

Negligible value claim

The decision in a recent tax case has provided some useful guidance for individuals contemplating investing in, or increasing their shareholding in, a company that is close to insolvency.

The case concerned a shareholder of a company in insolvent liquidation who had failed to establish that their shareholding had any value at the time that they acquired it. Consequently they were unable to make a negligible value claim and could therefore not claim a capital loss. When an asset has become of negligible value, the owner can make a negligible value claim and claim a capital loss against the asset.

Implications for new investors

Investors planning to inject capital into a struggling company should ensure that they have evidence to prove that their shareholding at the time of the acquisition actually had a value (for example, **an independent valuation of their interest**) to minimise the risk of missing out on the “consolation prize” of tax relief, should the investment go bad.

Implications for existing investors

Existing shareholders who are planning to inject further capital into a struggling business should consider structuring their investment as a **rights issue**: the reorganisation rules should secure the base cost (and therefore any negligible value claim), provided the subscription is by way of bargain at arm's length.