

INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Property income

Chapter 1: Introduction

Section 260: Overview of Part 3

1034. This section is introductory. It is new.
1035. *Subsection (1)* sets out the components of “property income”.
1036. *Subsection (1)(a)* refers to the main component. That is income from land that is taxed in the source legislation under Schedule A if it is land in the United Kingdom and under Schedule D Case V if it is foreign land. Central to the charge is the concept of the “property business”. That is discussed in more detail in the commentary on sections 264 and 265.
1037. *Subsection (1)(e)* refers to post-cessation receipts of a UK property business. In the source legislation they are charged under Schedule D Case VI. This Act deals with the income where it logically belongs. In this case, the income is property income.

Section 261: Provisions which must be given priority over Part 3

1038. This section provides the rules to determine which Part takes priority in the event of any overlap of the charge on the profits of a trade and the charge on the profits of an overseas property business or the charge under Chapters 8 and 9 of this Part.
1039. It is based on section 18 of ICTA and section 65A(1) of ICTA as regards overlap between an overseas property business and a foreign trade. It gives statutory effect to the Crown Option as regards overlap between an overseas property business and a UK trade. See *Change 66* in Annex 1.
1040. It is based on the definitions of Schedule D Cases I and VI in section 18 of ICTA as regards overlap between a trade and the profits of a UK concern or the profits of a UK electric line wayleave. Case VI charges income that is not charged under any other case. So it is correct to give trading income (Case I in the source legislation) priority.

Section 262: Priority between Chapters within Part 3

1041. This section gives an order of priority between Chapter 3 and Chapters 8 and 9 of this Part of this Act and between Chapters 8 and 9. It is based on sections 119(1) and 120(1) of ICTA.
1042. *Subsection (3)* deals with income that falls within both Chapter 8 and Chapter 9 of this Part of this Act. See *Change 5* in Annex 1.