These notes refer to the Corporation Tax Act 2009 (c.4) which received Royal Assent on 26 March 2009

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Property income

Overview

Chapter 9: Post-cessation receipts

Overview

1001. This Chapter applies the rules about post-cessation receipts to UK property businesses, broadly as they apply to trades. The main rules for trades are in Chapter 15 of Part 3 of this Act. The application of the rules to property businesses is based on section 21B of ICTA, which specifically mentions sections 103 to 106 of ICTA.

1002. Although the post-cessation receipt rules apply to a Schedule A business, they do so by virtue of section 21B of ICTA. That section deals with "other rules applicable to Case I of Schedule D". On the other hand, section 21A of ICTA deals with rules about the computation of profits of a trade. So section 70A of ICTA imports only the computation rules in section 21A and the post-cessation receipt rules do not apply to an overseas property business.

1003. A property business cannot have trading stock. So section 195 (transfer of trading stock) does not have a corresponding rule in this Chapter.

1004. The following trading income rules apply to property businesses but are not in separate sections in this Chapter:

- sections 192 and 193: rules about debts (these rules are applied by section 283(2)); and
- sections 196 and 197: allowable deductions (these rules are applied by section 285).

Section 280: Charge to tax on post-cessation receipts

1005. This section applies the corporation tax charge on income to post-cessation receipts. It is based on sections 103 and 104 of ICTA, as applied by section 21B of ICTA. The corresponding rule for income tax is in section 349 of ITTOIA.

Section 281: Extent of charge to tax

1006. This section restricts the charge on the post-cessation receipts. It is based on sections 103 and 104 of ICTA, as applied by section 21B of ICTA. The corresponding rule for income tax is in section 350 of ITTOIA.

Section 282: Basic meaning of "post-cessation receipt"

1007. This section defines post-cessation receipts of a UK property business. It is based on sections 103, 104 and 110 of ICTA, as applied by section 21B of ICTA. The corresponding rule for income tax is in section 353 of ITTOIA.

1008. *Subsection (2)* explains that a person permanently ceases to carry on a UK property business if:

- a company ceases to be within the charge to income tax in respect of the UK property business; or
- a company or any other person ceases to be a member of a firm which carries on a UK property business.

Section 283: Other rules about what counts as a "post-cessation receipt"

1009. This section brings together signposts to rules that operate so as to treat certain sums as post-cessation receipts and to exclude others from the charge. It is new. The corresponding rule for income tax is in section 354 of ITTOIA.

1010. *Subsection (1)* is a signpost to the section that deals with the transfer of a right to receive a post-cessation receipt to a person who does not carry on a UK property business.

1011. *Subsection (2)* lists the trading income rules that apply to create post-cessation receipts for the purpose of this Chapter.

1012. *Subsection (3)* draws attention to the rule in Chapter 5 of this Part that treats a sum received as not being a post-cessation receipt if the right to it was transferred with a property business. It also mentions the rule in Part 18 of this Act that treats profits of an overseas property business as post-cessation receipts (of a UK property business) if they become remittable after the company has ceased to carry on the business.

Section 284: Transfer of rights if transferee does not carry on UK property business

1013. This section sets out the positions of the transferor and transferee if the right to a post-cessation receipt is transferred for value. It is based on section 106 of ICTA, as applied by section 21B of ICTA. The corresponding rule for income tax is in section 355 of ITTOIA.

Section 285: Allowable deductions

1014. This section applies the trading income rules about allowable deductions. It is based on section 105 of ICTA, as applied by section 21B of ICTA.

Section 286: Election to carry back

1015. This section allows a company to elect to have a post-cessation receipt taxed as though it had been received in the accounting period in which the company ceased to carry on the UK property business. It is based on section 108 of ICTA, as applied by section 21B of ICTA, although section 108 was repealed by ITTIOA. The corresponding rule for income tax is in section 257 of ITTOIA, as applied by section 351(2)(b) of ITTOIA.

1016. See *Change 42* in Annex 1 and the commentary on section 198.