These notes refer to the Income Tax (Trading and Other Income) Act 2005 (c.5) which received Royal Assent on 24 March 2005

INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2: Transitionals and savings etc.

Part 3: Trading income

Paragraph 48: Apportionment of profits or losses to tax years before tax year 2005-06 – basis periods

3545. Section 883 provides that the Act takes effect for income tax purposes for the tax year 2005-06. For trade profits taxed under Chapter 2 of Part 2 of this Act the income chargeable for 2005-06 is determined by reference to the basis period for that tax year.

3546. Chapter 15 of Part 2 of this Act sets out the rules for relating basis periods to periods of account. In the case of an established trade the basis period for 2005-06 will usually be the 12 month period of account ending in the year 2005-06. That period of account will not normally form the basis period for any other tax year.

3547. But if the trade has just started it may be necessary to apportion the result of a period of account. For example, if a trade starts on 1 January 2005 and the first accounts are made up to 31 December 2005 that period of account will form the following basis periods:

- tax year 2004-05 basis period 1 January 2005 to 5 April 2005; and
- tax year 2005-06 basis period 1 January 2005 to 31 December 2005.

3548. Section 72 of ICTA, rewritten as section 203 allows the profits for the basis period 1 January to 5 April 2005 to be arrived at by apportionment.

3549. In calculating the amount of overlap relief, (see section 204), it is important that the same figure of taxable profit is attributed to the period 1 January 2005 to 5 April 2005 for both tax years.

3550. The purpose of this paragraph is to allow the profits of a period of account that straddles 6 April 2005 to be calculated using the rewritten legislation even though tax years earlier than 2005-06 will be affected. This Act includes a number of minor changes in the law. Without this paragraph it would be necessary for traders to take account of those changes only for the tax year 2005-06.

3551. If a taxpayer does not want the new law to apply to a transaction that occurred before 6 April 2005 he or she can elect for the old legislation to continue to apply.