

INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Miscellaneous income

Chapter 2: Receipts from intellectual property

Section 588: Income charged under section 587

2288. This section sets out the amount charged to tax on profits from the sale of patent rights under section 587. It is subject to the spreading rules in section 590 to section 594. The section is based on section 524 of ICTA.
2289. There is no exclusion for sums calculated under the remittance basis under section 832 of this Act because, under the source legislation, profits from the sale of patent rights are charged to tax under Schedule D Case VI (to which the remittance basis does not apply).
2290. *Subsection (1)* provides that the profits are the proceeds of sale less the deductible costs. The reference to “net proceeds of the sale” in section 524(3) of ICTA implies that some deduction is available, but the source legislation does not further specify which amounts are deductible. The section makes it clearer what amounts may be deducted.
2291. *Subsection (2)* defines deductible costs as the capital cost of the rights sold plus any incidental expenses of sale. The section makes it explicit that such expenses may be deducted. The types of expenses which may be allowed under this section are not listed. Incidental expenses which relate to both capital sale proceeds and other sums not chargeable to tax under section 587 are effectively apportioned under the rules about net proceeds of sale in section 606.
2292. *Subsection (5)* contains a signpost to section 603 which deals with contributions to expenditure. This is necessary because section 532 of ICTA treats section 524 of ICTA as if it had been contained in CAA. There is also a signpost here to the special rules giving relief from tax on patent income in section 600.