

*These notes refer to the Income Tax Act 2007 (c.3)
which received Royal Assent on 20 March 2007*

INCOME TAX ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: Income Tax Acts definitions etc

Overview

3023. This Part sets out definitions and related material applying for the purposes of the Income Tax Acts generally. It is mainly based on provisions in Part 19 of ICTA.
3024. Many of these definitions apply in relation to corporation tax as well as income tax. Some of them also apply to capital gains tax, or in relation to capital allowances, either by cross-reference or by virtue of parallel provision.
3025. The definitions have been rewritten for income tax using the following principles:
- if definitions are relatively short or straightforward, they are duplicated in the legislation about each of the taxes to which they apply;
 - if a definition is longer and more complicated, and is mainly concerned with one tax, it is set out in full in the legislation about that tax and defined by cross-reference for the purposes of any other taxes that are relevant;
 - if a definition is longer and more complicated and is made substantial use of in relation to more than one tax, it is normally duplicated.
3026. As a result, the rewrite of the definitions in these sections is closely bound up with the related consequential amendments in Schedule 1.

Chapter 1: Definitions

Overview

3027. This Chapter contains definitions which apply for the purposes of the Income Tax Acts, except where the context otherwise requires.

Section 988: Overview of Chapter

3028. This section provides an overview of the Chapter. It is new.
3029. **Section 989** sets out the terms which are defined, and either contains or sign-posts the definitions concerned.
3030. Some definitions do not apply for the purposes of specified provisions. And some definitions only have effect for the purposes of specified provisions.

Section 989: The definitions

3031. This section sets out the definitions in alphabetical order. It is based on section 832 of ICTA and a variety of other provisions.

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3032. Section 832 of ICTA, and other provisions, consequentially amended, continue to provide parallel definitions for corporation tax purposes.
3033. The definition of “capital allowance” no longer makes reference to allowances under enactments which under ICTA are treated as contained in CAA. This is because the only such enactment is section 532 of ICTA, and the only provision to which it remains potentially relevant (section 527 of ICTA) is rewritten in section 461 of this Act.
3034. The definition of “interest” (as including yearly interest and interest other than yearly interest) has been omitted, both from this section and from the amended section 832, as it adds nothing to the general meaning of “interest”. It was originally enacted in paragraph 20 of Schedule 13 to FA 1969.
3035. The definition of “personal representatives” is new. It follows the approach adopted in ITTOIA. See *Change 150* in Annex 1.
3036. The definition of “trade” has been streamlined in line with the drafts included as clause 3.1.4 of ED1 (July 1997) and clause 3.1.5 in Exposure Draft No 10 (May 2000). Adopting this approach in this Act, rather than in ITTOIA, has enabled it to be done for all income tax purposes at the same time.
3037. Parallel definitions of “tax year” and “year of assessment” are provided, in order to support those provisions of the Income Tax Acts, including those in TMA, that have not been rewritten.
3038. Section 832(5) of ICTA is not rewritten in this Act, or retained in ICTA in relation to corporation tax, as this provision has been overtaken by the Adoption and Children Act 2002 (if it was not redundant before). See *Change 151* in Annex 1.

Section 990: Meaning of “Act”

3039. This section is based on section 832(1) of ICTA.
3040. The reference to Northern Ireland legislation has been updated. See *Change 152* in Annex 1.
3041. See also section 1018, about the meaning of references to Northern Ireland and Scottish legislation in provisions in this Act, and the commentary on that section.

Section 991: Meaning of “bank”

3042. This section is based on section 840A of ICTA.
3043. The definition operates only where it is specifically applied.
3044. In *subsection (2)*, Article 3 of the [European Investment Bank \(Designated International Organisation\) Order SI 1996/1179](#) has been enacted. See *Change 135* in Annex 1 and the commentary on section 879.
3045. Section 840A of ICTA, consequentially amended, continues to provide the definition for corporation tax purposes.

Section 992: Meaning of “company”

3046. This section is based on section 832(1) and (2) of ICTA.

Section 993: Meaning of “connected” persons

3047. This section is based on section 839 of ICTA.
3048. The definition operates only where specifically applied.

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3049. Section 839 of ICTA, consequentially amended, continues to provide the definition for corporation tax purposes.
3050. Section 575 of CAA defines “connected” by cross-reference to section 839. CAA is important both in the income tax and corporation tax contexts. Rather than continuing to operate by cross-reference to section 839 or to this section, this Act amends section 575 of CAA so that it contains the text of the definition. See Schedule 1.

Section 994: Meaning of “connected” persons: supplementary

3051. This section is based on section 839 of ICTA.

Section 995: Meaning of “control”

3052. This section is based on section 840 of ICTA.
3053. The definition operates only where specifically applied. The drafting has largely followed the approach adopted in section 574 of CAA.
3054. Section 840 of ICTA, consequentially amended, continues to provide the definition for corporation tax purposes.

Section 996: Meaning of “farming” and related expressions

3055. This section defines “farming” and “market gardening” and clarifies the meaning of “forestry” and “woodlands”. It is based on sections 397(5) and 832(1) of ICTA, section 154(1) and (3) of FA 1995 and section 876 of ITTOIA.
3056. Section 876 of ITTOIA provides a definition for the purposes of that Act. This section follows the pattern of section 876 of ITTOIA but applies for the purposes of the Income Tax Acts. So section 876 of ITTOIA is no longer needed and this Act repeals it.
3057. *Subsection (3)* provides that the cultivation of short rotation coppice is to be regarded as husbandry. In strictness this means that the cultivation must involve the occupation of land to be regarded as farming. But as it is impossible to cultivate short rotation coppice without occupying land the cultivation will also be regarded as farming.
3058. As with section 876 of ITTOIA there is no territorial restriction in the definitions in this Act. This means that there is no need to apply the definition of farming to activities outside the United Kingdom in the rewrite of section 397 of ICTA as section 67. Also, the cultivation of short rotation coppice on land outside the United Kingdom will be regarded as husbandry and therefore as farming.
3059. Again following the pattern in ITTOIA if a territorial restriction is required it is applied to a particular section. So *subsection (7)* restricts the definitions to farming or market gardening in the United Kingdom in the rewrite of section 297(2) of ICTA as section 192(1) and paragraph 4(2) of Schedule 28B to ICTA as section 303(1).

Section 997: Meaning of “generally accepted accounting practice” and related expressions

3060. This section is based on the definition of “for accounting purposes” in section 832(1) of ICTA and on section 50 FA 2004.
3061. Those sections, consequentially amended, continue to provide the definitions for corporation tax purposes.

Section 998: Meaning of “grossing up”

3062. This section is new.

3063. The section follows the pattern of section 877 of ITTOIA which (along with similar existing provisions) is repealed now that there is a general definition for the purposes of the Income Tax Acts.

Section 999: Meaning of “local authority”

3064. This section is based on section 842A of ICTA.

Section 1000: Meaning of “local authority association”

3065. This section is based on sections 519(3) and 832(1) of ICTA.

Section 1001: Meaning of “offshore installation”

3066. This section is based on section 837C of ICTA.

3067. Section 837C of ICTA, consequentially amended, continues to provide the definition for corporation tax purposes.

Section 1002: Regulations about the meaning of “offshore installation”

3068. This section is based on section 837C(5) and (6) of ICTA.

Section 1003: Meaning of “oil and gas exploration and appraisal”

3069. This section is based on section 837B of ICTA.

3070. Section 837B of ICTA, consequentially amended, continues to provide the definition for corporation tax purposes.

Section 1004: Meaning of “property investment LLP”

3071. This section is based on sections 832(1) and 842B of ICTA.

3072. Section 842B of ICTA, consequentially amended, continues to provide the definition for corporation tax purposes.

3073. Section 842B, as amended, does not contain a definition of “investment LLP” because the term is not used in corporation tax legislation. This section does not contain such a definition either, because section 399 of this Act contains the only reference to it in income tax legislation.

Section 1005: Meaning of “recognised stock exchange”

3074. This section is based on section 841(1) and (2) of ICTA.

3075. The corporation tax definition in section 841 of ICTA, consequentially amended, operates by cross-reference to this definition. This guards against any risk of orders being made which might inadvertently result in the two definitions getting out of step.

Section 1006: Meaning of “research and development”

3076. This section is based on section 837A of ICTA.

3077. Section 837A of ICTA, consequentially amended, continues to provide the definition for corporation tax purposes. And it ensures that any regulations made for income tax purposes are also taken account of for corporation tax purposes.

Section 1007: Meaning of “unit trust scheme”

3078. This section is based on sections 469(7) and (8) and 832(1) of ICTA.

3079. The corporation tax definition is located in section 832(1) of ICTA, as consequentially amended.

Chapter 2: Other Income Tax Acts provisions

Overview

3080. This Chapter contains provisions (other than definitions) which apply for the purposes of the Income Tax Acts.

Section 1008: Scotland

3081. This section is based on sections 363(3) and 832(1) of ICTA and section 879 of ITTOIA.

Section 1009: Sources of income within the charge to income tax or corporation tax

3082. This section is based on section 832(1) of ICTA.

Section 1010: Application of Income Tax Acts to recognised investment exchanges

3083. This section is based on section 841(3) of ICTA.
3084. Section 841(3) of ICTA, consequentially amended, continues to provide the definition for corporation tax purposes.

Section 1011: References to married persons, or civil partners, living together

3085. This section is based on section 282 of ICTA.
3086. It explains that married couples and civil partners are treated as living together unless they are separated under a court order, under a deed of separation or in fact separated in circumstances where the separation is likely to be permanent.
3087. This rule applies in particular in relation to married couple's allowance (Chapter 3 of Part 3) and to jointly held property (Chapter 3 of Part 14).

Section 1012: Relationship between rules on highest part of total income

3088. This section brings together a number of provisions about the relationship between the rules about which particular income is to be treated as the highest part of a person's total income. It is based on sections 1A(6) and 833(3) of ICTA.
3089. These rules affect section 16 and a number of provisions inserted by this Act including section 404A of ITEPA and section 465A of ITTOIA.
3090. The section remedies an omission in section 833(3) of ICTA by providing a rule as to which of section 404A of ITEPA and section 465A of ITTOIA takes the very highest slice in a case where both are present. In practice, if both arise it will be to the taxpayer's advantage if the chargeable event gains are treated as the very top slice. Accordingly, section 404A of ITEPA defers to section 465A of ITTOIA. See *Change 153* in Annex 1.
3091. *Subsection (5)* makes it clear that the rules in this section override any other provision that purports to treat a given type of income as the top slice. The effect is that the income concerned will simply form the top slice of income within its category of savings, dividend or other income.

Section 1013: Territorial sea of the United Kingdom

3092. This section is based on section 830(1) of ICTA.

Section 1014: Orders and regulations

3093. This section is based on section 828 of ICTA.

Section 1015: Territorial scope of charges under certain provisions to which section 1016 applies

3094. This section is based on section 827A of ICTA.

Section 1016: Table of provisions to which this section applies

3095. This section is based on section 836B of ICTA.

3096. The table in section 836B of ICTA includes two provisions (section 804(5B)(a) of ICTA and paragraph 11(3) of Schedule 20 to FA 1994) which are in substance about the recovery of double taxation credit relief that has been over-allowed, although both operate by converting the tax to be recovered to an amount charged to income tax at the basic rate.

3097. Amounts charged under those two provisions are not regarded as income for any other purpose and none of the other provisions which invoke the table (for example, to utilise losses under section 152 of this Act) could have any application in relation to these amounts. As it is misleading for them to be included in the table, they have been omitted.

3098. Amendments are made to both provisions by Schedule 1 so that they operate as charges to amounts of income tax.