

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Property income

Overview

Chapter 6: Commercial letting of furnished holiday accommodation

Overview

- 948. The sections in this Chapter define the lettings that can qualify for special tax advantages: “the commercial letting of furnished holiday accommodation”. They are based on section 504 of ICTA. The corresponding rules for income tax are in sections 322 to 327 of ITTOIA.
- 949. The sections do not, themselves, provide for the tax advantages. That is the function of the particular “relieving” provisions (such as the loss relief provisions) that are cross-referred to.
- 950. The primary purpose of this Chapter is to provide a central definition of this particular type of letting, income from which benefits from tax advantages provided for in other Acts.
- 951. This income is part of the single property business denoted in section 205 and chargeable therefore under this Part.

Section 264: Overview of Chapter

- 952. This section is introductory and explanatory. It is new. It makes clear that the provisions that provide for the tax advantages are to be found elsewhere. The corresponding rule for income tax is in section 322 of ITTOIA.

Section 265: Meaning of “commercial letting of furnished holiday accommodation”

- 953. This section defines the lettings that can benefit from the special tax treatment. It is based on section 504 of ICTA. The corresponding rule for income tax is in section 323 of ITTOIA.
- 954. It is not sufficient that the letting is simply of furnished holiday accommodation: it must also be “qualifying holiday accommodation”. *Subsection (3)(b)* provides a signpost to the sections that define “qualifying holiday accommodation”.

Section 266: Meaning of “relevant period” in sections 267 and 268

- 955. This section defines the period during which certain conditions need to be satisfied in order to benefit from the special tax treatment. It is based on section 504(5) of ICTA. The corresponding rule for income tax is in section 324 of ITTOIA.

956. *Subsection (4)* gives the general rule and identifies the relevant period for the case where there is established and continuing letting. It follows the source legislation (in section 504(5)(c) of ICTA) by putting the general rule covering what is likely to be the most common case, last. This is because the company still needs to read the first two rules to know whether it falls within the general rule.

Section 267: Meaning of “qualifying holiday accommodation”

957. This section sets out the additional tests the letting must satisfy to qualify for the special treatment. It is based on section 504(3) and (5) of ICTA. The corresponding rule for income tax is in section 325 of ITTOIA.
958. *Subsection (1)*, which is based on section 504(3), introduces the term “qualifying holiday accommodation” and defines it by reference to the three conditions that are set out in the subsequent subsections.
959. Subsection 504(3) of ICTA is particularly complex. The three tests it imposes in paragraphs (a) to (c) are referred to in the subsequent subsections of this section as, respectively, the “availability”, “letting” and “pattern of occupation” conditions. If all three are met, the accommodation is “qualifying holiday accommodation”.
960. *Subsections (4) to (6)* are based on section 504(3)(c) of ICTA. Section 504(3)(c) of ICTA is particularly ambiguous and this section seeks to reduce that ambiguity. The approach differs from that in the source legislation and involves a change that alters the period during which, in order to qualify for the special treatment, the accommodation must not be occupied for more than 31 days at a time. See *Change 51* in Annex 1.

Section 268: Under-used holiday accommodation: averaging elections

961. This section allows accommodation that would be “qualifying holiday accommodation”, were it not simply for insufficient actual letting, nevertheless to qualify if, *on average*, the letting condition in section 267(3) is met. It is based on section 504(6) to (8) of ICTA. The corresponding rule for income tax is in section 326 of ITTOIA.
962. *Subsection (1)* introduces a new term, “under-used accommodation”, to denote this accommodation.
963. *Subsection (4)* introduces a change. This changes the period over which lettings are averaged for the purpose of treating infrequently let property as qualifying holiday accommodation from the accounting period to the relevant period (as defined in section 266). See *Change 52* in Annex 1.

Section 269: Capital allowances and loss relief

964. This section provides for separate calculations in order to give effect to the tax advantages of qualifying holiday lettings. It is new. The corresponding rule for income tax is in section 327 of ITTOIA.
965. There is no explicit requirement for separate furnished holiday lettings calculations in section 503 of ICTA. But it is clearly not possible to give effect to the special corporation tax treatments available to furnished holiday lettings without separating out the relevant income and expenditure. Requiring, where appropriate, separate calculations makes explicit what is only implicit in section 503 of ICTA.
966. This section provides a mechanism to ensure that the special rules that can give tax advantages in respect of these lettings work properly and clearly in the context of a UK property business of which the furnished holiday lettings is part: the profit from such lettings must be identified separately but only when there is a practical need to do so.