.

The firm's partners, their working time and expenses

For this purpose, CTA10/S357WBB provides that a 'partner' includes any person entitled to a share of income of the firm.

In determining the amount of working time spent in a place by a partner in the firm, time spent must be included if the partner spends that time providing services to a third party which results in the

third party or a connected person making a payment to the firm (whether that payment is made directly or indirectly); and that payment is connected with a right acquired by the firm from the partner.

In relation to partners, the firm's workforce expenses may be calculated including an appropriate notional amount representing the amount of consideration which a partner would receive for services to the firm if he or she were providing those services on an arms' length basis to the firm, less any amount which that partner actually receives for such services other than amounts included in the partner's partnership share.

NICT11014 – Northern Ireland profits and losses etc: partnerships: 'Disqualified firm'

An SME firm which does not meet the 75% employment tests but which carries on at least some trading activity via a NIRE, may elect to calculate its profits or losses attributable to its Northern Ireland trade according to the same rules applicable to large firms.

The election will allow the SME firm to use those rules only if it is not a 'disqualified firm' for the relevant period. This restriction is intended to ensure that firms cannot move profits or losses from Great Britain to Northern Ireland by artificially contrived means, in order to benefit from the Northern Ireland rate.

CTA10/S357WBC explains what is meant by a 'disqualified firm'. A firm is a 'disqualified firm' if both Conditions A and B below are met.

Condition A

Condition A is that the firm has a NIRE in the relevant period as a result of 'tax avoidance arrangements'. 'Tax avoidance arrangements' for this purpose means any arrangements where the main purpose is to ensure that profits or losses which would not otherwise fall to be treated as Northern Ireland profits or losses, are treated as such. The term 'arrangements' is not confined to transactions which might be legally enforceable, but includes any agreement, understanding, scheme, transaction or series of transactions.

Condition B

Condition B is that either –

- a) At least 50% of the working time spent in the UK by the firm's workforce during the relevant period is time spent otherwise than in Northern Ireland by partners in the firm, or
- b) At least 50% of the firm's workforce expenses attributable to UK working time during the period, are attributable to working time spent otherwise than in Northern Ireland by partners in the firm.

See [NICT11013](#) for details of how time spent by partners in the firm is to be determined.

NICT11015 – Northern Ireland profits and losses etc: partnerships: 'corporate partner calculation'

The corporate partner calculation applies to the capital allowances provisions in CTNIA15/SCH1. In relation to a trade carried on by a Northern Ireland firm (see [NICT11011](#)) it means the determination of allowances and charges to which effect is given by virtue of CTA09/S1259 (3) or (4) in determining profits of the trade for CT purposes.

NICT11016 – Northern Ireland profits and losses etc: partnerships: NI rate activity

CAA01/S6C provides that NI rate activity means, in relation to a trade carried on in partnership

- a qualifying partnership trade (see [NICT11012](#)) carried on by a Northern Ireland Chapter 6 firm (SME treatment, see [NICT11020](#)), except to the extent that it is an excluded activity (see [NICT02046](#))
- a qualifying partnership trade, other than an excluded financial trade (see [NICT02045](#)), carried on by a Northern Ireland Chapter 7 firm (large company treatment, see [NICT11030](#)), to the extent that it is
 - carried on by a NIRE of the partnership, and
 - does not consist of an excluded activity
- the back-office activities of an excluded financial trade carried on by
 - a Northern Ireland Chapter 6 firm, or
 - a Northern Ireland Chapter 7 firm, to the extent that the activities are carried on through a NIRE of the partnershipwhich has made the election mentioned at [NICT02042](#).

Thus, qualifying trades identified applying normal NI Corporation Tax principles, whether carried on by a firm falling within the scope of the SME rules, or by one falling within the scope of the large company rules, give rise to 'NI rate activity' for the purposes of the NI Corporation Tax partnership rules.

NI rate activity treated as a separate trade

CAA01/S6D provides that the NI rate activity is treated as a separate trade, distinct from any other activities carried on by the company as part of the trade.

A similar treatment is applied to NI rate activity carried on by a Northern Ireland firm for the purposes of the corporate partner calculation.

NICT11020 – Northern Ireland profits and losses etc: partnerships: determining profits etc of a firm as though it were a SME

The SME approach to determining profits etc of a firm (see [NICT03000](#) onwards) applies where

- the firm is a Northern Ireland firm in an accounting period (referred to as ‘the firm’s accounting period’) by virtue of the SME (Northern Ireland employer) partnership condition (see [NICT11011](#)), and
- a partner in the firm is a company (referred to as ‘the corporate partner’) that is
 - within the charge to corporation tax in relation to the firm’s trade, and
 - an SME in relation to the accounting period of the partner which is the same as the firm’s accounting period or overlaps with it.

The normal provisions governing Northern Ireland profits or losses for a company that is an SME (see [NICT03020](#)) apply for allocation purposes in relation to the profits or losses of the firm’s trade for the firm’s accounting period in relation to a corporate partner, determining the corporate partner’s share under CTA09/S1259 (3) or (4) – see [CTM36510](#).

[NICT11050](#) deals with the allocation of profits etc of a firm to a company partner.

Two further definitions apply for the purposes of capital allowances computations.

Northern Ireland Chapter 6 firm

If by virtue of CTA10/S357WC the profits of a Northern Ireland firm (see [NICT11011](#)) are determined under CTA10/PART8B/CHAPTER6 (the SME rule, see [NICT03010](#) onwards) the partnership is a ‘Northern Ireland Chapter 6 firm’: CAA01/S6B.

SME (Northern Ireland employer) company

A SME (Northern Ireland employer) company is a company that is a Northern Ireland company for the purposes of CTA10/PART8B by virtue of the SME (Northern Ireland employer) condition in CTA10/S357KA: CAA01/S6A.

NICT11030 – Northern Ireland profits and losses etc: partnerships: determining profits etc of a firm as though it were a large company

CTA10/S357WD provides that the large company approach to determining profits or losses of a firm (see [NICT04010](#) onwards) applies where a company which is a partner in a firm at any time during the firm's accounting period is within the charge to corporation tax in relation to the firm's trade, and either Condition A or Condition B below is met:

Condition A

The firm is a Northern Ireland firm in the firm's accounting period by virtue of the SME (election) partnership condition or the large partnership condition (see [NICT11011](#))

Condition B

The firm is a Northern Ireland firm in the firm's accounting period by virtue of the SME (Northern Ireland employer) partnership condition, and the corporate partner is not an SME in relation to an accounting period of the corporate partner which is the same as, or overlaps (to any extent) the firm's accounting period.

Two further definitions apply for the purposes of capital allowances computations.

Northern Ireland Chapter 7 firm

If by virtue of CTA10/S357WD the profits of a Northern Ireland firm (see [NICT11011](#)) are determined under CTA10/PART8B/CHAPTER7 (the large company rule, see [NICT04010](#) onwards) the partnership is a 'Northern Ireland Chapter 7 firm': CAA01/S6B.

NIRE company

A NIRE company is a company that is a Northern Ireland company for the purposes of CTA10/PART8B by virtue of the large company condition in CTA10/S357KA: CAA01/S6A.

NICT11040 – Northern Ireland profits and losses: partnerships: modifications to main rules

For the purposes of determining Northern Ireland profits and losses of corporate partners under the large company regime the following modifications are made to the main rules:

Reference etc under main rules	Reference etc applied to Northern Ireland firm
Qualifying trade (SME, large company rules)	Firm's trade
Qualifying trade by virtue of S357KB (1) or (2) (large company, intangibles, patents rules)	Qualifying partnership trade
Company (SME, large company, intangibles, patents* rules)	Firm
Accounting period [of company] (SME, large company, intangibles and patents rules)	Firm's accounting period
UK resident company (large company rules)	UK resident firm
Northern Ireland company (intangibles rules)	Northern Ireland firm
SME (Northern Ireland employer) condition (intangibles rules)	SME (Northern Ireland employer) partnership condition
SME (election) condition	SME (election) partnership condition
Large company condition (intangibles, patents rules)	Large partnership condition
Trade (patents rules)	Firm's trade
Election made by company (patents rules)	Election made by corporate partner

*Except in relation to the election under CTA10/S357A

NICT11050 – Northern Ireland profits and losses: partnerships: allocation of Northern Ireland profits etc of firm to company

Under CTA09/S1259 (3) or (4), a firm carrying on a trade which has at least one corporate partner has its trade profits determined as if it were a UK resident or non-UK resident company, depending on the residence of the corporate partner under examination. The firm's profits or losses so determined may be

- Northern Ireland profits or losses of the trade, or
- mainstream profits or losses of the trade, or
- a combination of the two.

The company under examination ('Company A') is then subject to an allocation procedure under CTA09/S1262 (1). Where the initial determination gives rise to a combination of Northern Ireland and mainstream profits or losses of the trade, the profit-sharing arrangements are applied separately to each category, Northern Ireland and mainstream.

CTA09/S1263 deals with the situation where some partners have profits and some losses, and the net result is profit. If S1263 (1) applies, so that company A's share is neither a profit nor a loss, company A is treated as having no profits or losses, Northern Ireland or mainstream. If S1263 (2) applies, so that company A's share of the profit is reduced to reflect other partners' losses, Northern Ireland profit or loss, or mainstream profit or loss (as the case may be), are reduced rateably.

CTA09/S1264 deals with the situation where some partners have profits and some losses and the net result is a loss. If S1264 (1) applies, so that company A's share is neither a profit nor a loss, company A is again treated as having no profits or losses, Northern Ireland or mainstream. If S1264 (2) applies, so that company A's share of the loss is reduced to reflect other partners' profits, Northern Ireland profit or loss, or mainstream profit or loss (as the case may be) are reduced rateably.