



Corporation Tax Act 2009

2009 CHAPTER 4

PART 17

PARTNERSHIPS

Introduction

1256 Overview of Part

- (1) This Part contains some special rules about partnerships.
- (2) For restrictions that in some circumstances affect relief for losses, and certain other reliefs, for a company that is a member of a partnership see [^{F1}Chapter 3 of Part 22 of CTA 2010 (transfer of relief within partnerships)].

Textual Amendments

- F1** Words in s. 1256(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 690** (with Sch. 2)

1257 General provisions

- (1) In this Act persons carrying on a trade in partnership are referred to collectively as a “firm”.
- (2) This section and sections 1259 to 1266 are expressed to apply to trades, but unless otherwise indicated (whether expressly or by implication) also apply to businesses that are not trades.
- (3) In those sections as applied by subsection (2)—
 - (a) references to a trade are references to a business, and
 - (b) references to the profits of a trade are references to the income arising from a business.

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1258 Assessment of firms

Unless otherwise indicated (whether expressly or by implication), a firm is not to be regarded for corporation tax purposes as an entity separate and distinct from the partners.

Calculation of partners' shares

1259 Calculation of firm's profits and losses

- (1) This section applies if a firm carries on a trade and any partner in the firm (“the partner”) is a company within the charge to corporation tax.
- (2) For any accounting period of the firm, the amount of the profits of the trade (“the amount of the firm's profits”) is taken to be the amount determined, in relation to the partner, in accordance with subsection (3) or (4).
- (3) If the partner is UK resident—
 - (a) determine what would be the amount of the profits of the trade chargeable to corporation tax for that period if a UK resident company carried on the trade, and
 - (b) take that to be the amount of the firm's profits.
- (4) If the partner is non-UK resident—
 - (a) determine what would be the amount of the profits of the trade chargeable to corporation tax for that period if a non-UK resident company carried on the trade, and
 - (b) take that to be the amount of the firm's profits.
- (5) The amount of any losses of the trade for an accounting period of the firm is calculated, in relation to the partner, in the same way as the amount of any profits.
- (6) This section is subject to section 1260.

Modifications etc. (not altering text)

- C1** Ss. 1259-1265 modified (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), **ss. 765(2), 768(4), 1184(1)** (with Sch. 2)

1260 Section 1259: supplementary

- (1) In determining under section 1259 the profits of a trade for any accounting period no account is taken of any losses for another accounting period.
- (2) Profits and losses are determined under section 1259 on the basis that no interest paid or other distribution made by the firm is a distribution for the purposes of section 1305(1) (which provides that no deduction is allowed for dividends or other distributions).

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Modifications etc. (not altering text)

- C1** Ss. 1259-1265 modified (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), **ss. 765(2), 768(4), 1184(1)** (with Sch. 2)

1261 Accounting periods of firms

- (1) In this Part references to an accounting period of a firm which carries on a trade are to a period that would be an accounting period of the firm if the firm were a company.
- (2) For the purposes of subsection (1) it is to be assumed that the company by reference to which the accounting periods of the firm are determined (“the deemed company”)—
 - (a) is UK resident,
 - (b) acquires a source of income on the occurrence of an event that falls within subsection (3),
 - (c) ceases to trade on the occurrence of an event that falls within subsection (4), and
 - (d) ceases to trade, and immediately afterwards starts to trade, on the occurrence of a change in the persons carrying on the trade falling within subsection (5).

Paragraph (a) is subject to subsection (6).

- (3) An event falls within this subsection if—
 - (a) immediately before the event no company carries on the trade in partnership, and
 - (b) immediately after the event the trade is carried on in partnership by persons who include a company.
- (4) An event falls within this subsection if—
 - (a) immediately before the event the trade is carried on in partnership by persons who include a company, and
 - (b) immediately after the event no company carries on the trade in partnership.
- (5) A change in the persons carrying on the trade falls within this subsection if—
 - (a) both immediately before and immediately after the change the trade is carried on in partnership by persons who include a company, but
 - (b) no company which carried on the trade immediately before the change continues to carry it on after the change.
- (6) For the purpose of determining, in relation to a partner, the accounting periods by reference to which profits are to be calculated under section 1259, the residence of the deemed company at any time is to be taken to be the same as the partner's.

Modifications etc. (not altering text)

- C1** Ss. 1259-1265 modified (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), **ss. 765(2), 768(4), 1184(1)** (with Sch. 2)
- C2** S. 1261 applied by 2010 c. 4, s. 357GB(5) (as inserted (with effect in accordance with Sch. 2 paras. 7, 8 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 2 para. 1(1)**)

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1262 Allocation of firm's profits or losses between partners

- (1) For any accounting period of a firm a partner's share of a profit or loss of a trade carried on by the firm is determined for corporation tax purposes in accordance with the firm's profit-sharing arrangements during that period.

This is subject to sections 1263 and 1264.

- (2) If a firm [^{F2}makes qualifying charitable donations], a partner's [^{F3}share of the donations] is determined for corporation tax purposes in accordance with the firm's profit-sharing arrangements during the accounting period of the firm in which the [^{F4}donations are made].

^{F5}(3)

- (4) In this section and sections 1263 and 1264 “profit-sharing arrangements” means the rights of the partners to share in the profits of the trade and the liabilities of the partners to share in the losses of the trade.

Textual Amendments

- F2** Words in s. 1262(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 691\(2\)\(a\)](#) (with [Sch. 2](#))
- F3** Words in s. 1262(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 691\(2\)\(b\)](#) (with [Sch. 2](#))
- F4** Words in s. 1262(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 691\(2\)\(c\)](#) (with [Sch. 2](#))
- F5** S. 1262(3) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 691\(3\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

Modifications etc. (not altering text)

- C1** Ss. 1259-1265 modified (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), ss. 765\(2\), 768\(4\), 1184\(1\)](#) (with [Sch. 2](#))

1263 Profit-making period in which some partners have losses

- (1) For any accounting period of a firm, if—
- the calculation under section 1259 in relation to a partner (“company A”) produces a profit, and
 - company A's share determined under section 1262 is a loss, company A's share of the profit of the trade is neither a profit nor a loss.
- (2) For any accounting period of a firm, if—
- the calculation under section 1259 in relation to company A produces a profit,
 - company A's share determined under section 1262 is a profit, and
 - the comparable amount for at least one other partner is a loss, company A's share of the profit of the trade is the amount produced by the formula in subsection (3).
- (3) The formula is—

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$$FP \times \frac{PP}{PP + TCP}$$

where—

FP is the amount of the firm's profit calculated under section 1259 in relation to company A,

PP is the amount determined under section 1262 to be company A's profit, and

TCP is the total of the comparable amounts attributed to other partners under Step 3 in subsection (4) that are profits.

- (4) The comparable amount for each partner other than company A is determined as follows.

Step 1

Take the firm's profit calculated under section 1259 in relation to company A.

Step 2

Determine in accordance with the firm's profit-sharing arrangements during the relevant accounting period the shares of that profit that are attributable to each of the other partners.

Step 3

Each such share is the comparable amount for the partner to whom it is attributed.

- (5) In subsections (2) to (4) “partner” means any partner in the firm, whether or not within the charge to corporation tax.

Modifications etc. (not altering text)

- C1** Ss. 1259-1265 modified (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [ss. 765\(2\), 768\(4\)](#), [1184\(1\)](#) (with [Sch. 2](#))

1264 Loss-making period in which some partners have profits

- (1) For any accounting period of a firm, if—
- (a) the calculation under section 1259 in relation to a partner (“company A”) produces a loss, and
 - (b) company A's share determined under section 1262 is a profit, company A's share of the loss of the trade is neither a profit nor a loss.
- (2) For any accounting period of a firm, if—
- (a) the calculation under section 1259 in relation to company A produces a loss,
 - (b) company A's share determined under section 1262 is a loss, and
 - (c) the comparable amount for at least one other partner is a profit,

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company A's share of the loss of the trade is the amount produced by the formula in subsection (3).

(3) The formula is—

$$FL \times \frac{PL}{PL + TCL}$$

where—

FL is the amount of the firm's loss calculated under section 1259 in relation to company A,

PL is the amount determined under section 1262 to be company A's loss, and

TCL is the total of the comparable amounts attributed to other partners under Step 3 in subsection (4) that are losses.

(4) The comparable amount for each partner other than company A is determined as follows.

Step 1

Take the firm's loss calculated under section 1259 in relation to company A.

Step 2

Determine in accordance with the firm's profit-sharing arrangements during the relevant accounting period the shares of that loss that are attributable to each of the other partners.

Step 3

Each such share is the comparable amount for the partner to whom it is attributed.

(5) In subsections (2) to (4) “partner” means any partner in the firm, whether or not within the charge to corporation tax.

Modifications etc. (not altering text)

C1 Ss. 1259-1265 modified (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 765(2), 768(4), 1184(1) (with Sch. 2)

1265 Apportionment of profit share between partner's accounting periods

(1) This section applies if—

- (a) a share of a profit or loss calculated for an accounting period of a firm is allocated to a company under any of sections 1262 to 1264, and
- (b) the accounting period of the firm does not coincide with an accounting period of the company.

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- (2) The share of the profit or loss must be apportioned between the accounting periods of the company in which the accounting period of the firm falls.

Modifications etc. (not altering text)

- C1** Ss. 1259-1265 modified (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 765(2), 768(4), 1184(1) (with Sch. 2)

Firms with a foreign element

1266 Resident partners and double taxation agreements

- (1) This section applies if—
 - (a) a UK resident company (“the partner”) is a member of a firm which—
 - (i) resides outside the United Kingdom, or
 - (ii) carries on a trade the control and management of which is outside the United Kingdom, and
 - (b) by virtue of any arrangements having effect under [^{F6}section 2(1) of TIOPA 2010] (“the arrangements”) any of the income of the firm is relieved from corporation tax in the United Kingdom.
- (2) The partner is liable to corporation tax on the partner's share of the income of the firm despite the arrangements.
- (3) If the partner's share of the income of the firm consists of or includes a share in a qualifying distribution made by a UK resident company, the partner (and not the firm) is, despite the arrangements, entitled to the share of the tax credit which corresponds to the partner's share of the distribution.
- (4) For the purposes of this section the members of a firm include any company which is entitled to a share of the income of the firm.

Textual Amendments

- F6** Words in s. 1266(1)(b) substituted (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 101 (with Sch. 9 paras. 1-9, 22)

Adjustment on change of basis

1267 Various rules for trades and property businesses

- (1) In the case of a trade or property business carried on by a firm, the amount of any adjustment under—
 - (a) Chapter 14 of Part 3 (adjustment on change of basis: trades), or
 - (b) section 262 (giving effect to positive and negative adjustments: property businesses),is calculated as if the firm were a UK resident company.

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- (2) Each partner's share of any amount brought into account as a receipt under Chapter 14 of Part 3, or section 262, is determined according to the firm's profit-sharing arrangements for the 12 months ending immediately before the date on which the new basis was adopted.
- (3) A change in the persons carrying on a trade from one period of account to the next does not prevent Chapter 14 of Part 3 applying in relation to the trade so long as a company carrying on the trade in partnership immediately before the change continues to carry it on in partnership after the change.
- (4) A change in the persons carrying on a property business from one period of account to the next does not prevent section 262 applying (by virtue of section 261) in relation to the property business so long as a company carrying on the property business in partnership immediately before the change continues to carry it on in partnership after the change.
- (5) Sections 1259 to 1264 do not apply so far as subsection (1) or (2) applies.

1268 Election for spreading under Chapter 14 of Part 3

- (1) A change in the persons carrying on a trade does not constitute the permanent cessation of the trade for the purposes of section 186 (mark to market: election for spreading) so long as a company carrying on the trade in partnership immediately before the change continues to carry it on in partnership after the change.
- (2) Any election under section 186 must be made jointly by all the persons who have been members of the firm in the period of 12 months ending immediately before the date on which the new basis was adopted.

1269 Interpretation of [F7 sections] 1267 and 1268

In sections 1267 and 1268—

- (a) “profit-sharing arrangements” means the rights of the partners to share in the profits of the trade or property business (as the case requires), and
- (b) references to the date on which the new basis was adopted are to the first day of the first period of account for which it was adopted.

Textual Amendments

- F7** Word in s. 1269 substituted (with effect in accordance with s. 381(1) of the amending Act) by virtue of [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 311](#) (with [Sch. 9 paras. 1-9, 22](#))

Miscellaneous

1270 Special provisions about farming and property income

- (1) The rule in section 36(2) (farming trades) operates in relation to firms so that—
 - (a) all farming in the United Kingdom which a firm carries on, other than farming carried on as part of another trade, is treated as one trade, but

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- (b) the farming carried on by a firm which is treated as one trade is not included in any farming trade of any partner in the firm.
- (2) Section 205 (UK property business) operates in relation to firms so that—
- (a) every business and transaction mentioned in that section carried on, or entered into, by a firm constitutes the firm's UK property business, but
 - (b) each business or transaction included in the firm's UK property business is not included in any UK property business of any partner in the firm.
- (3) Section 206 (overseas property business) operates in relation to firms so that—
- (a) every business and transaction mentioned in that section carried on, or entered into, by a firm constitutes the firm's overseas property business, but
 - (b) each business or transaction included in the firm's overseas property business is not included in any overseas property business of any partner in the firm.

1271 Sale of patent rights: effect of partnership changes

- (1) This section applies if each of the following conditions is met—
- (a) a person (“the trader”) sells the whole or part of any patent rights in carrying on a trade,
 - (b) tax is chargeable under section 912 of this Act or section 587 of ITTOIA 2005 on the proceeds of the sale or on any instalment of those proceeds,
 - (c) the tax is chargeable in one or more accounting periods or tax years (referred to in this section as “the tax charge periods”),
 - (d) there is a change in the persons carrying on the trade at any time between the beginning of the first of those tax charge periods and the end of the last of them, and
 - (e) the partnership condition and the continuity condition are met.
- (2) The partnership condition is that—
- (a) the trader is a firm at the time of the sale, or
 - (b) the trade is carried on in partnership at any time between the beginning of the first of the tax charge periods and the end of the last of them.
- (3) The continuity condition is—
- (a) in the case of an amount chargeable under section 912, that a company which carried on the trade in partnership immediately before the change continues to carry it on in partnership after the change, or
 - (b) in the case of an amount chargeable under section 587 of ITTOIA 2005, that a person who carried on the trade immediately before the change continues to carry it on after the change.
- (4) Any amounts chargeable in respect of the proceeds or instalment that would (apart from this section) be treated in accordance with Chapter 3 of Part 9 of this Act or Chapter 2 of Part 5 of ITTOIA 2005 as profits of the seller of the patent rights chargeable in tax charge periods falling wholly after the change are treated for corporation tax purposes—
- (a) as proceeds, arising at a constant daily rate during the remainder of the relevant period, of a sale of patent rights by the person or persons carrying on the trade after the change, and

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- (b) if the trade is carried on in partnership after the change, as arising to the partners in shares calculated in accordance with the firm's profit-sharing arrangements.
- (5) If the change occurs during the course of a tax charge period—
- (a) any company that would, but for this section, have been charged to corporation tax in that period on a sum (“S”) in respect of the proceeds or instalment is so charged on a fraction of S proportionate to the length of the part of the period before the change, and
 - (b) the balance of S not dealt with under paragraph (a) is treated for the purposes of this section and section 861 of ITTOIA 2005 (sale of patent rights: effect of partnership changes) as if it were an amount such as is described in subsection (4).
- (6) In this section “the remainder of the relevant period” means—
- (a) if one or more tax charge periods begins after the tax charge period in which the change occurs, the period beginning immediately after the change and ending 6 years after the beginning of the first of the tax charge periods, or
 - (b) otherwise, the period beginning immediately after the change and ending at the end of the tax charge period in which the change occurs.
- (7) In this section “profit-sharing arrangements” means the rights of the partners to share in the profits of the trade.

1272 Sale of patent rights: effect of later cessation of trade

- (1) This section applies if—
- (a) a person sells the whole or part of any patent rights in carrying on a trade,
 - (b) by virtue of section 1271 amounts are chargeable to corporation tax under section 912 as profits of one or more companies for the time being carrying on the trade in partnership,
 - (c) a partner which is a company ceases to carry on the trade after that, and
 - (d) no company which carried on the trade immediately before the cessation continues to carry on the trade in partnership immediately after the cessation.
- (2) Any amounts mentioned in subsection (1)(b) which would have been chargeable in any accounting period of a company later than that in which the cessation occurred are charged in the accounting period of the company in which the cessation occurred.

1273 Limited liability partnerships

- (1) For corporation tax purposes, if a limited liability partnership carries on a trade or business with a view to profit—
- (a) all the activities of the limited liability partnership are treated as carried on in partnership by its members (and not by the limited liability partnership as such),
 - (b) anything done by, to or in relation to the limited liability partnership for the purposes of, or in connection with, any of its activities is treated as done by, to or in relation to the members as partners, and
 - (c) the property of the limited liability partnership is treated as held by the members as partnership property.

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References in this subsection to the activities of the limited liability partnership are to anything that it does, whether or not in the course of carrying on a trade or business with a view to profit.

- (2) For all purposes, except as otherwise provided, in the Corporation Tax Acts—
- (a) references to a firm include a limited liability partnership in relation to which subsection (1) applies,
 - (b) references to members of a firm include members of such a limited liability partnership,
 - (c) references to a company do not include such a limited liability partnership, and
 - (d) references to members of a company do not include members of such a limited liability partnership.
- (3) Subsection (1) continues to apply in relation to a limited liability partnership which no longer carries on any trade or business with a view to profit—
- (a) if the cessation is only temporary, or
 - (b) during a period of winding up following a permanent cessation, provided that—
 - (i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and
 - (ii) the period of winding up is not unreasonably prolonged.

This is subject to subsection (4).

- (4) Subsection (1) ceases to apply in relation to a limited liability partnership—
- (a) on the appointment of a liquidator or (if earlier) the making of a winding up order by the court, or
 - (b) on the occurrence of any event under the law of a territory outside the United Kingdom corresponding to an event specified in paragraph (a).

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