*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 8: Intangible fixed assets

### Overview

### *Chapter 6: How credits and debits are given effect*

#### *Section 745: Introduction*

2032. This section introduces this Chapter which deals with how effect is given to credits and debits brought into account under this Part. It is based on paragraph 30 of Schedule 29 to FA 2002.

2033. In this Part, accounting gains and accounting losses are translated, respectively, into credits and debits for tax purposes. Although all the credits and debits are brought into account as revenue items, different rules govern how they enter the calculation depending on the nature of the business activity for which the intangible fixed asset in respect of which they arise is held.

#### *Section 746: "Non-trading credits" and "non-trading debits"*

2034. This section explains two key terms. It is new.

#### *Section 747: Assets held for purposes of trade*

2035. This section incorporates the credits and debits directly into the trade profit calculation if the intangible fixed asset is held for the purposes of a trade. It is based on paragraph 31 of Schedule 29 to FA 2002.

#### *Section 748: Assets held for purposes of property business*

2036. This section incorporates the credits and debits directly into the property business profit calculation if the intangible fixed asset is held for the purposes of a property business. It is based on paragraph 32 of Schedule 29 to FA 2002.

2037. Paragraph 32(4) of Schedule 29 to FA 2002 has not been rewritten because it is not necessary. It is intended to make clear that losses of a furnished holiday lettings business consisting of Schedule 29 debits are still to be treated as trade losses but it is difficult to see what alternative, without paragraph 32(4), could ensue. Paragraph 32(4) applies the provisions of section 503 of ICTA which treats all a company's lettings of furnished holiday accommodation (as defined in section 504 of ICTA) as a separate and single trade for (and only for) the purposes of loss relief although the income remains chargeable as income from property. But paragraph 32(3) of Schedule 29 to FA 2002 already ensures that the furnished holiday lettings profits and other property profits are kept separate. That being the case, the fact that the debits and credits are (under paragraph 32(1) of Schedule 29 to FA 2002) brought into account as part of the separate furnished holiday lettings business identified by paragraph 32(3) would seem to be enough. Once that has taken place, the general corporation tax loss rules (of which section 503 of ICTA is really part) then apply in the ordinary way to the result.

### *Section 749: Assets held for purposes of mines, transport undertakings, etc*

2038. This section incorporates the credits and debits directly into the profit calculation of a relevant business if the intangible fixed asset is held for the purposes of that business. It is based on paragraph 33 of Schedule 29 to FA 2002.

### *Section 750: Assets held for purposes falling within more than one section*

2039. This section provides an apportionment rule. It is based on paragraph 30 of Schedule 29 to FA 2002.

### *Section 751: Non-trading gains and losses*

2040. This section sets out rules to give effect to non-trading credits and debits. It is based on paragraph 34 of Schedule 29 to FA 2002.

### *Section 752: Charge to tax on non-trading gains on intangible fixed assets*

2041. This section applies the charge to corporation tax on income when there is a non-trading gain under section 751. It is based on section 18 of ICTA.

2042. It is necessary because the general charge label of the source referred to in paragraph 34(4) of Schedule 29 to FA 2002 ("Case VI of Schedule D") ceases to exist in this Act.

### *Section 753: Treatment of non-trading losses*

2043. This section provides for loss relief when there is a non-trading loss under section 751. It is based on paragraph 35 of Schedule 29 to FA 2002.

2044. Relief under this section is subject to a claim in accordance with *subsection (2)* Under the source legislation a discretionary power of extension of the time limit for the claim is exercised by the Commissioners for HMRC. In practice it would be exercised by an officer of HMRC and the Act reflects that. See *Change 1* in Annex 1.