



Corporation Tax Act 2009

2009 CHAPTER 4

PART 3

TRADING INCOME

Modifications etc. (not altering text)

- C1** Pt. 3 modified (1.1.2010) by [Northern Rock plc \(Tax Consequences\) Regulations 2009 \(S.I. 2009/3227\)](#), regs. 1, **4(1)**

CHAPTER 1

INTRODUCTION

34 Overview of Part

- (1) This Part applies the charge to corporation tax on income to—
 - (a) the profits of a trade (see Chapter 2), and
 - (b) post-cessation receipts arising from a trade (see Chapter 15).
- (2) Chapters 3 to 14 contain rules relevant to tax under this Part.
- (3) Chapter 16 contains rules that give priority to provisions outside this Part in relation to certain matters that fall within it.
- (4) This Part needs to be read with Parts 19 (general exemptions) and 20 (general calculation rules).

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Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Corporation Tax Act 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

CHAPTER 2

INCOME TAXED AS TRADE PROFITS

Charge to tax on trade profits

35 Charge to tax on trade profits

The charge to corporation tax on income applies to the profits of a trade.

Trades and trade profits

36 Farming and market gardening

- (1) Farming or market gardening in the United Kingdom is treated for corporation tax purposes as the carrying on of a trade or part of a trade (whether or not the land is managed on a commercial basis and with a view to the realisation of profits).
- (2) All farming in the United Kingdom carried on by a company, other than farming carried on as part of another trade, is treated for corporation tax purposes as one trade.
- (3) This section does not apply to farming or market gardening by an insurance company on land which is an asset of the company's long-term insurance fund.
- (4) In the case of farming carried on by a company as a member of a firm, this rule is explained by section 1270(1).

37 Commercial occupation of woodlands

- (1) The commercial occupation of woodlands in the United Kingdom is not a trade or part of a trade for any corporation tax purpose.
- (2) For this purpose the occupation of woodlands is commercial if the woodlands are managed—
 - (a) on a commercial basis, and
 - (b) with a view to the realisation of profits.
- (3) See also sections 208 and 980 (which, when read with this section, secure that profits or losses from the commercial occupation of woodlands in the United Kingdom are ignored for corporation tax purposes).

38 Commercial occupation of land other than woodlands

- (1) The commercial occupation of land in the United Kingdom is treated for corporation tax purposes as the carrying on of a trade or part of a trade.
- (2) For this purpose the occupation of land is commercial if the land is managed—
 - (a) on a commercial basis, and
 - (b) with a view to the realisation of profits.
- (3) This section does not apply—
 - (a) to farming or market gardening (which is dealt with by section 36),

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- (b) if the land is being prepared for forestry purposes,
- (c) if the land comprises woodlands (which is dealt with by section 37), or
- (d) to the occupation by an insurance company of land which is an asset of the company's long-term insurance fund.

39 Profits of mines, quarries and other concerns

- (1) Profits or losses arising out of land in the case of a concern to which this section applies are calculated as if the concern were a trade.
- (2) Any profits arising out of the land are treated for the purposes of [F1section] 35 as profits of a trade.
- (3) Any losses arising out of the land are treated for the purposes of [F2Chapter 2 of Part 4 of CTA 2010 (trade loss relief), and Part 5 of that Act (group relief),] as losses of a trade carried on in the United Kingdom.
- (4) The concerns to which this section applies are—
 - (a) mines and quarries (including gravel pits, sand pits and brickfields),
 - (b) ironworks, gasworks, salt springs or works, alum mines or works, waterworks and streams of water,
 - (c) canals, inland navigation, docks and drains or levels,
 - (d) rights of fishing,
 - (e) rights of markets and fairs, tolls, bridges and ferries,
 - (f) railways and other kinds of way, and
 - (g) a concern of the same kind as one specified in paragraph (b), (c), (d) or (e).
- (5) But this section does not apply to a concern—
 - (a) if it is carried on by an insurance company on land which is an asset of the company's long-term insurance fund, or
 - (b) if section 38 (commercial occupation of land other than woodlands) applies to the occupation of the land out of which the profits or losses arise.

Textual Amendments

- F1** Word in s. 39(2) 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. 310](#) (with Sch. 9 paras. 1-9, 22)
- F2** Words in s. 39(3) 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. 592](#) (with Sch. 2)

40 Credit unions

- (1) If a credit union—
 - (a) makes loans to its members, or
 - (b) invests its surplus funds (by placing them on deposit or otherwise),that is not treated, in calculating the credit union's income, as the carrying on of a trade or part of a trade.
- (2) In this section “surplus funds” means funds not immediately required for the credit union's purposes.

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Starting and ceasing to trade

41 Effect of company starting or ceasing to be within charge to corporation tax

- (1) This section applies if a company starts or ceases to be within the charge to corporation tax in respect of a trade.
- (2) The company is treated for the purposes of this Part—
 - (a) as starting to carry on the trade when it starts to be within the charge, or
 - (b) as ceasing to carry on the trade when it ceases to be within the charge.

Trading income and property income

42 Tied premises

- (1) This section applies if—
 - (a) in the course of carrying on a trade a company (“the trader”) supplies, or is concerned in the supply of, goods sold or used on premises occupied by another person,
 - (b) the trader has an estate or interest in the premises,
 - (c) the estate or interest is dealt with as property employed for the purposes of the trade, and
 - (d) receipts and expenses in connection with the premises would otherwise be brought into account in calculating the profits of a property business of the trader.
- (2) Both the receipts and the expenses are instead brought into account in calculating the profits of the trade.
- (3) Any apportionment of receipts or expenses that is necessary because—
 - (a) the receipts or expenses do not relate only to the premises, or
 - (b) the above conditions are met only in relation to part of the premises,
 is to be made on a just and reasonable basis.

Modifications etc. (not altering text)

- C2** S. 42 excluded by 2006 c. 25, s. 104(3) (as inserted (with effect in accordance with Sch. 34 para. 2(2) of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 34 para. 2\(1\)](#))

43 Caravan sites where trade carried on

- (1) This section applies if—
 - (a) a company (“the trader”) carries on material activities connected with the operation of a caravan site,
 - (b) the activities are, or are part of, a trade, and
 - (c) receipts from, and expenses of, lettings of caravans or pitches for caravans on the site would otherwise be brought into account in calculating the profits of a property business of the trader.

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- (2) The trader may instead bring both the receipts and the expenses into account in calculating the profits of the trade.
- (3) But if the conditions in subsection (1)(a) and (b) are met for only part of an accounting period of the trader, subsection (2) applies only to the receipts and expenses that would otherwise be brought into account in calculating the profits of the property business for that part of the accounting period.
- (4) In this section—
 - “caravan site” means—
 - (a) land on which a caravan is stationed for the purposes of human habitation, and
 - (b) land which is used in conjunction with land on which a caravan is so stationed, and
 - “letting” includes a licence to occupy.

44 Surplus business accommodation

- (1) This section applies if—
 - (a) a company (“the trader”) carrying on a trade obtains receipts from a letting of business accommodation that is temporarily surplus to requirements (see subsections (3) and (4)),
 - (b) the accommodation is not held as trading stock,
 - (c) the receipts are in respect of part of a building of which another part is used to carry on the trade,
 - (d) the receipts are relatively small, and
 - (e) the receipts, and the expenses of the letting, would otherwise be brought into account in calculating the profits of a property business of the trader.
- (2) The trader may instead bring both the receipts and the expenses into account in calculating the profits of the trade.
- (3) Accommodation is temporarily surplus to requirements only if—
 - (a) it has been used within the last 3 years to carry on the trade or acquired within the last 3 years,
 - (b) the trader intends to use it to carry on the trade at a later date, and
 - (c) the letting is for a term of not more than 3 years.
- (4) If accommodation is temporarily surplus to requirements at the beginning of an accounting period, it continues to be temporarily surplus to requirements until the end of that period.
- (5) If under this section any of the receipts from and expenses of a letting are brought into account in calculating the profits of the trade, all subsequent receipts from and expenses of the letting must be dealt with in the same way (but only so long as this section continues to apply).
- (6) In this section “letting” includes a licence to occupy.

45 Payments for wayleaves

- (1) This section applies if—

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- (a) a company (“the trader”) carries on a trade on some or all of the land to which a wayleave relates,
 - (b) rent is receivable, or expenses are incurred, by the trader in respect of the wayleave, and
 - (c) apart from any rent or expenses in respect of a wayleave, no other receipts or expenses in respect of any of the land are brought into account in calculating the profits of any property business of the trader.
- (2) If—
- (a) the trader would otherwise be liable to tax under Chapter 8 of Part 4 in respect of the rent for the wayleave (rent receivable for UK electric-line wayleaves), or
 - (b) expenses incurred by the trader in respect of the wayleave would otherwise be brought into account in calculating profits charged under that Chapter,
- the trader may instead bring both the rent and the expenses into account in calculating the profits of the trade.
- (3) If—
- (a) rent for the wayleave would otherwise be brought into account in calculating the profits of a property business of the trader, or
 - (b) expenses incurred by the trader in respect of the wayleave would otherwise be so brought into account,
- the trader may instead bring both the rent and the expenses into account in calculating the profits of the trade.
- (4) In this section “rent” includes—
- (a) a receipt mentioned in section 207(3), and
 - (b) any other receipt in the nature of rent.
- (5) In this section “wayleave” means an easement, servitude or right in or over land which is enjoyed in connection with—
- (a) an electric, telegraph or telephone wire or cable,
 - (b) a pipe for the conveyance of any thing, or
 - (c) any apparatus used in connection with such a pipe.
- (6) The reference to the enjoyment of an easement, servitude or right in connection with an electric, telegraph or telephone wire or cable includes (in particular) its enjoyment in connection with—
- (a) a pole or pylon supporting such a wire or cable, or
 - (b) apparatus used in connection with such a wire or cable.

CHAPTER 3

TRADE PROFITS: BASIC RULES

46 Generally accepted accounting practice

- (1) The profits of a trade must be calculated in accordance with generally accepted accounting practice, subject to any adjustment required or authorised by law in calculating profits for corporation tax purposes.

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- (2) This does not—
 - (a) require a company to comply with the requirements of the Companies Act 2006 (c. 46) or subordinate legislation made under that Act except as to the basis of calculation, or
 - (b) impose any requirements as to audit or disclosure.
- (3) This section does not affect any provisions of the Corporation Tax Acts—
 - (a) relating to the calculation of the profits of—
 - (i) Lloyd's underwriters, or
 - (ii) the life assurance business of insurance companies, or
 - (b) otherwise laying down special rules for the calculation of the profits of a particular description of business.

47 Losses calculated on same basis as profits

- (1) The same rules apply for corporation tax purposes in calculating losses of a trade as apply in calculating profits.
- (2) This is subject to any express provision to the contrary.

48 Receipts and expenses

- (1) In the Corporation Tax Acts, in the context of the calculation of the profits of a trade, references to receipts and expenses are to any items brought into account as credits or debits in calculating the profits.
- (2) It follows that references in that context to receipts or expenses do not imply that an amount has actually been received or paid.
- (3) This section is subject to any express provision to the contrary.

49 Items treated as receipts and expenses

The rules for calculating the profits of a trade need to be read with—

- (a) the provisions of CAA 2001 which treat allowances as expenses of a trade,
- (b) the provisions of CAA 2001 which treat charges as receipts of a trade,
- (c) section 297 (credits and debits in respect of a loan relationship to which a company is a party for the purposes of a trade it carries on treated as receipts and expenses of the trade),
- (d) section 573 (credits and debits in respect of a derivative contract to which a company is a party for the purposes of a trade it carries on treated as receipts and expenses of the trade),
- (e) section 747 (credits and debits in respect of an intangible fixed asset held by a company for the purposes of a trade it carries on treated as receipts and expenses of the trade), and
- (f) section 749 (credits and debits in respect of an intangible fixed asset held by a company for the purposes of a section 39(4) concern which it carries on treated as receipts and expenses of the concern).

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50 Animals kept for trade purposes

- (1) Animals or other living creatures kept for the purposes of a trade are treated as trading stock if they are not kept wholly or mainly—
 - (a) for the work they do in connection with the carrying on of the trade,
 - (b) for public exhibition, or
 - (c) for racing or other competitive purposes.
- (2) But they are not treated as trading stock if they are part of a herd in relation to which a herd basis election has effect (see Chapter 8).
- (3) This section applies to shares in animals or other living creatures as it applies to the creatures themselves.

51 Relationship between rules prohibiting and allowing deductions

- (1) Any relevant permissive rule in this Part—
 - (a) has priority over any relevant prohibitive rule, but
 - (b) is subject to—
 - (i) section 56 (car ^{F3}... hire),
 - (ii) section 1288 (unpaid remuneration),
 - (iii) section 1290 (employee benefit contributions),
 - (iv) section 1304 (crime-related payments).
- (2) In this section “any relevant permissive rule in this Part” means any provision of—
 - (a) Chapter 5 (trade profits: rules allowing deductions), apart from sections 62 to 67,
 - (b) Chapter 7 (trade profits: gifts to charities etc),
 - (c) Chapter 9 (trade profits: other specific trades), or
 - (d) Chapter 12 (deductions from profits: unremittable amounts),
 which allows a deduction in calculating the profits of a trade.
- (3) In this section “any relevant prohibitive rule”, in relation to any deduction, means any provision of this Part or Chapter 1 of Part 20 (apart from those mentioned in subsection (1)(b)) which might otherwise be read as—
 - (a) prohibiting or deferring the deduction, or
 - (b) restricting the amount of the deduction.

Textual Amendments

F3 Words in s. 51(1)(b)(i) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 46](#)

52 Apportionment etc of profits and losses to accounting period

- (1) This section applies if a period of account of a trade does not coincide with an accounting period.
- (2) Any of the following steps may be taken if they are necessary in order to arrive at the profits or losses of the accounting period—

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- (a) apportioning the profits or losses of a period of account to the parts of that period falling in different accounting periods, and
 - (b) adding the profits or losses of a period of account (or part of a period) to profits or losses of other periods of account (or parts).
- (3) The steps must be taken by reference to the number of days in the periods concerned.

CHAPTER 4

TRADE PROFITS: RULES RESTRICTING DEDUCTIONS

53 Capital expenditure

- (1) In calculating the profits of a trade, no deduction is allowed for items of a capital nature.
- (2) Subsection (1) is subject to provision to the contrary in the Corporation Tax Acts.

54 Expenses not wholly and exclusively for trade and unconnected losses

- (1) In calculating the profits of a trade, no deduction is allowed for—
 - (a) expenses not incurred wholly and exclusively for the purposes of the trade, or
 - (b) losses not connected with or arising out of the trade.
- (2) If an expense is incurred for more than one purpose, this section does not prohibit a deduction for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purposes of the trade.

55 Bad debts

- (1) This section applies to non-money debts to which neither Part 7 (derivative contracts) nor Part 8 (intangible fixed assets) applies.
- (2) In calculating the profits of a company's trade, no deduction is allowed in respect of a non-money debt owed to the company, except—
 - (a) by way of impairment loss, or
 - (b) so far as the debt is released wholly and exclusively for the purposes of the trade as part of a statutory insolvency arrangement.
- (3) In this section “non-money debt” means a debt which is not a money debt for the purposes of Part 5 (loan relationships).

56 Car^{F4} ... hire

- (1) Subsection (2) applies if, in calculating the profits of a trade, a deduction is allowed for expenses incurred on the hiring of a car [^{F5}which is not—
 - (a) a car that is first registered before 1 March 2001,
 - (b) a car that has low CO₂ emissions,
 - (c) a car that is electrically propelled, or
 - (d) a qualifying hire car.]

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- (2) The amount of the deduction which would otherwise be allowable is reduced by [^{F6}15%].
- (3) Subsection (4) applies if a deduction is reduced as a result of subsection (2), or a corresponding provision, and subsequently—
- (a) there is a rebate (however described) of the hire charges, or
 - (b) a debt in respect of any of the hire charges is released otherwise than as part of a statutory insolvency arrangement.
- (4) The amount that, as a result of the rebate or release—
- (a) is brought into account as a receipt of the trade, or
 - (b) is treated as a post-cessation receipt under section 193 (debts released after cessation),
- is reduced by [^{F7}15%].
- (5) In this section “corresponding provision” means—
- (a) section 1251(2) (car ^{F8}... hire: expenses of management),
 - (b) section 48(2) of ITTOIA 2005 (car ^{F9}... hire: trade profits and property income), or
 - (c) section 76ZN(2) of ICTA (car ^{F10}... hire: expenses of insurance companies).

^{F11}(6)

Textual Amendments

- F4** Words in s. 56 heading omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act)) by virtue of [Finance Act 2009 \(c. 10\)](#), Sch. 11 para. 47(7)
- F5** Words in s. 56(1) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 47\(2\)](#)
- F6** Word in s. 56(2) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 47\(3\)](#)
- F7** Word in s. 56(4) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 47\(4\)](#)
- F8** Words in s. 56(5)(a) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 47\(5\)](#)
- F9** Words in s. 56(5)(b) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 47\(5\)](#)
- F10** Words in s. 56(5)(c) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 47\(5\)](#)
- F11** S. 56(6) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 47\(6\)](#)

57 Car ^{F12}... hire: supplementary

- (1) In section 56 “car ^{F13}...” means a mechanically propelled road vehicle other than ^{F14}...—
- [^{F15}(za) a motor cycle (within the meaning of section 185(1) of the Road Traffic Act 1988),]
- (a) [^{F16}a vehicle] of a construction primarily suited for the conveyance of goods or burden of any description, or
 - (b) [^{F17}a vehicle] of a type not commonly used as a private vehicle and unsuitable for such use.

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[^{F18}(1A) In section 56—

“ a car that has low CO2 emissions ” has the same meaning as in section 104AA of CAA 2001 (special rate expenditure: main rate car);

“ electrically propelled ” has the meaning given in section 268B of that Act.]

(2) In section 56 “a qualifying hire car ^{F19}...” means a car ^{F19}... which—

(a) is hired under a hire-purchase agreement ^{F20}... under which there is no option to purchase,

(b) is hired under a hire-purchase agreement under which there is an option to purchase exercisable on the payment of a sum equal to not more than 1% of the retail price of the car ^{F19}... when new, or

^{F21}(c)

[^{F22}(d) is leased under a long-funding lease (within the meaning of section 70G of CAA 2001).]

[^{F23}(3) For this purpose “hire-purchase agreement” has the meaning given by section 1129 of CTA 2010.]

(6) In this section ^{F24}... “new” means unused and not second-hand.

Textual Amendments

- F12** Words in s. 57 omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(6\)](#)
- F13** Words in s. 57(1) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(2\)\(a\)](#)
- F14** Word in s. 57(1) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(2\)\(b\)](#)
- F15** S. 57(1)(za) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(2\)\(c\)](#)
- F16** Words in s. 57(1)(a) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(2\)\(d\)](#)
- F17** Words in s. 57(1)(b) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(2\)\(d\)](#)
- F18** S. 57(1A) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(3\)](#)
- F19** Words in s. 57(2) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(4\)\(a\)](#)
- F20** Words in s. 57(2)(a) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F21** S. 57(2)(c) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(4\)\(b\)](#)
- F22** S. 57(2)(d) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(4\)\(c\)](#)
- F23** S. 57(3) substituted for s. 57(3)-(5) (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. 593\(b\)](#) (with [Sch. 2](#))
- F24** Words in s. 57(6) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 48\(5\)](#)

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^{F25}58 Hiring cars (but not motor cycles) with low CO₂ emissions before 1 April 2013

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Textual Amendments

F25 S. 58 omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of Finance Act 2009 (c. 10), **Sch. 11 para. 49**

[^{F26}58A Short-term hiring in and long-term hiring out

- (1) Section 56 does not apply to expenses incurred by a company (“the taxpayer”) on the hiring of a car if condition A or B is met.
- (2) Condition A is that—
 - (a) the expenses are incurred in respect of the making available of the car to the taxpayer for a period (“the hire period”) of not more than 45 consecutive days, and
 - (b) if the car is made available to the taxpayer (whether by the same person or different persons) for one or more periods linked to the hire period, the hire period and the linked period or periods, taken together, consist of not more than 45 days.
- (3) Condition B is that the expenses are incurred in respect of a period (“the sub-hire period”) throughout which the taxpayer makes the car available to another person (“the customer”) and—
 - (a) the sub-hire period consists of more than 45 consecutive days, or
 - (b) if the taxpayer makes the car available to the customer throughout one or more periods linked to the sub-hire period, the sub-hire period and the linked period or periods, taken together, consist of more than 45 days,
 but see subsection (4).
- (4) Condition B is not met if—
 - (a) the customer is an employee or officer of the taxpayer or of a person connected with the taxpayer, or
 - (b) during all or part of the sub-hire period (or any period linked to the sub-hire period), the customer makes any car available to an employee or officer of the taxpayer under arrangements with the taxpayer or with a person connected with the taxpayer.
- (5) Neither condition A nor condition B is met if the car is hired under arrangements the purpose, or one of the main purposes, of which is—
 - (a) to disapply or reduce the effect of section 56, or
 - (b) other avoidance of tax.
- (6) For the purposes of condition B the expenses incurred by the taxpayer on the hiring of the car must be apportioned between—
 - (a) the sub-hire period, and
 - (b) the remainder of the period during which the car is made available to the taxpayer,
 according to the respective lengths of those periods.

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- (7) A period of consecutive days (“the main period”) is linked to—
- (a) a period of consecutive days that ends not more than 14 days before the main period begins,
 - (b) a period of consecutive days that begins not more than 14 days after the main period ends, and
 - (c) a period of consecutive days linked to a period in paragraph (a) or (b).
- (8) For the purposes of this section, where arrangements for the hiring of a car include arrangements for the provision of a replacement car in the event that the first car is not available, the first car and any replacement car are to be treated as if they were the same car.
- (9) In this section (and section 58B) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable and whether involving a single transaction or two or more transactions.]

Textual Amendments

F26 Ss. 58A, 58B inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 50](#)

[^{F26}58B Connected persons: application of section 56

- (1) This section applies where connected persons incur expenses on the hiring of the same car for the same period and—
- (a) section 56 would (but for this section) apply to the expenses of two or more of those persons, or
 - (b) section 56 and section 48 of ITTOIA 2005 would (but for this section and section 50B of that Act) each apply to the expenses of at least one of those persons.
- (2) This section only applies where one or more of the persons mentioned in subsection (1) (a) or (b) incurs the expenses under commercial arrangements (and such a person is referred to below as a “commercial lessee”).
- (3) In relation to the expenses mentioned in subsection (1) to which section 56 would (but for this section) apply, section 56 only applies to the following—
- (a) where there is one commercial lessee, any such expenses incurred by that lessee, and
 - (b) where there is more than one, any such expenses incurred by the first commercial lessee in the chain of arrangements for the hiring of the car for the period.
- (4) In this section—
- (a) references to expenses incurred by a commercial lessee include expenses incurred in that or any other capacity, and
 - (b) “commercial arrangements” means arrangements the terms of which are such as would reasonably have been expected if the parties to the arrangements had been dealing at arm's length.]

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Textual Amendments

- F26** Ss. 58A, 58B inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 50](#)

59 Patent royalties

In calculating the profits of a trade, no deduction is allowed for royalties or other sums paid for the use of patents.

60 Expenditure on integral features

Section 33A(3) of CAA 2001 provides that no deduction is allowed in respect of certain expenditure on an integral feature of a building or structure (within the meaning of that section).

CHAPTER 5

TRADE PROFITS: RULES ALLOWING DEDUCTIONS

Pre-trading expenses

61 Pre-trading expenses

- (1) This section applies if a company incurs expenses for the purposes of a trade before (but not more than 7 years before) the date on which the company starts to carry on the trade (“the start date”).
- (2) If, in calculating the profits of the trade—
 - (a) no deduction would otherwise be allowed for the expenses, but
 - (b) a deduction would be allowed for them if they were incurred on the start date, the expenses are treated as if they were incurred on the start date (and therefore a deduction is allowed for them).
- (3) This section does not apply to any expenses in relation to which—
 - (a) any debit falls, or
 - (b) any debit would fall but for section 330 (loan relationships: debits in respect of pre-trading expenditure),
 to be brought into account for the purposes of Part 5 (loan relationships).

Modifications etc. (not altering text)

- C3** S. 61 excluded (with effect in accordance with Sch. 7 paras. 27, 28 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 7 para. 28](#)

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Tenants under taxed leases

62 Tenants under taxed leases: introduction

- (1) Sections 63 to 67 apply if land used in connection with a trade is subject to a taxed lease.
- (2) Section 63 (tenants occupying land for purposes of trade treated as incurring expenses) applies in calculating the profits of a trade carried on by the tenant under the taxed lease for the purpose of making deductions for the expenses of the trade.
- (3) But any deduction for an expense under section 63 is subject to the application of any provision of Chapter 4 of this Part.
- (4) In this section and sections 63 to 67 the following expressions have the same meaning as in Chapter 4 of Part 4 (profits of property businesses: lease premiums etc)—
 - “receipt period” (see section 228(6)),
 - “taxed lease” (see section 227(4)),
 - “taxed receipt” (see section 227(4)), and
 - “unreduced amount” (see section 230(2)).
- (5) Section 230(3) and (4) (unreduced amount of taxed receipt under section 217 as a result of section 218) applies for the purposes of sections 63 to 67.
- (6) In the application of sections 66 and 67 to Scotland—
 - (a) references to a lease being granted out of a taxed lease are to the grant of a sublease of land subject to the taxed lease, and
 - (b) references to the lease so granted are to be read as references to the sublease.

63 Tenants occupying land for purposes of trade treated as incurring expenses

- (1) The tenant under the taxed lease is treated as incurring an expense of a revenue nature in respect of the land subject to the taxed lease for each qualifying day.
- (2) If there is more than one taxed receipt, this section applies separately in relation to each of them.
- (3) A day is a “qualifying day”, in relation to a taxed receipt, if it is a day—
 - (a) that falls within the receipt period of the taxed receipt, and
 - (b) on which the tenant occupies the whole or part of the land subject to the taxed lease for the purposes of carrying on a trade.
- (4) If on the qualifying day the tenant occupies the whole of the land subject to the taxed lease for the purposes of the trade, the amount of the expense for the qualifying day by reference to the taxed receipt is given by the formula—

$$\frac{A}{\text{TRP}}$$

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where—

A is the unreduced amount of the taxed receipt, and

TRP is the number of days in the receipt period of the taxed receipt.

- (5) If on the qualifying day the tenant occupies part of the land subject to the taxed lease for the purposes of the trade, the amount of the expense for the qualifying day by reference to the taxed receipt is given by the formula—

$$\frac{F \times A}{\text{TRP}}$$

where—

F is the fraction of the land that is so occupied calculated on a just and reasonable basis, and

A and TRP have the same meaning as in subsection (4).

- (6) This section is subject to section 64 (limit on deductions if tenant entitled to mineral extraction allowance).

64 Limit on deductions if tenant entitled to mineral extraction allowance

- (1) This section applies if the tenant under the taxed lease has become entitled, in respect of expenditure on the acquisition of an interest in the land subject to the taxed lease, to an allowance for an accounting period under Part 5 of CAA 2001 (mineral extraction allowances) in respect of expenditure falling within section 403 of that Act (qualifying expenditure on acquiring a mineral asset).
- (2) If the allowance is in respect of the whole of the expenditure, no deduction is allowed for expenses under section 63 for a qualifying day falling within that or a later accounting period.
- (3) If the allowance is in respect of only part of the expenditure (“the allowable part”) the amount of the deduction for expenses under section 63 for a qualifying day falling within that or a later accounting period is calculated by multiplying the amount that, apart from this section, would be the amount of the deduction for the qualifying day by—

$$\frac{\text{WE} - \text{AP}}{\text{WE}}$$

where—

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WE is the whole of the expenditure, and

AP is the allowable part of the expenditure.

65 Tenants dealing with land as property employed for purposes of trade

- (1) This section applies if the tenant under the taxed lease—
 - (a) does not occupy the land subject to the taxed lease, or a part of it, but
 - (b) deals with its interest in the land, or the part of it, as property employed for the purposes of carrying on a trade.
- (2) Section 63 applies as if the land or the part of it were occupied by the tenant for the purposes of the trade.
- (3) But the tenant is not treated as incurring an expense in respect of the land for a qualifying day as a result of this section so far as the tenant is treated as incurring an expense under section 232 (tenants under taxed leases treated as incurring expenses) in respect of the land for the day in calculating the profits of the tenant's property business.
- (4) This section is subject to sections 66 and 67 (restrictions on section 63 expenses where the additional calculation rule is relevant).

66 Restrictions on section 63 expenses: lease premium receipts

- (1) This section applies if a lease has been granted out of the taxed lease and—
 - (a) in calculating the amount of a receipt of a property business under Chapter 4 of Part 4 (profits of property businesses: lease premiums etc) in respect of the lease, there is a reduction under section 228 (the additional calculation rule) by reference to the taxed receipt, or
 - (b) in calculating the amount of a receipt of a property business under Chapter 4 of Part 3 of ITTOIA 2005 (profits of property businesses: lease premiums etc) in respect of the lease, there is a reduction under section 288 of that Act (the additional calculation rule) by reference to the taxed receipt.

In this section and section 67 the receipt that is so reduced is referred to as a “lease premium receipt”.

- (2) Subsections (3) to (5) provide for the application of section 63 as a result of section 65 for a qualifying day that falls within the receipt period of the lease premium receipt.
- (3) The tenant under the taxed lease is treated as incurring an expense under section 63 as a result of section 65 for the qualifying day by reference to the taxed receipt only if the daily amount of the taxed receipt exceeds the daily reduction of the lease premium receipt.
- (4) If the condition in subsection (3) is met, the amount of that expense for the qualifying day by reference to the taxed receipt is equal to that excess.
- (5) If the qualifying day falls within the receipt period of more than one lease premium receipt, the reference in subsection (3) to the daily reduction of the lease premium receipt is to be read as a reference to the total of the daily reductions of each of the lease premium receipts whose receipt period includes the qualifying day.

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- (6) In this section—
 the “daily amount” of the taxed receipt is given by the formula—

$$\frac{A}{\text{TRP}}$$

where—

A is the unreduced amount of the taxed receipt, and

TRP is the number of days in the receipt period of the taxed receipt, and
 the “daily reduction” of a lease premium receipt is given by the formula—

$$\frac{\text{AR}}{\text{RRP}}$$

where—

AR is the reduction under section 228 below or section 288 of ITTOIA 2005 by reference to the taxed receipt, and

RRP is the number of days in the receipt period of the lease premium receipt.

- (7) In this section references to a reduction under section 228 below or section 288 of ITTOIA 2005 by reference to a taxed receipt have the same meaning as in Chapter 4 of Part 4 (see section 230(6)).
- (8) Section 67 explains how this section operates if the lease does not extend to the whole of the premises subject to the taxed lease.

67 Restrictions on section 63 expenses: lease of part of premises

- (1) This section applies if—
- (a) section 66 applies, and
 - (b) the lease granted out of the taxed lease does not extend to the whole of the premises subject to the taxed lease.
- (2) Subsections (3) to (5) apply for a qualifying day that falls within the receipt period of the lease premium receipt.
- (3) Sections 63, 65 and 66 apply separately in relation to the part of the premises subject to the lease and to the remainder of the premises.
- (4) If—

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- (a) more than one lease that does not extend to the whole of the premises subject to the taxed lease has been granted out of the taxed lease, and
- (b) the qualifying day falls within the receipt period of two or more lease premium receipts that relate to different leases,

sections 63, 65 and 66 apply separately in relation to each part of the premises subject to a lease to which such a lease premium receipt relates and to the remainder of the premises.

- (5) Where sections 63, 65 and 66 apply in relation to a part of the premises, A becomes the amount calculated by multiplying the unreduced amount of the taxed receipt by the fraction of the premises constituted by the part.
- (6) This fraction is calculated on a just and reasonable basis.

Renewals

68 Replacement and alteration of trade tools

- (1) This section applies if—
 - (a) expenses are incurred on replacing or altering any tool used for the purposes of a trade, and
 - (b) a deduction for the expenses would not otherwise be allowable in calculating the profits of the trade because (and only because) they are items of a capital nature.
- (2) In calculating the profits of the trade, a deduction is allowed for the expenses.
- (3) In this section “tool” means any implement, utensil or article.

Payments for restrictive undertakings

69 Payments for restrictive undertakings

- (1) In calculating the profits of a trade, a deduction is allowed for a payment—
 - (a) which is treated as earnings of an employee by virtue of section 225 of ITEPA 2003 (payments for restrictive undertakings), and
 - (b) which is made, or treated as made for the purposes of section 226 of that Act (valuable consideration given for restrictive undertakings), by the company carrying on the trade.
- (2) The deduction is allowed for the accounting period in which the payment—
 - (a) is made, or
 - (b) is treated as made for the purposes of section 226 of ITEPA 2003.

Seconded employees

70 Employees seconded to charities and educational establishments

- (1) This section applies if a company carrying on a trade (“the employer”) makes the services of a person employed for the purposes of the trade available to—
 - (a) a charity, or

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- (b) an educational establishment,
on a basis that is stated and intended to be temporary.
- (2) In calculating the profits of the trade, a deduction is allowed for expenses of the employer that are attributable to the employee's employment during the period of the secondment.
- (3) In this section—
 - “educational establishment” means—
 - (a) in England and Wales, any of the bodies mentioned in section 71(1),
 - (b) in Scotland, any of the bodies mentioned in section 71(2),
 - (c) in Northern Ireland, any of the bodies mentioned in section 71(3), and
 - (d) any other educational body which is for the time being approved for the purposes of this section by the Secretary of State or, in Northern Ireland, the Department of Education, and
 - “the period of the secondment” means the period for which the employee's services are made available to the charity or educational establishment.

71 Educational establishments

- (1) A body in England and Wales is an educational establishment for the purposes of section 70 if it is—
 - (a) a local education authority,
 - (b) an educational institution maintained or otherwise supported by a local education authority,
 - (c) an independent school within the meaning of the Education Act 1996 (c. 56) registered under section 161 of the Education Act 2002 (c. 32), or
 - (d) an institution within the further education sector, or the higher education sector, within the meaning of the Further and Higher Education Act 1992 (c. 13).
- (2) A body in Scotland is an educational establishment for the purposes of section 70 if it is—
 - (a) an education authority within the meaning of the Education (Scotland) Act 1980 (c. 44),
 - (b) an educational establishment within the meaning of the Education (Scotland) Act 1980 managed by an education authority within the meaning of that Act,
 - (c) a public or grant-aided school within the meaning of the Education (Scotland) Act 1980,
 - (d) an independent school within the meaning of the Education (Scotland) Act 1980,
 - (e) a central institution within the meaning of the Education (Scotland) Act 1980 (c. 44),
 - (f) an institution within the higher education sector within the meaning of section 56(2) of the Further and Higher Education (Scotland) Act 1992 (c. 37), or
 - (g) a college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992.
- (3) A body in Northern Ireland is an educational establishment for the purposes of section 70 if it is—

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- (a) an education and library board within the meaning of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)),
- (b) a college of education, a grant-aided school or an independent school within the meaning of the Education and Libraries (Northern Ireland) Order 1986, or
- (c) an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).

Contributions to agents' expenses

72 Payroll deduction schemes: contributions to agents' expenses

- (1) This section applies if—
 - (a) a company carrying on a trade (“the employer”) is liable to make payments to an individual,
 - (b) income tax falls to be deducted from those payments as a result of PAYE regulations, and
 - (c) the employer withholds sums from those payments in accordance with an approved scheme and pays the sums to an approved agent.
- (2) In calculating the profits of the employer's trade, a deduction is allowed for expenses incurred by the employer in making a payment to the agent for expenses which—
 - (a) have been incurred, or
 - (b) are to be incurred,by the agent in connection with the agent's functions under the scheme.
- (3) In this section “approved agent” and “approved scheme” have the same meaning as in section 714 of ITEPA 2003.

Counselling and retraining expenses

73 Counselling and other outplacement services

- (1) In calculating the profits of a trade, a deduction is allowed for counselling expenses if—
 - (a) the company carrying on the trade (“the employer”) incurs the expenses,
 - (b) the expenses are incurred in relation to a person (“the employee”) who holds or has held an office or employment under the employer for the purposes of the trade, and
 - (c) the relevant conditions are met.
- (2) In this section “counselling expenses” means expenses incurred—
 - (a) in the provision of services to the employee in connection with the cessation of the office or employment,
 - (b) in the payment or reimbursement of fees for such provision, or
 - (c) in the payment or reimbursement of travelling expenses in connection with such provision.
- (3) In this section “the relevant conditions” means—
 - (a) conditions A to D for the purposes of section 310 of ITEPA 2003 (employment income exemptions: counselling and other outplacement services), and

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- (b) in the case of travel expenses, condition E for those purposes.

74 Retraining courses

- (1) In calculating the profits of a trade, a deduction is allowed for retraining course expenses if—
- (a) the company carrying on the trade (“the employer”) incurs the expenses,
 - (b) they are incurred in relation to a person (“the employee”) who holds or has held an office or employment under the employer for the purposes of the trade, and
 - (c) the relevant conditions are met.
- (2) In this section—
- “retraining course expenses” means expenses incurred in the payment or reimbursement of retraining course expenses within the meaning given by section 311(2) of ITEPA 2003, and
- “the relevant conditions” means—
- (a) the conditions in subsections (3) and (4) of section 311 of ITEPA 2003 (employment income exemptions: retraining courses), and
 - (b) in the case of travel expenses, the conditions in subsection (5) of that section.

75 Retraining courses: recovery of tax

- (1) This section applies if—
- (a) an employer's liability to corporation tax for an accounting period is determined on the assumption that a deduction for expenditure is allowed under section 74, and
 - (b) the deduction would not otherwise have been allowed.
- (2) If, subsequently—
- (a) the condition in section 311(4)(a) of ITEPA 2003 is not met because of the employee's failure to begin the course within the period of one year after ceasing to be employed, or
 - (b) the condition in section 311(4)(b) of ITEPA 2003 is not met because of the employee's continued employment or re-employment,
- an assessment of an amount or further amount of corporation tax due as a result of the condition not being met may be made under paragraph 41 of Schedule 18 to FA 1998.
- (3) Such an assessment must be made before the end of the period of 6 years immediately following the end of the accounting period in which the failure to meet the condition occurred.
- (4) If subsection (2) applies, the employer must give an officer of Revenue and Customs a notice containing particulars of—
- (a) the employee's failure to begin the course,
 - (b) the employee's continued employment, or
 - (c) the employee's re-employment,
- within 60 days of coming to know of it.

^{F27}(5)

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F27(6)

Textual Amendments

F27 S. 75(5)(6) omitted (13.8.2009) by virtue of [Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, [Sch. para. 55](#)

Redundancy payments etc

76 Redundancy payments and approved contractual payments

- (1) Sections 77 to 79 apply if—
 - (a) a company (“the employer”) makes a redundancy payment or an approved contractual payment to another person (“the employee”), and
 - (b) the payment is in respect of the employee's employment wholly in the employer's trade or partly in the employer's trade and partly in one or more other capacities.
- (2) For the purposes of this section and sections 77 to 81 “redundancy payment” means a redundancy payment payable under—
 - (a) Part 11 of the Employment Rights Act 1996 (c. 18), or
 - (b) Part 12 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).
- (3) For the purposes of this section and those sections—

“contractual payment” means a payment which, under an agreement, an employer is liable to make to an employee on the termination of the employee's contract of employment, and

a contractual payment is “approved” if, in respect of that agreement, an order is in force under—

 - (a) section 157 of the Employment Rights Act 1996, or
 - (b) Article 192 of the Employment Rights (Northern Ireland) Order 1996.

77 Payments in respect of employment wholly in employer's trade

- (1) This section applies if—
 - (a) the payment is in respect of the employee's employment wholly in the employer's trade, and
 - (b) no deduction would otherwise be allowable for the payment.
- (2) In calculating the profits of the trade, a deduction is allowed under this section for the payment.
- (3) The deduction under this section for an approved contractual payment must not exceed the amount which would have been due to the employee if a redundancy payment had been payable.
- (4) If the payment is made after the employer has permanently ceased to carry on the trade, it is treated as made on the last day on which the employer carried on the trade.

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- (5) If there is a partnership change, subsection (4) does not apply 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.
- (6) The reference in subsection (5) to a partnership change is to a change in the persons carrying on the trade in circumstances where the trade is carried on by persons in partnership immediately before or immediately after the change (or at both those times).
- (7) The deduction under this section is allowed for the accounting period in which the payment is made (or treated under subsection (4) as made).

78 Payments in respect of employment in more than one capacity

- (1) This section applies if the payment is in respect of the employee's employment with the employer—
 - (a) partly in the employer's trade, and
 - (b) partly in one or more other capacities.
- (2) The amount of the redundancy payment, or the amount which would have been due if a redundancy payment had been payable, is to be apportioned on a just and reasonable basis between—
 - (a) the employment in the trade, and
 - (b) the employment in the other capacities.
- (3) The part of the payment apportioned to the employment in the trade is treated as a payment in respect of the employee's employment wholly in the trade for the purposes of section 77.

79 Additional payments

- (1) This section applies if the employer permanently ceases to carry on a trade or part of a trade and makes a payment to the employee in addition to—
 - (a) the redundancy payment, or
 - (b) if an approved contractual payment is made, the amount that would have been due if a redundancy payment had been payable.
- (2) If, in calculating the profits of the trade—
 - (a) no deduction would otherwise be allowable for the additional payment, but
 - (b) a deduction would be allowable for it if the employer had not permanently ceased to carry on the trade or the part of the trade,
 a deduction is allowed under this section for the additional payment.
- (3) The deduction under this section is limited to 3 times the amount of—
 - (a) the redundancy payment, or
 - (b) if an approved contractual payment is made, the amount that would have been due if a redundancy payment had been payable.
- (4) If the payment is made after the employer has permanently ceased to carry on the trade or the part of the trade, it is treated as made on the last day on which the employer carried on the trade or the part of the trade.

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- (5) The deduction under this section is allowed for the accounting period in which the payment is made (or treated under subsection (4) as made).

80 Application of section 79 in cases involving partnerships

- (1) This section deals with the application of section 79 in circumstances where—
- (a) there is a change in the persons carrying on a trade, and
 - (b) the trade is carried on by persons in partnership before or after the change (or at both those times).
- (2) The employer is treated for the purposes of section 79 as permanently ceasing to carry on the trade unless a company carrying on the trade in partnership immediately before the change continues to carry it on in partnership after the change.

81 Payments made by the Government

- (1) This section applies if, in respect of a redundancy payment or an approved contractual payment payable by an employer—
- (a) the Secretary of State makes a payment under section 167 of the Employment Rights Act 1996 (c. 18), or
 - (b) the Department for Employment and Learning makes a payment under Article 202 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).
- (2) So far as the employer reimburses the Secretary of State or Department for the payment, sections 77 to 80 apply as if the payment were—
- (a) a redundancy payment, or
 - (b) an approved contractual payment,
- made by the employer.

Contributions to local enterprise organisations or urban regeneration companies

82 Contributions to local enterprise organisations or urban regeneration companies

- (1) This section applies if a company carrying on a trade (“the contributor”) incurs expenses in making a contribution (whether in cash or in kind)—
- (a) to a local enterprise organisation (see section 83), or
 - (b) to an urban regeneration company (see section 86),
- and a deduction would not otherwise be allowable for the expenses in calculating the profits of the trade.
- (2) In calculating the profits of the trade, a deduction is allowed under this section for the expenses.
- (3) But if, in connection with the making of the contribution, the contributor or a connected person—
- (a) receives a disqualifying benefit of any kind, or
 - (b) is entitled to receive such a benefit,
- the amount of the deduction is restricted to the amount of the expenses less the value of the benefit.

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- (4) For this purpose it does not matter whether a person receives, or is entitled to receive, the benefit—
- (a) from the local enterprise organisation or urban regeneration company concerned, or
 - (b) from anyone else.
- (5) Subsection (6) applies if—
- (a) a deduction has been made under this section, and
 - (b) the contributor or a connected person receives a disqualifying benefit that is in any way attributable to the contribution.
- (6) An amount equal to the value of the benefit (so far as not brought into account in determining the amount of the deduction)—
- (a) is brought into account in calculating the profits of the trade, as a receipt arising in the accounting period in which the benefit is received, or
 - (b) if the contributor has permanently ceased to carry on the trade before the benefit is received, is treated as a post-cessation receipt (see Chapter 15).
- (7) In this section “disqualifying benefit” means a benefit the expenses of obtaining which, if incurred by the contributor directly in a transaction at arm's length, would not be allowable as a deduction in calculating the profits of the trade.

83 Meaning of “local enterprise organisation”

- (1) For the purposes of section 82 “local enterprise organisation” means—
- (a) a local enterprise agency,
 - (b) a training and enterprise council,
 - (c) a Scottish local enterprise company, or
 - (d) a business link organisation.
- (2) “Local enterprise agency” means a body for the time being approved as a local enterprise agency for the purposes of section 82 by the relevant national authority, that is to say by—
- (a) the Secretary of State (in relation to England or Northern Ireland),
 - (b) the Scottish Ministers (in relation to Scotland), or
 - (c) the Welsh Ministers (in relation to Wales).

For further provision about approvals by the relevant national authority, see sections 84 and 85.

- (3) “Training and enterprise council” means a body with which the Secretary of State has an agreement under which the body is to carry out the functions of a training and enterprise council.
- (4) “Scottish local enterprise company” means a company with which—
- (a) Scottish Enterprise, or
 - (b) Highlands and Islands Enterprise,
- has an agreement under which the company is to carry out the functions of a local enterprise company.

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- (5) “Business link organisation” means a person authorised by or on behalf of the Secretary of State to use a trade mark designated by the Secretary of State for the purposes of this subsection.

84 Approval of local enterprise agencies

- (1) The relevant national authority may approve a body as a local enterprise agency for the purposes of section 82 only if conditions A and B are met.
- (2) But if those conditions are met, the body may be approved—
- (a) whatever its status or structure, and
 - (b) even if it is not described as a local enterprise agency.
- (3) Condition A is that the relevant national authority is satisfied—
- (a) that the body's sole aim is the promotion or encouragement of local enterprise, or
 - (b) that one of the body's main aims is the promotion or encouragement of local enterprise and that it has or is about to have a separate fund for the sole purpose of pursuing that aim.
- (4) For this purpose “local enterprise” means industrial and commercial activity or enterprise in a particular area in the United Kingdom, with particular reference to encouraging the formation and development of small businesses.
- (5) Condition B is that the body is precluded from paying or transferring any of its income or profit directly or indirectly—
- (a) to any of its members, or
 - (b) to any person charged with the control and direction of its affairs.
- (6) The payment of—
- (a) reasonable remuneration for goods, labour or power supplied or for services provided,
 - (b) reasonable interest on money lent, or
 - (c) reasonable rent for premises,
- does not count as a payment or transfer of income or profit for the purposes of subsection (5).

85 Supplementary provisions with respect to approvals

- (1) This section applies for the purposes of section 84.
- (2) The relevant national authority may give a body approval that is conditional on its compliance with such requirements as to—
- (a) accounts,
 - (b) provision of information, and
 - (c) other matters,
- as the relevant national authority considers appropriate.
- (3) If the relevant national authority approves a body on the basis that it has or is about to have a separate fund (see section 84(3)(b))—
- (a) the approval must specify the fund, and

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- (b) section 82 applies only to a contribution to the body made wholly to or for the purposes of the fund.
- (4) The relevant national authority must withdraw the approval of a body as a local enterprise agency if—
 - (a) condition A or B in section 84 is no longer met, or
 - (b) the body is failing to comply with a requirement imposed as a condition of its approval.
- (5) The relevant national authority must give notice of withdrawal to the body concerned, specifying the date from which the withdrawal takes effect (which may be earlier than the date on which the notice is given).

86 Meaning of “urban regeneration company”

- (1) For the purposes of section 82 “urban regeneration company” means any body of persons which the Treasury by order designates as an urban regeneration company for the purposes of that section.
- (2) A body may be so designated only if—
 - (a) its sole or main function is to co-ordinate the regeneration of a specific urban area in the United Kingdom,
 - (b) it is expected to seek to perform that function by creating a plan for the development of that area and trying to secure that the plan is carried into effect, and
 - (c) in co-ordinating the regeneration of that area, it is expected to work together with some or all local or other public authorities which exercise functions in relation to the whole or part of that area.
- (3) An order under this section may be framed so as to take effect on a date earlier than the making of the order, but not earlier than 3 months before the date on which the order is made.

Scientific research

87 Expenses of research and development

- (1) If a company carrying on a trade incurs expenses of a revenue nature on research and development—
 - (a) related to the trade, and
 - (b) directly undertaken by or on behalf of the company,
 a deduction is allowed for the expenses in calculating the profits of the trade.
- (2) For this purpose expenses incurred on research and development—
 - (a) do not include expenses incurred in the acquisition of rights in, or arising out of, research and development, but
 - (b) subject to that, include all expenses incurred in carrying out, or providing facilities for carrying out, research and development.
- (3) The reference in this section to research and development related to a trade includes—
 - (a) research and development which may lead to or facilitate an extension of the trade, and

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- (b) research and development of a medical nature which has a special relation to the welfare of workers employed in the trade.
- (4) The same expenses may not be brought into account under this section in relation to more than one trade.
- (5) In this section “research and development” has the meaning given by [^{F28}section 1138 of CTA 2010] and includes oil and gas exploration and appraisal.

Textual Amendments

F28 Words in s. 87(5) 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. 594** (with **Sch. 2**)

88 Payments to research associations, universities etc

- (1) If a company carrying on a trade—
 - (a) pays any sum to [^{F29}a body] in the case of which exemption may be claimed [^{F30}as a result of section 491 of CTA 2010 (scientific research associations)] and which has as its object the undertaking of research and development which may lead to or facilitate an extension of the appropriate class of trade, or
 - (b) pays to an approved university, college, research institute or other similar institution any sum to be used for scientific research related to the appropriate class of trade,a deduction is allowed for the sum in calculating the profits of the trade.
- (2) The deduction is allowed for the accounting period in which the payment is made.
- (3) In this section—
 - (a) “the appropriate class of trade” means the class of trade to which the trade carried on by the company belongs, and
 - (b) “scientific research” means any activities in the fields of natural or applied science for the extension of knowledge.
- (4) For the purposes of this section a university, college research institute or other similar institution is approved if it is for the time being approved for the purposes of this section by the Secretary of State.
- (5) The reference in subsection (1)(b) to scientific research related to the appropriate class of trade includes—
 - (a) scientific research which may lead to or facilitate an extension of trades of the appropriate class, and
 - (b) scientific research of a medical nature which has a special relation to the welfare of workers employed in trades of the appropriate class.
- (6) If a question arises as to—
 - (a) whether, or
 - (b) to what extent,any activities constitute or constituted scientific research, an officer of Revenue and Customs must refer the question for decision to the Secretary of State, whose decision is final.

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- (7) The same expenses may not be brought into account under this section in relation to more than one trade.

Textual Amendments

- F29** Words in s. 88(1)(a) 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. 595(a)** (with Sch. 2)
- F30** Words in s. 88(1)(a) 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. 595(b)** (with Sch. 2)

Expenses connected with patents, designs and trade marks

89 Expenses connected with patents

In calculating the profits of a trade, a deduction is allowed for expenses incurred—

- (a) in obtaining for the purposes of the trade the grant of a patent or the extension of a patent's term, or
- (b) in connection with a rejected or abandoned application for a patent made for the purposes of the trade.

90 Expenses connected with designs or trade marks

In calculating the profits of a trade, a deduction is allowed for expenses incurred in obtaining for the purposes of the trade—

- (a) the registration of a design or trade mark,
- (b) the extension of a period for which the right in a registered design subsists, or
- (c) the renewal of registration of a trade mark.

Export Credits Guarantee Department

91 Payments to Export Credits Guarantee Department

In calculating the profits of a trade, a deduction is allowed for a sum payable by the company carrying on the trade to the Export Credits Guarantee Department—

- (a) under an agreement entered into as a result of arrangements made under section 2 of the Export and Investment Guarantees Act 1991 (c. 67) (insurance in connection with overseas investment), or
- (b) with a view to entering into such an agreement.

Levies under FISMA 2000

92 Levies etc under FISMA 2000

- (1) In calculating the profits of a trade carried on by a company, a deduction is allowed for any sum—

- (a) spent by the company in paying a levy, or
- (b) paid by the company as a result of an award of costs under costs rules,

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so far as it is not otherwise allowable.

- (2) For the purposes of this section “costs rules” means—
- (a) rules made under section 230 of FISMA 2000, or
 - (b) provision relating to costs contained in the standard terms fixed under paragraph 18 of Schedule 17 to FISMA 2000.
- (3) For the purposes of this section “levy” means—
- (a) a payment required under rules made under section 136(2) of FISMA 2000,
 - (b) a levy imposed under the Financial Services Compensation Scheme,
 - (c) a payment required under rules made under section 234 of FISMA 2000,
 - (d) a payment required under the rules referred to in paragraph 14(1) of Schedule 17 to FISMA 2000 in accordance with paragraph 15(1) of that Schedule, or
 - (e) a payment required in accordance with the standard terms fixed under paragraph 18 of that Schedule (other than a sum paid as a result of an award of costs under costs rules).

CHAPTER 6

TRADE PROFITS: RECEIPTS

Capital receipts

93 Capital receipts

- (1) Items of a capital nature must not be brought into account as receipts in calculating the profits of a trade.
- (2) But this does not apply to items which, as a result of any provision of the Corporation Tax Acts, are brought into account as receipts in calculating the profits of the trade.

Debts released

94 Debts incurred and later released

- (1) This section applies if—
- (a) in calculating the profits of a trade, a deduction is allowed for the expense giving rise to a debt owed by the company carrying on the trade,
 - (b) all or part of the debt is released, and
 - (c) the release is not part of a statutory insolvency arrangement.
- (2) The amount released—
- (a) is brought into account as a receipt in calculating the profits of the trade, and
 - (b) is treated as arising in the accounting period in which the release is effected.

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Amounts received following earlier cessation

95 Acquisition of trade: receipts from transferor's trade

- (1) This section applies if —
- (a) a person (“the transferor”) permanently ceased to carry on a trade at any time,
 - (b) at that time the transferor transferred to another person (“the transferee”) the right to receive sums arising from the carrying on of the trade, and
 - (c) the transferee subsequently carries on the transferor's trade.
- (2) Sums—
- (a) which the transferee receives as a result of the transfer, and
 - (b) which are not brought into account in calculating the profits of the transferor's trade for corporation or income tax purposes of any period before the cessation,
- are brought into account in calculating the profits of the transferee's trade in the accounting period in which they are received.
- (3) Any sums mentioned in subsection (1)(b) which are received after the transferor has permanently ceased to carry on the trade are not post-cessation receipts (see Chapter 15).

Reverse premiums

96 Reverse premiums

- (1) For the purposes of sections 98 and 99 a payment or other benefit is a reverse premium if—
- (a) conditions A, B and C are met, and
 - (b) it is not excluded by section 97.
- (2) Condition A is that a company (“the recipient”) receives the payment or other benefit by way of inducement in connection with a transaction being entered into by—
- (a) the recipient, or
 - (b) a person connected with the recipient.
- (3) Condition B is that the transaction (the “property transaction”) is one under which—
- (a) the recipient, or
 - (b) the person connected with the recipient,
- becomes entitled to an estate, interest or right in or over land.
- (4) Condition C is that the payment or other benefit is paid or provided by—
- (a) the person (“the grantor”) by whom the estate, interest or right is granted or was granted at an earlier time,
 - (b) a person connected with the grantor, or
 - (c) a nominee of, or a person acting on the directions of, the grantor or a person connected with the grantor.

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97 Excluded cases

- (1) A payment or other benefit is not a reverse premium so far as it is brought into account under section 532 of CAA 2001 (the general rule excluding contributions) to reduce the recipient's expenditure qualifying for capital allowances.
- (2) A payment or other benefit received in connection with a property transaction is not a reverse premium if—
 - (a) the person entering into the transaction is an individual, and
 - (b) the transaction relates to premises occupied or to be occupied by the individual as the individual's only or main residence.
- (3) A payment or other benefit is not a reverse premium so far as it is consideration for the transfer of an estate or interest in land which constitutes the sale in a sale and leaseback arrangement.
- (4) A “sale and leaseback arrangement” means any such arrangement as is described in [F31section 681AA(1) or (2) or 681AB(1) or (2) of ITA 2007 or][F32section 835(1) or (2), 836(1) or (2) or 850 of CTA 2010].

Textual Amendments

- F31** Words in s. 97(4) inserted (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. 263](#) (with [Sch. 9 paras. 1-9, 22](#))
- F32** Words in s. 97(4) 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. 596](#) (with [Sch. 2](#))

98 Tax treatment of reverse premiums

- (1) A reverse premium is treated for corporation tax purposes as a receipt of a revenue nature.
- (2) If the recipient enters into the property transaction for the purposes of a trade carried on (or to be carried on) by the recipient, the reverse premium is brought into account in calculating the profits of the trade.
- (3) If subsection (2) does not apply, the reverse premium is charged to corporation tax in accordance with section 250 (reverse premium taxed as property business receipt).

99 Arrangements not at arm's length

- (1) This section applies if—
 - (a) two or more of the parties to the property arrangements are connected persons, and
 - (b) the terms of those arrangements are not such as would reasonably have been expected if those persons had been dealing at arm's length.
- (2) The terms of the property arrangements meet the condition in subsection (1)(b) if they differ to a significant extent from the terms which, at the time the arrangements were entered into, would be regarded as normal and reasonable—
 - (a) in the market conditions then prevailing, and
 - (b) between persons dealing with each other at arm's length in the open market.

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- (3) The whole amount or value of the reverse premium brought into account under section 98 is brought into account in the first relevant period of account.
- (4) “The first relevant period of account” means the period of account in which the property transaction is entered into.
- (5) However if the recipient enters into the property transaction for the purposes of a trade—
 - (a) which is not then carried on by the recipient, but
 - (b) which the recipient subsequently starts to carry on,
 “the first relevant period of account” means the first period of account in which the recipient carries on the trade.

100 Connected persons and property arrangements

For the purposes of this section and sections 96 to 99—

- (a) persons are treated as connected with each other if they are connected at any time during the period when the property arrangements are entered into, and
- (b) “the property arrangements” means the property transaction and any arrangements entered into in connection with it (whether before it, at the same time as it or after it).

Other receipts

101 Distribution of assets of mutual concerns

- (1) This section applies if—
 - (a) a deduction has been made in calculating the profits of a trade for a payment to a mutual concern for the purposes of its mutual business,
 - (b) the concern is being or has been wound up or dissolved,
 - (c) a company (“the recipient”) which is carrying on the trade, or was doing so at the time of the payment, receives money or money's worth representing the concern's assets, and
 - (d) the assets in question represent profits of the mutual business conducted by the concern.
- (2) If the recipient is carrying on the trade at the time the money or money's worth is received, the amount or value of the money or money's worth is brought into account as a receipt in calculating the profits of the trade.
- (3) If the recipient—
 - (a) is not carrying on the trade at the time the money or money's worth is received, but
 - (b) was doing so at the time of the payment to the mutual concern,
 the amount or value of the money or money's worth is treated as a post-cessation receipt (see Chapter 15).
- (4) For the purposes of this section money or money's worth represents assets of a mutual concern if it—
 - (a) forms part of the assets of the concern,

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- (b) forms part of the consideration for the transfer of the assets of the concern as part of a scheme of amalgamation or reconstruction which involves its winding up, or
 - (c) consists of the consideration for a transfer or surrender of a right to receive anything falling within paragraph (a) or (b) and does not give rise to a charge to corporation tax on the company receiving it otherwise than as a result of this section.
- (5) If a transfer or surrender of a right to receive anything which—
- (a) forms part of the assets of a mutual concern, or
 - (b) forms part of the consideration for the transfer of the assets of a mutual concern,
- is not at arm's length, the company making the transfer or surrender is treated as receiving consideration equal to the value of the right.
- (6) In this section references to a mutual concern are to a body corporate which has at any time carried on a trade which consists of or includes the conduct of mutual business (whether or not confined to the members of the body corporate).
- (7) For the purposes of this section a trade does not consist of or include the conduct of mutual business if all the profits of the trade are chargeable to corporation or income tax.

102 Industrial development grants

- (1) This section applies if a company carrying on a trade receives a payment by way of a grant under—
- (a) section 7 or 8 of the Industrial Development Act 1982 (c. 52), or
 - (b) Article 7, 9 or 30 of the Industrial Development (Northern Ireland) Order 1982 (S.I. 1982/1083 (N.I. 15)).
- (2) The payment is brought into account as a receipt in calculating the profits of the trade unless—
- (a) the grant is designated as made towards the cost of specified capital expenditure,
 - (b) the grant is designated as compensation for the loss of capital assets, or
 - (c) the grant is for all or part of a corporation tax liability (including one that has already been met).

103 Sums recovered under insurance policies etc

- (1) This section applies if—
- (a) a deduction has been made for a loss or expense in calculating the profits of a trade,
 - (b) a company carrying on the trade recovers a sum under an insurance policy or a contract of indemnity in respect of the loss or expense, and
 - (c) the sum is not of a revenue nature.
- (2) The sum is brought into account as a receipt in calculating the profits of the trade (but only up to the amount of the deduction).

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104 Repayments under FISMA 2000

- (1) This section applies if—
 - (a) a company carries on a trade, and
 - (b) a payment is made to the company as a result of a repayment provision.
- (2) The payment is brought into account as a receipt in calculating the profits of the trade.
- (3) For the purposes of this section “repayment provision” means—
 - (a) any provision made by virtue of section 136(7) or 214(1)(e) of FISMA 2000, or
 - (b) any provision made by scheme rules for fees to be refunded in specified circumstances.
- (4) In this section “scheme rules” means the rules referred to in paragraph 14(1) of Schedule 17 to FISMA 2000.

CHAPTER 7

TRADE PROFITS: GIFTS TO CHARITIES ETC

Relief for certain gifts

105 Gifts of trading stock to charities etc

- (1) This section applies if a company carrying on a trade (“the donor”) gives an article for the purposes of—
 - (a) a charity, a registered club or a body listed in subsection (4), or
 - (b) a designated educational establishment (see section 106),
 and the article is one manufactured, or of a class or description sold, by the donor in the course of the trade.
- (2) In calculating the profits of the trade, no amount is required to be brought into account as a receipt in consequence of the disposal of the article.
- (3) In this section “registered club” has the meaning given by [^{F33}section 658(6) of CTA 2010] (relief for community amateur sports clubs).
- (4) The bodies referred to in subsection (1)(a) are—
 - (a) the Trustees of the National Heritage Memorial Fund,
 - (b) the Historic Buildings and Monuments Commission for England, and
 - (c) the National Endowment for Science, Technology and the Arts.
- (5) This section needs to be read with section 108 (receipt of benefits by donor or connected person).
- [^{F34}(6) This section is subject to section 203 of CTA 2010 (certain disposals of investments to charity).]

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Textual Amendments

- F33** Words in s. 105(3) 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. 597\(2\)](#) (with [Sch. 2](#))
- F34** S. 105(6) inserted (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. 597\(3\)](#) (with [Sch. 2](#))

106 Meaning of “designated educational establishment”

- (1) For the purposes of section 105 “designated educational establishment” means an educational establishment designated, or within a category designated, in regulations made—
 - (a) for England and Scotland, by the Secretary of State,
 - (b) for Wales, by the Welsh Ministers, and
 - (c) for Northern Ireland, by the Department of Education.
- (2) The regulations may make different provision for different areas.
- (3) If any question arises as to whether an educational establishment is within a category designated in the regulations, an officer of Revenue and Customs must refer the question for decision—
 - (a) in the case of an establishment in England or Scotland, to the Secretary of State,
 - (b) in the case of an establishment in Wales, to the Welsh Ministers, and
 - (c) in the case of an establishment in Northern Ireland, to the Department of Education.
- (4) The power of the Secretary of State or the Welsh Ministers to make regulations under this section is exercisable by statutory instrument.
- (5) A statutory instrument containing any regulations made by the Secretary of State under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (6) A statutory instrument containing any regulations made by the Welsh Ministers under this section is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (7) Regulations made under this section by the Department of Education—
 - (a) are a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)), and
 - (b) are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).

107 Gifts of medical supplies and equipment

- (1) This section applies if—
 - (a) a company carrying on a trade makes a gift from trading stock of medical supplies or medical equipment,
 - (b) it makes the gift for humanitarian purposes, and
 - (c) the supplies or equipment are for human use.

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- (2) In calculating the profits of the trade, no amount is required to be brought into account as a receipt in consequence of the gift.
- (3) In calculating the profits of the trade, a deduction is allowed for any costs of transportation, delivery or distribution incurred by the company in making the gift.
- (4) The deduction is allowed for the accounting period in which the costs are incurred.
- (5) The Treasury may by order provide that this section is not to have effect in relation to medical supplies or medical equipment of any description specified in the order.
- (6) This section needs to be read with section 108 (receipt of benefits by donor or connected person).

Benefits associated with gifts

108 Receipt of benefits by donor or connected person

- (1) This section applies if a company carrying on a trade makes a gift in relation to which relief is given under—
 - (a) section 105,
 - (b) section 107(2), or
 - (c) section 63(2) of CAA 2001 (gifts to charities etc of plant or machinery used in the trade),
 and the company, or a person connected with the company, receives a benefit which is in any way attributable to the making of the gift.
- (2) This section also applies if—
 - (a) relief is given under section 107(3) for costs of transportation, delivery or distribution incurred by a company carrying on a trade, and
 - (b) the company, or a person connected with the company, receives a benefit which is in any way attributable to the company's incurring of those costs.
- (3) An amount equal to the value of the benefit—
 - (a) is brought into account in calculating the profits of the trade, as a receipt of the trade arising in the accounting period in which the benefit is received, or
 - (b) if the company has permanently ceased to carry on the trade before the benefit is received, is treated as a post-cessation receipt (see Chapter 15).

CHAPTER 8

TRADE PROFITS: HERD BASIS RULES

Introduction

109 Election for application of herd basis rules

- (1) A company, or a firm of which a company is a member, which keeps or has kept a production herd for the purposes of a trade may make an election under this Chapter (a “herd basis election”).

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- (2) In calculating the profits of the trade, animals which are part of a production herd in relation to which a herd basis election has effect—
 - (a) are not treated as trading stock (see section 50), but
 - (b) are treated instead in accordance with sections 112 to 121 (“the herd basis rules”).
- (3) This Chapter is expressed in terms of farmers but applies to any company, or firm of which a company is a member, which keeps or has kept a production herd for the purposes of a trade, whether or not the trade is farming.
- (4) References in this Chapter to keeping a production herd are to keeping it for the purposes of the trade.

110 Meaning of “animal”, “herd”, “production herd” etc

- (1) In this Chapter—
 - (a) “animal” means any animal or other living creature,
 - (b) “herd” includes a flock and any other collection of animals (however named), and
 - (c) “production herd” means, in relation to a farmer, a herd of animals of the same species (irrespective of breed) kept by the farmer wholly or mainly for the products obtainable from the living animal which the animals produce for the farmer to sell.
- (2) For this purpose “the products obtainable from the living animal” means—
 - (a) the young of the animal, or
 - (b) any other product obtainable from the animal without slaughtering it.
- (3) For the purposes of this Chapter the general rule is that immature animals kept in a production herd are not part of the herd.
- (4) There is an exception to this rule if—
 - (a) the nature of the land on which the herd is kept means that animals which die or cease to be part of the herd can be replaced only by animals bred and reared on the land,
 - (b) the immature animals in question are bred in the herd and are maintained in the herd for the purpose of replacing other animals, and
 - (c) it is necessary to maintain the immature animals for that purpose.
- (5) In that case the immature animals are part of the herd for the purposes of this Chapter, but only so far as they are required to prevent a fall in the numbers of the herd.
- (6) References in this Chapter to an animal being added to a herd include references to an immature animal that is not part of the herd reaching maturity.
- (7) This Chapter applies—
 - (a) in relation to animals kept singly as it applies in relation to herds, and
 - (b) in relation to shares in animals as it applies in relation to animals themselves.

111 Other interpretative provisions

- (1) This section applies for the purposes of this Chapter.

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- (2) A production herd kept by a farmer is of the same class as another production herd only if—
 - (a) the animals kept in both herds are of the same species (irrespective of breed), and
 - (b) the products produced for the farmer to sell (for which the herds are wholly or mainly kept) are of the same kinds in both herds.
- (3) References to the sale of an animal include references to its death or destruction.
- (4) References to the sale proceeds of an animal include references to—
 - (a) money received from an insurer because of the animal's death or destruction,
 - (b) compensation money received because of the animal's death or destruction, and
 - (c) the sale proceeds of the animal's carcass or any part of its carcass.
- (5) Female animals become mature—
 - (a) in the case of laying birds, when they first lay, and
 - (b) in any other case, when they produce their first young.
- (6) 20% or more of a herd is a substantial part of the herd, but a lesser percentage than 20% is capable of being a substantial part of the herd depending on the circumstances of the case concerned.

The herd basis rules

112 Initial cost of herd and value of herd

- (1) In calculating the profits of the trade, no deduction is allowed for the initial cost of the herd.
- (2) In calculating the profits of the trade, the value of the herd is not brought into account.

113 Addition of animals to herd

- (1) This section applies for the purpose of calculating the profits of the trade if an animal is added to the herd, unless it replaces another animal in the herd.
- (2) No deduction is allowed for the cost of the animal.
- (3) If, immediately before it was added to the herd, the animal was part of the farmer's trading stock, the balancing amount is brought into account as a receipt.
- (4) “The balancing amount” means—
 - (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity, and
 - (b) in any other case, the sum of the initial cost of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity.

114 Replacement of animals in herd

- (1) This section applies for the purpose of calculating the profits of the trade if—

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- (a) an animal (“the old animal”) is sold from the herd or otherwise ceases to be part of the herd, and
 - (b) it is replaced in the herd by another animal (“the new animal”).
- (2) The sale proceeds (if any) of the old animal are brought into account as a receipt.
- (3) But this needs to be read with—
- (a) section 115 (amount of receipt if old animal slaughtered under disease control order),
 - (b) section 118 (acquisition of new herd begun within 5 years of sale), and
 - (c) section 120 (replacement of part sold begun within 5 years of sale).
- (4) Except so far as otherwise allowable, a deduction is allowed under this section for the cost of the new animal.
- (5) But if the new animal is of better quality than the old animal, the amount of the deduction must not exceed the amount that it would have been necessary to spend to replace the old animal with an animal of the same quality.

115 Amount of receipt if old animal slaughtered under disease control order

- (1) This section applies for the purposes of section 114.
- (2) If—
- (a) the old animal was slaughtered under a disease control order, and
 - (b) the new animal is of worse quality than the old animal,
- the amount brought into account as a receipt under section 114 must not exceed the equivalent amount for the new animal.
- (3) For this purpose “a disease control order” means an order made under the law relating to the diseases of animals by—
- (a) central government,
 - (b) a devolved authority,
 - (c) a local authority, or
 - (d) another public authority.
- (4) If, immediately before it was added to the herd, the new animal was part of the farmer's trading stock, “the equivalent amount for the new animal” means—
- (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity, and
 - (b) in any other case, the sum of the initial cost of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity.
- (5) Otherwise “the equivalent amount for the new animal” means the cost of the new animal.

116 Sale of animals from herd

- (1) This section applies for the purpose of calculating the profits of the trade if an animal is sold from the herd unless—
- (a) it is replaced in the herd by another animal (see section 114), or

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- (b) it is sold as part of the sale of the whole or a substantial part of the herd that takes place all at once or over a period not longer than 12 months (see section 117).
- (2) A profit arising from the sale is brought into account as a receipt.
- (3) A deduction is allowed for a loss arising from the sale.
- (4) The amount of the profit or loss is the difference between the sale proceeds of the animal and the deductible amount for the animal.
- (5) “The deductible amount for the animal” means—
 - (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity,
 - (b) in the case of an animal acquired by the farmer for valuable consideration, the sum of the initial cost to the farmer of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity, and
 - (c) in the case of an animal acquired by the farmer but not for valuable consideration, the sum of the market value of the animal when acquired and the cost (if any) incurred by the farmer in rearing the animal to maturity.

117 Sale of whole or substantial part of herd

- (1) This section applies for the purpose of calculating the profits of the trade if, either all at once or over a period not longer than 12 months, the herd or a substantial part of the herd is sold unless—
 - (a) section 118 applies (acquisition of new herd begun within 5 years of sale), or
 - (b) section 120 applies (replacement of part sold begun within 5 years of sale),
 but paragraph (a) is subject to subsection (5) of section 118 (so far as that section provides for a case in which this section is to apply).
- (2) A profit arising from the sale is not brought into account as a receipt.
- (3) No deduction is allowed for a loss arising from the sale.

118 Acquisition of new herd begun within 5 years of sale

- (1) This section applies for the purpose of calculating the profits of the trade if—
 - (a) either all at once or over a period not longer than 12 months, the herd (“the old herd”) is sold, and
 - (b) the farmer acquires or starts to acquire another production herd of the same class (“the new herd”) within 5 years of the sale.
- (2) Section 114 (replacement of animals in herd) applies as if a number of animals equal to—
 - (a) the number of animals in the old herd, or
 - (b) if smaller, the number of animals in the new herd,
 had been sold from the old herd and replaced in that herd (but see section 119 (sale for reasons outside farmer's control)).
- (3) For the purposes of section 114, the sale proceeds of an animal that is treated as a result of subsection (2) above as if it had been—
 - (a) sold from the old herd, and

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- (b) replaced in that herd by another animal (“the new animal”),
are not brought into account as a receipt until the new animal is acquired.
- (4) If—
- (a) the number of animals in the new herd is smaller than the number of animals in the old herd, and
 - (b) the difference is not substantial,
- section 116 (sale of animals from herd) applies as if a number of animals equal to the difference had been sold from the old herd.
- (5) If the number of animals in the new herd is smaller than the number of animals in the old herd and the difference is substantial—
- (a) section 117 (sale of whole or substantial part of herd where replacement not begun within 5 years), or
 - (b) section 120 (sale of substantial part of herd where replacement begun within 5 years),
- applies as if a number of animals equal to the difference had been sold from the old herd.
- (6) If the number of animals in the new herd is larger than the number of animals in the old herd, section 113 (addition of animals to herd) applies as if a number of animals equal to the difference had been added to the old herd.
- (7) For the purposes of this section—
- (a) if the difference between the number of animals in the new herd and the number of animals in the old herd is equal to 20% or more of the number of animals in the old herd, the difference is substantial, but
 - (b) a lesser percentage than 20% is capable of being a substantial difference depending on the circumstances of the case concerned.

119 Section 118: sale for reasons outside farmer's control

- (1) This section applies for the purposes of section 114, as applied by section 118(2).
- (2) If—
- (a) the farmer was compelled to sell the old herd for reasons wholly outside the farmer's control, and
 - (b) an animal (“the new animal”) that is treated as a result of section 118(2) as if it replaced an animal sold (“the old animal”) is of worse quality than the old animal,
- the amount brought into account as a receipt under section 114 must not exceed the equivalent amount for the new animal.
- (3) If, immediately before it was added to the herd, the new animal was part of the farmer's trading stock, “the equivalent amount for the new animal” means—
- (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity, and
 - (b) in any other case, the sum of the initial cost of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity.
- (4) Otherwise “the equivalent amount for the new animal” means the cost of the new animal.

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120 Replacement of part sold begun within 5 years of sale

- (1) This section applies for the purpose of calculating the profits of the trade if—
 - (a) either all at once or over a period not longer than 12 months, a substantial part of the herd is sold, and
 - (b) the farmer acquires or starts to acquire animals to replace the part sold within 5 years of the sale.
- (2) Section 114 (replacement of animals in herd) applies so far as the animals included in the part sold are replaced (but see section 121 (sale for reasons outside farmer's control)).
- (3) The sale proceeds of an animal included in the part sold are not brought into account as a receipt until the animal that replaces it in the herd is acquired.
- (4) If some of the animals included in the part sold are not replaced—
 - (a) a profit arising from their sale is not brought into account as a receipt, and
 - (b) no deduction is allowed for a loss arising from their sale.

121 Section 120: sale for reasons outside farmer's control

- (1) This section applies for the purposes of section 114, as applied by section 120(2).
- (2) If—
 - (a) the farmer was compelled to sell the part of the herd for reasons wholly outside the farmer's control, and
 - (b) an animal (“the new animal”) that replaces an animal sold (“the old animal”) is of worse quality than the old animal,
 the amount brought into account as a receipt under section 114 must not exceed the equivalent amount for the new animal.
- (3) If, immediately before it was added to the herd, the new animal was part of the farmer's trading stock, “the equivalent amount for the new animal” means—
 - (a) in the case of an animal bred by the farmer, the cost of breeding the animal and rearing it to maturity, and
 - (b) in any other case, the sum of the initial cost of acquiring the animal and the cost (if any) incurred by the farmer in rearing the animal to maturity.
- (4) Otherwise “the equivalent amount for the new animal” means the cost of the new animal.

Elections

122 Herd basis elections

- (1) A herd basis election must specify the class of production herd to which it relates.
- (2) A herd basis election must be made—
 - (a) not later than two years after the end of the first relevant accounting period (if the farmer is not a firm), or
 - (b) on or before the first anniversary of the normal self-assessment filing date for the tax year in which the first relevant period of account ends (if the farmer is a firm).

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- (3) For this purpose—
- (a) “the first relevant accounting period” means the first accounting period in which the farmer making the election keeps a production herd of the class to which the election relates, and
 - (b) “the first relevant period of account” means the first period of account in which the firm making the election keeps a production herd of the class to which the election relates (but see subsection (8)).
- (4) A herd basis election cannot relate to more than one class of production herd, but separate elections may be made for different classes.
- (5) A herd basis election is irrevocable.
- (6) A herd basis election has effect in relation to all production herds of the class to which it relates, including any which the farmer—
- (a) has ceased to keep before making the election, or
 - (b) first keeps after making the election.
- (7) A herd basis election has effect—
- (a) for every accounting period in which the farmer carries on the trade and keeps a production herd of the class to which the election relates (if the farmer is not a firm), or
 - (b) for every period of account in which the farmer carries on the trade and keeps a production herd of the class to which the election relates (if the farmer is a firm).
- (8) If the farmer is a firm and there is a change in the persons who are partners in the firm—
- (a) any herd basis election made by the old firm ceases to have effect, and
 - (b) in relation to the new firm, “the first relevant period of account” means the first period of account in which the new firm keeps a production herd of the class to which the election relates.

123 Five year gap in which no production herd kept

- (1) This section applies if a farmer—
- (a) keeps a production herd of a particular class, and
 - (b) ceases altogether to keep herds of that class for a period of at least 5 years.
- (2) If the farmer keeps a production herd of that class after the end of that period—
- (a) the accounting period or (as the case may be) period of account in which the farmer starts to keep the herd is treated as the first accounting period or period of account in which the farmer keeps a production herd of that class, and
 - (b) any herd basis election previously made by the farmer in relation to production herds of that class ceases to have effect.

124 Slaughter under disease control order

- (1) This section applies if—
- (a) the whole or a substantial part of a production herd kept by a farmer is slaughtered under a disease control order, and

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- (b) the circumstances of the slaughter are such that compensation is payable in respect of the animals slaughtered.
- (2) The farmer may make a herd basis election in respect of the class of production herd involved in the slaughter as if the accounting period or (as the case may be) period of account —
 - (a) in which the compensation falls to be brought into account in calculating the profits of the trade, or
 - (b) in which it would (but for the election) fall to be so brought into account, were the first accounting period or period of account in which the farmer keeps a production herd of that class.
- (3) An election made as a result of this section has effect for that accounting period or period of account and every subsequent accounting period or period of account in which the farmer—
 - (a) carries on the trade, and
 - (b) keeps a production herd of the class to which the election relates.
- (4) In this section “disease control order” means an order made under the law relating to the diseases of animals by—
 - (a) central government,
 - (b) a devolved authority,
 - (c) a local authority, or
 - (d) another public authority.

Preventing abuse of the herd basis rules

125 Preventing abuse of the herd basis rules

- (1) This section applies if—
 - (a) a person carrying on a trade (the “transferor”) transfers the whole or part of a production herd to another person (the “transferee”),
 - (b) the transfer is not by way of sale or is by way of sale but for a price other than that which the animals sold would have fetched if sold in the open market, and
 - (c) the control condition or herd basis benefit condition is met.
- (2) The control condition is met if—
 - (a) the transferor is a body of persons over which the transferee has control,
 - (b) the transferee is a body of persons over which the transferor has control, or
 - (c) both the transferor and transferee are bodies of persons and another person has control over both of them.
- (3) For this purpose “body of persons” includes a firm.
- (4) The herd basis benefit condition is met if—
 - (a) the transferor or transferee (or both) might (but for this section) have been expected to obtain a herd basis benefit as a result of the transfer or the transactions of which the transfer is one, and
 - (b) the herd basis benefit is the sole or main benefit, or one of the main benefits, that the person in question might have been expected to obtain.

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- (5) For this purpose a “herd basis benefit” is a benefit resulting from—
 - (a) the obtaining of a right to make a herd basis election,
 - (b) the herd basis rules applying or not applying, or
 - (c) the herd basis rules having a greater or lesser effect.
- (6) For the purpose of calculating the profits of—
 - (a) the trade carried on by the transferor, and
 - (b) any trade carried on by the transferee,the animals transferred are treated as having been sold at the price which they would have fetched if sold in the open market.

Supplementary

^{F35} **126 Information if election made**

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Textual Amendments

F35 S. 126 omitted (13.8.2009) by virtue of [Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, [Sch. para. 56](#)

127 Further assessment etc if herd basis rules apply

- (1) If the herd basis rules apply in calculating the profits of an accounting period after an assessment for that period has become final and conclusive, any assessment or repayment of tax that is necessary to give effect to the rules must be made.
- (2) But repayment of tax is due only if a claim for it is made.

CHAPTER 9

TRADE PROFITS: OTHER SPECIFIC TRADES

Dealers in securities etc

128 Taxation of amounts taken to reserves

- (1) This section applies for the purpose of calculating the profits of a company's trade if—
 - (a) the company carries on a banking business, an insurance business or a business consisting wholly or partly of dealing in securities, and
 - (b) a profit on the sale of securities held by the company would be brought into account in calculating the trading profits of that business.
- (2) Profits and losses from the securities that in accordance with generally accepted accounting practice are—
 - (a) calculated by reference to the fair value of the securities, and

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- (b) recognised in the company's statement of recognised gains and losses or statement of changes in equity,
are brought into account in calculating the profits of the trade.
- (3) But subsection (2) does not apply—
 - (a) to an amount so far as deriving from or otherwise relating to an amount brought into account under that subsection in an earlier period of account, or
 - (b) to an amount recognised for accounting purposes by way of correction of a fundamental error.
- (4) In this section “securities” includes—
 - (a) shares,
 - (b) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of TCGA 1992, and
 - (c) in the case of a company with no share capital, interests in the company possessed by members of the company,
 but does not include a loan relationship (within the meaning of Part 5).

129 Conversion etc of securities held as circulating capital

- (1) This section applies for the purpose of calculating the profits of a company's trade if—
 - (a) the company carries on a banking business, an insurance business or a business consisting wholly or partly of dealing in securities,
 - (b) a transaction falling within subsection (2) occurs in relation to securities (“the original holding”), and
 - (c) a profit on the sale of the securities would be brought into account in calculating the trading profits of that business.
- (2) A transaction falls within this subsection if—
 - (a) it results in a new holding being treated as the same as the original holding as a result of sections 126 to 136 of TCGA 1992 (roll-over relief in cases of conversion etc), or
 - (b) it is treated, as a result of section 134 of TCGA 1992 (compensation stock), as an exchange for a new holding which does not involve a disposal of the original holding.
- (3) This section does not apply to securities in respect of which unrealised profits or losses, calculated by reference to the fair value of the securities at the end of the period of account, are taken into account in the period of account in which the transaction occurs.
- (4) The transaction is treated as not involving a disposal of the original holding and the new holding is treated as the same asset as the original holding.
- (5) But if, under the transaction, the company carrying on the trade—
 - (a) receives consideration in addition to the new holding, or
 - (b) becomes entitled to receive such consideration,
 subsection (4) applies as if the references to the original holding were to the proportion of the original holding given by the following fraction.
- (6) The fraction is—

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$$\frac{NH}{NH + C}$$

where—

NH is the market value of the new holding at the time of the transaction, and

C is the market value of the consideration at the time of the transaction or (if the consideration is cash) the amount of the consideration.

- (7) In determining whether subsection (2)(a) applies as a result of section 135 or 136 of TCGA 1992, the reference to capital gains tax in section 137(1) of TCGA 1992 is to be read as a reference to income tax.
- (8) In this section “securities” includes—
- shares,
 - rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of TCGA 1992, and
 - in the case of a company with no share capital, interests in the company possessed by members of the company.

F³⁶ Insurers

Textual Amendments

- F36** S. 130 and cross-heading substituted (with effect in accordance with Sch. 14 para. 31 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 14 para. 22](#)

130 Insurers receiving distributions etc

- (1) This section applies for the purpose of calculating the trading profits of—
- insurance business other than life assurance business, or
 - any category of such business.
- (2) A receipt that is exempt for the purposes of Part 9A (company distributions) is not brought into account in calculating the profits of the trade.]

Building societies

131 Incidental costs of issuing qualifying shares

- (1) In calculating the profits of a trade carried on by a building society, a deduction is allowed for incidental costs of obtaining finance by means of issuing shares in the society if—
- the shares are qualifying shares for the purposes of section 117(4) of TCGA 1992, and

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- (b) the condition in subsection (2) is met.
- (2) The condition is that the amount of any—
 - (a) dividend or other distribution, or
 - (b) interest,
 payable in respect of the shares is deductible in calculating, for corporation tax purposes, the profits of the society's trade.
- (3) But a deduction is not allowed by virtue of subsection (1) so far as the costs fall to be brought into account as debits for the purposes of Part 5 (loan relationships).
- (4) “Incidental costs of obtaining finance” means expenses—
 - (a) which are incurred on fees, commissions, advertising, printing and other incidental matters, and
 - (b) which are incurred wholly and exclusively for the purpose of obtaining the finance, providing security for it or repaying it.
- (5) Expenses incurred wholly and exclusively for the purpose of—
 - (a) obtaining finance, or
 - (b) providing security for it,
 are incidental costs of obtaining the finance even if it is not in fact obtained.
- (6) But the following are not incidental costs of obtaining finance—
 - (a) sums paid because of losses resulting from movements in the rate of exchange between different currencies,
 - (b) sums paid for the purpose of protecting against such losses,
 - (c) the cost of repaying qualifying shares so far as attributable to their being repayable at a premium or having been issued at a discount, and
 - (d) stamp duty.

Industrial and provident societies

132 Dividends etc granted by industrial and provident societies

- (1) This section applies if a trade is carried on by a registered industrial and provident society and—
 - (a) the society does not sell to persons who are not its members, or
 - (b) the number of shares in the society is not limited by the society's rules or practice.
- (2) In calculating the profits of the trade, a deduction is allowed for sums which meet conditions A and B.
- (3) Condition A is that—
 - (a) the sum represents a discount, rebate, dividend or bonus granted by the society to a member or other person (“the recipient”),
 - (b) the discount, rebate, dividend or bonus is in respect of—
 - (i) amounts paid or payable by the recipient, or
 - (ii) amounts paid or payable to the recipient,
 on account of the recipient's transactions with the society, and

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- (c) those transactions are taken into account in calculating the society's profits chargeable under this Part.
- (4) Condition B is that the sum mentioned in subsection (2) is calculated by reference to—
 - (a) the amounts paid or payable by or to the recipient, or
 - (b) the size of the transactions,and not by reference to the amount of any share or interest in the capital of the society.
- (5) See also [^{F37}section 1056 of CTA 2010] (dividend or bonus to which this section applies is not treated as a distribution).

Textual Amendments

F37 Words in s. 132(5) 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. 598** (with Sch. 2)

Credit unions

133 Annual payments paid by a credit union

In calculating the profits of a credit union's trade, no deduction is allowed for annual payments made by the credit union.

Dealers in land etc

134 Purchase or sale of woodlands

- (1) This section applies for the purpose of calculating the profits of a trade of dealing in land.
- (2) If the company carrying on the trade buys woodlands in the United Kingdom in the course of the trade, the part of the cost of the woodlands which is attributable to trees or saleable underwood growing on the land is ignored.
- (3) If—
 - (a) the woodlands are subsequently sold in the course of the trade, and
 - (b) any of the trees or underwood are still growing on the land at the time of the sale,the part of the price that is equal to the amount ignored under subsection (2) for those trees or that underwood is ignored.

135 Relief in respect of mineral royalties

- (1) This section applies for the purpose of calculating the profits of a trade carried on by a UK resident company in an accounting period if the receipts of the trade include mineral royalties—
 - (a) which the company is entitled to receive under a mineral lease or agreement,and

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- (b) which are not chargeable to tax under Chapter 7 of Part 4 (rent receivable in connection with a UK section 39(4) concern) because of the priority rule in section 287.
- (2) The company is treated as entitled to receive only half of the total of the mineral royalties arising under the lease or agreement in the accounting period.
- (3) Sections 274 to 276 (meaning of “mineral lease or agreement” and “mineral royalties”) apply for the purposes of this section as they apply for the purposes of Chapter 7 of Part 4.
- (4) See also section 201 of TCGA 1992 (gains treated as accruing to a company entitled to receive mineral royalties).

136 Lease premiums etc: reduction of receipts

- (1) This section applies for the purpose of calculating the profits of a trade of dealing in land if a receipt of the trade falls within one of the following categories—
 - (a) lease premiums within section 217,
 - (b) sums within section 219 (sums payable instead of rent),
 - (c) sums within section 220 (sums payable for surrender of a lease),
 - (d) sums within section 221 (sums payable for variation or waiver of terms of lease),
 - (e) consideration for the assignment of a lease within section 222 (lease granted at an undervalue), and
 - (f) amounts received on the sale of an estate or interest in land within section 224 (sales with right to reconveyance) or section 225 (sale and leaseback transactions).
- (2) The receipt is reduced by the relevant amount.
- (3) The relevant amount is the amount which is treated as a receipt of a property business as a result of any of sections 217 to 225.
- (4) But if—
 - (a) the company carrying on the trade makes a claim under section 238 or 239, and
 - (b) as a result of the claim a repayment of tax is made to that company,
 the relevant amount is the amount which, for the purpose of determining the amount of the repayment of tax, is treated as brought into account as a receipt in calculating the profits of the property business.
- (5) If subsection (4) applies, any adjustment of liability to tax may be made—
 - (a) by assessment or otherwise, and
 - (b) at any time at which it could be made if it related only to tax for the accounting period in which the claim under section 238 or 239 is made.

Mineral exploration and access

137 Mineral exploration and access

- (1) This section applies for the purpose of calculating the profits of a trade if—

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- (a) the company carrying on the trade incurs expenditure on mineral exploration and access in an area or group of sands, and
 - (b) the presence of mineral deposits in commercial quantities has already been established in that area or group of sands.
- (2) A deduction is allowed for the expenditure only if a deduction would have been allowed for it if the presence of mineral deposits in commercial quantities had not already been established in that area or group of sands.
- (3) In this section “mineral exploration and access” has the same meaning as in Part 5 of CAA 2001 (see section 396(1) of that Act).

Companies liable to pool betting duty

138 Payments by companies liable to pool betting duty

- (1) This section applies for the purpose of calculating the profits of a trade if—
- (a) the company carrying on the trade is liable to pool betting duty,
 - (b) there is a reduction in that duty, and
 - (c) the company makes a qualifying payment in consequence of that reduction.
- (2) A qualifying payment is one—
- (a) made in order to meet (directly or indirectly) capital expenditure incurred by any person in improving the safety or comfort of spectators at a ground to be used for the playing of association football, or
 - (b) made to trustees established mainly for the support of athletic sports or athletic games but with power to support the arts.
- (3) A deduction is allowed for the qualifying payment.

Intermediaries treated as making employment payments

139 Deduction for deemed employment payment

- (1) This section applies for the purpose of calculating the profits of a trade carried on by an intermediary which is treated as making a deemed employment payment in connection with the trade.
- (2) A deduction is allowed for—
- (a) the amount of the deemed employment payment, and
 - (b) the amount of any employer's national insurance contributions paid by the intermediary in respect of it.
- (3) The deduction is allowed for the period of account in which the deemed employment payment is treated as made.
- (4) No deduction in respect of—
- (a) the deemed employment payment, or
 - (b) any employer's national insurance contributions paid by the intermediary in respect of it,
- may be made except in accordance with this section.

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- (5) In this section “deemed employment payment” and “intermediary” have the same meaning as in Chapter 8 of Part 2 of ITEPA 2003 (see sections 49 and 50 of that Act).

140 Special rules for partnerships

- (1) This section applies for the purpose of calculating the profits of a trade carried on by a firm that is treated as making a deemed employment payment in connection with the trade.
- (2) The amount of the deduction allowed under section 139 is limited to the amount that reduces the profits of the firm of the period of account to nil.
- (3) The expenses of the firm in connection with the relevant engagements for any period of account are limited to the total of—
 - (a) 5% of the amount taken into account at Step 1 of the calculation in section 54(1) of ITEPA 2003 (calculation of deemed employment payment), and
 - (b) the amount deductible at Step 3 of that calculation.
- (4) In this section “deemed employment payment” and “the relevant engagements” have the same meaning as in Chapter 8 of Part 2 of ITEPA 2003 (see sections 49 and 50 of that Act).

Managed service companies

141 Deduction for deemed employment payments

- (1) This section applies for the purpose of calculating the profits of a trade carried on by a managed service company (the “MSC”) which is treated as making a deemed employment payment in connection with the trade.
- (2) A deduction is allowed for—
 - (a) the amount of the deemed employment payment, and
 - (b) the amount of any employer's national insurance contributions paid by the MSC in respect of it.
- (3) The deduction is allowed for the period of account in which the deemed employment payment is treated as made.
- (4) If the MSC is a firm, the amount of the deduction allowed under subsection (2) is limited to the amount that reduces the profits of the firm of the period of account to nil.
- (5) No deduction in respect of—
 - (a) the deemed employment payment, or
 - (b) any employer's national insurance contributions paid by the MSC in respect of it,
 may be made except in accordance with this section.
- (6) In this section the following expressions have the same meanings as in Chapter 9 of Part 2 of ITEPA 2003—
 - “deemed employment payment” (see section 61D(2) of that Act),
 - “employer's national insurance contributions” (see section 61J(1) of that Act),

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“managed service company” (see section 61B of that Act).

Waste disposal

142 Deduction for site preparation expenditure

- (1) This section applies for the purpose of calculating the profits of a trade of a period of account in which waste materials are deposited on a waste disposal site if—
 - (a) the company carrying on the trade (“the trader”), or a predecessor, has incurred site preparation expenditure in relation to the site in the course of carrying on the trade, and
 - (b) at the time the trader first deposits waste materials on the site, the trader holds a waste disposal licence which is then in force.
- (2) A deduction is allowed for the amount of the site preparation expenditure allocated to the period of account under section 143.
- (3) For the purposes of this section “predecessor”, in relation to the trader, means a person who—
 - (a) has ceased to carry on the trade carried on by the trader or ceased to carry on a trade so far as relating to the site, and
 - (b) has transferred the whole of the site to the trader,and it does not matter for this purpose whether or not the estate or interest in the site transferred to the trader is the same as that held by that person.
- (4) For the purposes of this section and section 143, if site preparation expenditure has been incurred by a predecessor—
 - (a) the trade carried on by the trader is treated as the same as the trade carried on by the predecessor, and
 - (b) deductions are to be allowed to the trader (and not to the predecessor) as if everything done to or by the predecessor were done to or by the trader.
- (5) For—
 - (a) the meaning of “site preparation expenditure”, “waste disposal licence” and “waste disposal site”, and
 - (b) a rule about pre-trading expenditure,see section 144.

143 Allocation of site preparation expenditure

- (1) The amount of site preparation expenditure allocated to a period of account for the purposes of section 142(2) is the amount given by the formula—

$$RE \times \frac{WD}{SV + WD}$$

where—

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RE means residual expenditure (see subsection (2)),

WD means the volume of waste materials deposited on the waste disposal site during the period, and

SV means the volume of the waste disposal site not used up for the deposit of waste materials at the end of the period.

- (2) “Residual expenditure” means the total of all site preparation expenditure incurred by the trader in relation to the waste disposal site at any time before the end of the period, less—
- (a) any of that expenditure for which an allowance has been, or may be, made for corporation or income tax purposes under the enactments relating to capital allowances,
 - (b) any of that expenditure for which a deduction has been made in calculating for corporation or income tax purposes the profits of an earlier period of account, and
 - (c) if the trader started to carry on the trade before 6 April 1989, the excluded amount of any unrelieved old expenditure (see subsections (3) and (4)).
- (3) The excluded amount of unrelieved old expenditure is calculated by multiplying the unrelieved old expenditure (see subsection (4)) by the fraction—

$$\frac{WD}{SV + WD}$$

where—

WD means the volume of waste materials deposited on the site before 6 April 1989, and

SV means the volume of the site not used up for the deposit of waste materials immediately before that date.

- (4) “Unrelieved old expenditure” means site preparation expenditure which—
- (a) was incurred by the trader in relation to the waste disposal site before 6 April 1989, and
 - (b) does not fall within subsection (2)(a) or (b).

144 Site preparation expenditure: supplementary

- (1) For the purposes of this section and sections 142 and 143 “waste disposal licence” means—
- (a) a disposal licence under Part 1 of the Control of Pollution Act 1974 (c. 40) or Part 2 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (S.I. 1978/1049 (N.I. 19)),

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- (b) a waste management licence under Part 2 of the Environmental Protection Act 1990 (c. 43) or any corresponding provision for the time being in force in Northern Ireland,
 - (c) a permit under regulations under—
 - (i) section 2 of the Pollution Prevention and Control Act 1999 (c. 24), or
 - (ii) Article 4 of the Environment (Northern Ireland) Order 2002 (S.I. 2002/3153 (N.I. 7)),
 - (d) an authorisation under the Radioactive Substances Act 1960 (c. 34) or the Radioactive Substances Act 1993 (c. 12) for the disposal of radioactive waste, or
 - (e) a nuclear site licence under the Nuclear Installations Act 1965 (c. 57).
- (2) For the purposes of this section and sections 142 and 143—
- “site preparation expenditure”, in relation to a waste disposal site, means expenditure incurred on preparing the site for the deposit of waste materials, and
- “waste disposal site” means a site used, or to be used, for the disposal of waste materials by their deposit on the site.
- (3) For the purposes of sections 142 and 143, expenditure incurred for the purposes of a trade by a company about to carry on the trade is treated as if it were incurred—
- (a) on the date on which the company starts to carry on the trade, and
 - (b) in the course of carrying it on.

145 Site restoration payments

- (1) This section applies for the purpose of calculating the profits of a trade if the company carrying on the trade makes a site restoration payment in the course of carrying it on.
- (2) A deduction is allowed for the unrelieved amount of the payment.
- (3) The deduction is allowed for the period of account in which the payment is made.
- (4) The unrelieved amount of a site restoration payment is the amount of the payment, less—
 - (a) any amount of the payment that represents expenditure for which an allowance has been, or may be, made under the enactments relating to capital allowances, and
 - (b) any amount of the payment that represents expenditure for which a deduction has been made in calculating the profits of the trade of an earlier period of account.
- (5) A “site restoration payment” means a payment made in connection with the restoration of a site (or part of a site) in order to comply with—
 - (a) a condition of a waste disposal licence (as defined in section 144(1)),
 - (b) a condition imposed on the grant of planning permission to use the site for the collection, treatment, conversion and final depositing of waste materials or for the carrying out of any of those activities, or
 - (c) a relevant planning obligation.
- (6) For this purpose “a relevant planning obligation” means—

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- (a) an obligation arising under an agreement made under section 106 of the Town and Country Planning Act 1990 (c. 8) (as originally enacted) or any corresponding provision for the time being in force in Northern Ireland,
- (b) an obligation arising under an agreement made under section 75 of the Town and Country Planning (Scotland) Act 1997 (c. 8),
- (c) a planning obligation entered into under section 106 of the Town and Country Planning Act 1990 (as substituted by section 12 of the Planning and Compensation Act 1991 (c. 34)) or any corresponding provision for the time being in force in Northern Ireland, or
- (d) a planning obligation entered into under section 299A of the Town and Country Planning Act 1990 or any corresponding provision for the time being in force in Northern Ireland.

Cemeteries and crematoria

146 Cemeteries and crematoria: introduction

- (1) This section and sections 147 to 149 apply for the purpose of calculating the profits of a period of account (“the relevant period”) of a trade which consists of or includes—
 - (a) the carrying on of a cemetery, or
 - (b) the carrying on of a crematorium and, in connection with doing so, the maintenance of memorial garden plots,
 and the following provisions of this section apply for the interpretation of this section and those sections.
- (2) References to the sale of land in a cemetery include the sale of a right of interment in land in a cemetery.
- (3) References to the sale of land in a memorial garden include the appropriation of part of a memorial garden in return for a dedication fee or similar payment.
- (4) “Ancillary capital expenditure” means capital expenditure incurred for the purposes of the trade by the company carrying on the trade (“the trader”), or a predecessor, on—
 - (a) any building or structure (other than a dwelling-house) which is in the cemetery or memorial garden and is likely to have little or no value when the cemetery or memorial garden is full,
 - (b) the purchase of an interest in, or the preparation of, any land taken up by such a building or structure, or
 - (c) the purchase of an interest in, or the preparation of, any other land in the cemetery or memorial garden which is not suitable or adaptable for use for interments or memorial garden plots and which is likely to have little or no value when the cemetery or memorial garden is full.
- (5) “Predecessor”, in relation to the trader, means a person who carried on the trade at any time before the trader started to do so.
- (6) “Preparation”, in relation to land, means levelling or draining the land or making it suitable in some other way for use as a cemetery or memorial garden.

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147 Deduction for capital expenditure

- (1) This section applies if, in the relevant period, an interest in land in the cemetery or memorial garden is sold with a view to the land being used—
 - (a) for the purpose of interments, or
 - (b) for memorial garden plots.
- (2) A deduction is allowed for—
 - (a) capital expenditure incurred by the trader, or a predecessor, on the purchase of an interest in the land or on the preparation of the land, and
 - (b) ancillary capital expenditure allocated to the relevant period under section 148 (allocation of ancillary capital expenditure).
- (3) But no expenditure is to be brought into account—
 - (a) under both paragraphs (a) and (b) of subsection (2), or
 - (b) under both subsection (2)(a) above and section 170(2)(b) of ITTOIA 2005 (relief for income tax purposes) or under both subsection (2)(b) above and section 170(2)(a) of ITTOIA 2005, whether for the same or different periods of account.
- (4) Any purchase price paid on a sale in connection with a change in the persons carrying on the trade is ignored in calculating the amount of the deduction.
- (5) No deduction is allowed for any expenditure which is excluded by section 149 (exclusion of expenditure met by subsidies).

148 Allocation of ancillary capital expenditure

- (1) The amount of ancillary capital expenditure allocated to the relevant period for the purposes of section 147(2)(b) is the amount given by the formula—

$$RE \times \frac{PSR}{PAR + PSR}$$

where—

RE means residual expenditure (see subsection (2)),

PSR means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden sold in the relevant period, and

PAR means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden which are or could be made available for sale at the end of the relevant period.

- (2) “Residual expenditure” means the total of all ancillary capital expenditure incurred at any time before the end of the relevant period, less—
 - (a) ancillary capital expenditure incurred on buildings or structures which were destroyed before the beginning of the first sale period,

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- (b) the excluded amount of any remaining old expenditure (see subsection (3)),
 - (c) if, after the beginning of the first sale period and before the end of the relevant period, an asset representing ancillary capital expenditure was sold or destroyed, the net sale proceeds or the compensation, and
 - (d) any amount deducted under section 147(2)(b) above, or under section 170(2)(b) of ITTOIA 2005, for a period of account ending before the relevant period.
- (3) The excluded amount of remaining old expenditure is calculated by multiplying the remaining old expenditure by the fraction—

$$\frac{\text{PSB}}{\text{PAB} + \text{PSB}}$$

where—

PSB means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden sold before the beginning of the basis period for the tax year 1954-55, and

PAB means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden which were or could have been made available for sale immediately before the beginning of the basis period for that tax year.

- (4) In this section—
- “compensation”, in relation to the destruction of an asset, means—
 - (a) insurance money or other compensation received by the trader, or a predecessor, in respect of the destruction, and
 - (b) money received for the remains of the asset by the trader or predecessor,
 - “the first sale period” means—
 - (a) the period of account in which an interest in land in the cemetery or memorial garden was first sold for the purposes of the trade with a view to the land being used for the purpose of interments or for memorial garden plots, or
 - (b) if later, the basis period for the tax year 1954-55, and
 - “remaining old expenditure” means ancillary capital expenditure which—
 - (a) was incurred before the beginning of the basis period for the tax year 1954-55, and
 - (b) does not fall within subsection (2)(a).

149 Exclusion of expenditure met by subsidies

- (1) Expenditure is excluded for the purposes of section 147 so far as it has been, or is to be, met (directly or indirectly) by—
- (a) the Crown,
 - (b) a government or local or other public authority (whether in the United Kingdom or elsewhere), or
 - (c) any person other than the person incurring the expenditure.

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- (2) This is subject to the following exceptions.
- (3) Expenditure is not excluded for the purposes of section 147 if it is met (directly or indirectly) by a grant—
 - (a) made under Northern Ireland legislation, and
 - (b) declared by the Treasury by an order under section 534 of CAA 2001 to correspond to a grant under Part 2 of the Industrial Development Act 1982 (c. 52).
- (4) Expenditure is not excluded for the purposes of section 147 if it is met (directly or indirectly) by—
 - (a) insurance money, or
 - (b) other compensation money,payable in respect of an asset which has been destroyed, demolished or put out of use.
- (5) Expenditure is not excluded for the purposes of section 147 if—
 - (a) it has been, or is to be, met (directly or indirectly) by a person other than the Crown or a government or local or other public authority, and
 - (b) no deduction is allowed for the expenditure in calculating for corporation or income tax purposes the profits of a trade carried on by that person.

Sound recordings

150 Revenue nature of expenditure

- (1) If a company carrying on a trade incurs expenditure on the production or acquisition of the original master version of a sound recording, the expenditure is treated for corporation tax purposes as expenditure of a revenue nature.
- (2) If expenditure is treated under this section as revenue in nature, sums received by the company from the disposal of the original master version of the sound recording—
 - (a) are treated for corporation tax purposes as receipts of a revenue nature, and
 - (b) are brought into account in calculating the profits of the relevant period in which they are received.
- (3) For this purpose sums received from the disposal of the original master version include—
 - (a) sums received from the disposal of any interest or right in or over the original master version (including an interest or right created by the disposal), and
 - (b) insurance, compensation or similar money derived from the original master version.

151 Allocation of expenditure

- (1) This section applies in calculating for corporation tax purposes the profits or losses of a company from a trade if—
 - (a) the trade consists of or includes the exploitation of original master versions of sound recordings, and
 - (b) the original master versions do not constitute trading stock of the trade as defined by section 163.

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- (2) Expenditure that—
- (a) is incurred on the production or acquisition of the original master version of a sound recording, and
 - (b) is of a revenue nature (whether as a result of section 150 or otherwise), must be allocated to relevant periods in accordance with this section.
- (3) The company must allocate to a relevant period so much of the expenditure as is just and reasonable having regard to—
- (a) the amount of the expenditure that remains unallocated at the beginning of the period,
 - (b) the proportion that the estimated value of the original master version of the sound recording that is realised in that period (whether by way of income or otherwise) bears to the total value so realised and the estimated remaining value of the original master version at the end of the period, and
 - (c) the need to bring the whole of the expenditure into account over the time during which the value of the original master version is expected to be realised.
- (4) The company may also allocate to a relevant period a further amount, so long as the total amount allocated does not exceed the value of the original master version of the sound recording realised in that period (whether by way of income or otherwise).

152 Interpretation of sections 150 and 151

- (1) For the purposes of sections 150 and 151—
- (a) “sound recording” does not include a film soundtrack,
 - (b) “original master version” means the master tape or master audio disc of the recording,
 - (c) references to the original master version of a sound recording include any rights in the original master version that are held or acquired with it, and
 - (d) “relevant period” means—
 - (i) a period for which accounts of the trade are made up, or
 - (ii) if no accounts of the trade are made up for a period, an accounting period of the company.
- (2) In subsection (1)(a) “film” is to be read in accordance with section 1181.

Reserves of marketing authorities etc

153 Reserves of marketing authorities and certain other statutory bodies

- (1) This section applies to a statutory body if its object (or one of its objects) is—
- (a) marketing an agricultural product, or
 - (b) stabilising the price of an agricultural product.
- (2) Subsections (3) and (4) apply if the body is required, by or under an approved scheme or arrangement (“the scheme”), to pay the whole or part of any trading surplus into a reserve fund meeting the conditions specified in section 154.
- (3) Any sums which the body is required by or under the scheme to pay into the fund out of the profits of its trade are allowed as deductions in calculating the profits of the trade.

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- (4) Any sums withdrawn by the body from the fund are taken into account as trading receipts, except so far as—
- (a) they are required, by or under the scheme, to be paid to a Minister or department,
 - (b) they are distributed to producers of the product in question, or
 - (c) they are refunded to persons who pay any levy or duty.
- (5) In this section—
- “approved scheme or arrangement” means a scheme or arrangement approved by, or made with, a Minister or department,
 - “producers of the product” includes persons producing the product from another product,
 - “statutory body” means a body established by or under an enactment,
 - “trading surplus” means a surplus from the body's trading operations or other trade receipts.

154 Conditions to be met by reserve fund

- (1) These are the conditions to be met by the reserve fund (see section 153(2)).
- (2) The first condition is that no sum may be withdrawn from the fund without the authority or consent of a Minister or department.
- (3) The second condition is that if—
- (a) money has been paid to the body by a Minister or department—
 - (i) in connection with arrangements for maintaining guaranteed prices, or
 - (ii) in connection with the body's trading arrangements, and
 - (b) the money is repayable to the Minister or department,
- sums standing to the credit of the fund are required to be applied (in whole or in part) in repaying the money.
- (4) The requirement mentioned in subsection (3) must be imposed by or under the scheme or arrangement mentioned in section 153(2).
- (5) The third condition is that—
- (a) the fund is reviewed by a Minister at intervals fixed by or under the scheme or arrangement mentioned in section 153(2), and
 - (b) if the fund appears to the Minister to exceed what is reasonably required by the body, the excess is withdrawn from the fund.

155 Interpretation of sections 153 and 154

- (1) In sections 153 and 154 “Minister” means—
- (a) a Minister of the Crown,
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers, or
 - (d) a Minister within the meaning of the Northern Ireland Act 1998 (c. 47).
- (2) In sections 153 and 154 “department” means—
- (a) a government department,

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- (b) a part of the Scottish Administration,
- (c) a part of the Welsh Assembly Government, or
- (d) a Northern Ireland department.

CHAPTER 10

TRADE PROFITS: CHANGES IN TRADING STOCK

Introduction

156 Meaning of “trading stock”

- (1) In this Chapter “trading stock”, in relation to a trade, means anything (whether land or other property)—
- (a) which is sold in the ordinary course of the trade, or
 - (b) which would be so sold if it were mature or its manufacture, preparation or construction were complete.
- (2) It does not include—
- (a) materials used in the manufacture, preparation or construction of any such thing,
 - (b) any services performed in the ordinary course of the trade, or
 - (c) any article produced, or any material used, in the performance of any such services.

Transfers of trading stock between trade and trader

157 Trading stock appropriated by trader

- (1) This section applies if trading stock of a company's trade is appropriated by the company for any other purpose.
- (2) In calculating the profits of the trade—
- (a) the amount which the stock appropriated would have realised if sold in the open market at the time of the appropriation is brought into account as a receipt, and
 - (b) the value of anything in fact received for it is left out of account.
- (3) The receipt is treated as arising on the date of the appropriation.

158 Trading stock supplied by trader

- (1) This section applies if something that—
- (a) belongs to a company carrying on a trade, but
 - (b) is not trading stock of the trade,
- becomes trading stock of the trade.
- (2) In calculating the profits of the trade—

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- (a) the cost of the stock is taken to be the amount which it would have realised if sold in the open market at the time it became trading stock of the trade, and
 - (b) the value of anything in fact given for it is left out of account.
- (3) The cost is treated as being incurred on the date it became trading stock of the trade.

Other disposals and acquisitions not made in the course of trade

159 Disposals not made in the course of trade

- (1) This section applies if—
- (a) trading stock of a trade is disposed of otherwise than in the course of the trade, and
 - (b) section 157 does not apply.
- (2) In calculating the profits of the trade—
- (a) the amount which the stock disposed of would have realised if sold in the open market at the time of the disposal is brought into account as a receipt, and
 - (b) any consideration obtained for it is left out of account.
- (3) The receipt is treated as arising on the date of the disposal.
- (4) This section is subject to section 161.

160 Acquisitions not made in the course of trade

- (1) This section applies if—
- (a) trading stock of a trade has been acquired otherwise than in the course of the trade, and
 - (b) section 158 does not apply.
- (2) In calculating the profits of the trade—
- (a) the cost of the stock is taken to be the amount which it would have realised if sold in the open market at the time of the acquisition, and
 - (b) the value of anything in fact given for it is left out of account.
- (3) The cost is treated as being incurred on the date of the acquisition.
- (4) This section is subject to section 161.

Relationship with transfer pricing rules

161 Transfer pricing rules to take precedence

- (1) Section 159 or 160 does not apply if the relevant consideration—
- (a) falls to be adjusted for tax purposes under [^{F38}Part 4 of TIOPA 2010], or
 - (b) falls within [^{F39}that Part] without falling to be so adjusted.
- [^{F40}(2) For the purposes of subsection (1)(b), the relevant consideration falls within Part 4 of TIOPA 2010 without falling to be adjusted under that Part if—
- (a) the condition in section 147(1)(a) of TIOPA 2010 is met, and
 - (b) the participation condition is met (see subsection (3A)), but

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- (c) either—
 - (i) one of the conditions in section 147(1)(c) and (d) of TIOPA 2010 is not met, or
 - (ii) one of the exceptions mentioned in subsection (3) applies.]
- (3) The exceptions are those in—
 - (a) section 447(5) (exchange gains or losses from loan relationships)
 - (b) section 694(8) (exchange gains or losses from derivative contracts),
 - [^{F41}(c) section 213 of TIOPA 2010 (saving for provisions relating to capital allowances), and
 - (d) section 214 of TIOPA 2010 (saving for provisions relating to chargeable gains).]
- [^{F42}(3A) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (2)(b) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.]
- (4) In this section “relevant consideration” means—
 - (a) in relation to section 159, the consideration for the disposal of the trading stock, and
 - (b) in relation to section 160, the consideration for the acquisition of the trading stock.

Textual Amendments

- F38** Words in s. 161(1)(a) 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. 124(2)** (with Sch. 9 paras. 1-9, 22)
- F39** Words in s. 161(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. 124(3)** (with Sch. 9 paras. 1-9, 22)
- F40** S. 161(2) 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. 124(4)** (with Sch. 9 paras. 1-9, 22)
- F41** S. 161(3)(c)(d) 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. 124(5)** (with Sch. 9 paras. 1-9, 22)
- F42** S. 161(3A) inserted (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. 124(6)** (with Sch. 9 paras. 1-9, 22)

CHAPTER 11

TRADE PROFITS: VALUATION OF STOCK ON CESSATION OF TRADE

162 Valuation of trading stock on cessation

- (1) If a company permanently ceases to carry on a trade, in calculating the profits of the trade—

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- (a) trading stock belonging to the trade at the time of the cessation must be valued, and
 - (b) the value must be determined in accordance with sections 164 to 167 (bases of valuation).
- (2) But no valuation of the stock is required under this Chapter if [^{F43}section 147(3) or (5) of TIOPA 2010] (provision not at arm's length) has effect in relation to any provision which—
- (a) is made or imposed in relation to the stock, and
 - (b) has effect in connection with the cessation.
- (3) If there is a partnership change, no valuation of the stock is required under this Chapter 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) The reference in subsection (3) to a partnership change is to a change in the persons carrying on the trade in circumstances where the trade is carried on by persons in partnership immediately before or immediately after the change (or at both those times).

Textual Amendments

- F43** Words in s. 162(2) 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. 125](#) (with [Sch. 9 paras. 1-9, 22](#))

163 Meaning of “trading stock”

- (1) In this Chapter “trading stock” means—
- (a) any property (whether land or other property) which is sold in the ordinary course of the trade or would be so sold if it were mature or its manufacture, preparation or construction were complete, or
 - (b) materials used in the manufacture, preparation or construction of any property mentioned in paragraph (a).
- (2) In this Chapter “trading stock” includes also any services performed in the ordinary course of the trade—
- (a) the performance of which is wholly or partly completed at the time of the cessation, and
 - (b) for which it would be reasonable to expect that a charge would be made if there were no cessation and, in the case of partly completed services, their performance were fully completed,
- and any article produced, and any material used, in the performance of any such services.
- (3) In this Chapter references to the sale or transfer of trading stock include the sale or transfer of any benefits and rights which accrue, or might reasonably be expected to accrue, from the performance of any such services.

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164 Basis of valuation of trading stock

- (1) The value of trading stock belonging to the trade at the time of the cessation is determined as follows.
- (2) If the stock is sold to a person who—
 - (a) carries on, or intends to carry on, a trade, profession or vocation in the United Kingdom, and
 - (b) is entitled to deduct the cost of the stock as an expense in calculating the profits of that trade, profession or vocation for corporation or income tax purposes, the value is determined in accordance with section 165 (sale to unconnected person), 166 (sale to connected person) or 167 (election by connected persons).
- (3) But if section 125 (preventing abuse of the herd basis rules) applies—
 - (a) the value is not determined in accordance with any of those sections, and
 - (b) the value is instead taken to be that given by section 125 (the price which the animals transferred would have fetched if sold in the open market at the time of the sale).
- (4) In any other case, the value is taken to be the amount which the stock would have realised if sold in the open market at the time of the cessation.

165 Sale basis of valuation: sale to unconnected person

- (1) The value of trading stock is determined in accordance with this section if—
 - (a) it is sold to a person who carries on, or intends to carry on, a trade, profession or vocation in the United Kingdom and is entitled to deduct the cost of the stock as an expense in calculating the profits of that trade, profession or vocation for corporation or income tax purposes, and
 - (b) the buyer is not connected with the seller.
- (2) The value is taken to be the amount in fact realised on the sale.
- (3) If the stock is sold together with other assets, so much of the amount realised on the sale as, on a just and reasonable apportionment, is properly attributable to each asset is treated as the amount realised on the sale of that asset.

166 Sale basis of valuation: sale to connected person

- (1) The value of trading stock is determined in accordance with this section if—
 - (a) it is sold to a person who carries on, or intends to carry on, a trade, profession or vocation in the United Kingdom and is entitled to deduct the cost of the stock as an expense in calculating the profits of that trade, profession or vocation for corporation or income tax purposes,
 - (b) the buyer is connected with the seller, and
 - (c) no election is made under section 167 (election by connected persons).
- (2) The value is taken to be the amount which would have been realised if the sale had been between independent persons dealing at arm's length.

167 Sale basis of valuation: election by connected persons

- (1) The value of trading stock is determined in accordance with this section if—

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- (a) it is sold to a person who carries on, or intends to carry on, a trade, profession or vocation in the United Kingdom and is entitled to deduct the cost of the stock as an expense in calculating the profits of that trade, profession or vocation for corporation or income tax purposes,
 - (b) the buyer is connected with the seller, and
 - (c) an election is made under this section.
- (2) The parties to the sale may make an election under this section if the value of the stock determined under section 166 exceeds both—
- (a) its acquisition value, and
 - (b) the amount in fact realised on the sale.
- (3) If an election is made, the value is taken to be—
- (a) its acquisition value, or
 - (b) if greater, the amount in fact realised on the sale.
- (4) An election under this section must be made by both parties not later than two years after the end of the accounting period in which the cessation occurred.
- (5) The “acquisition value” of trading stock means the amount which would have been deductible as representing its acquisition value, in calculating the profits of the trade, on the following assumptions—
- (a) that the stock had been sold in the course of the trade, immediately before the cessation, for a price equal to the value of the stock determined under section 166, and
 - (b) that the period for which those profits were to be calculated began immediately before the sale.
- (6) If the stock is sold together with other assets, so much of the amount realised on the sale as, on a just and reasonable apportionment, is properly attributable to each asset is treated as the amount realised on the sale of that asset.

168 Connected persons

For the purposes of sections 164 to 167 two persons are connected with each other if any of the following tests is met—

- (a) they are connected with each other within the meaning of [F44 section 1122 of CTA 2010],
- (b) one of them is a firm and the other has a right to a share of the assets or income of the firm,
- (c) one of them is a body corporate and the other has control over that body,
- (d) both of them are firms and some other person has a right to a share of the assets or income of both of them, or
- (e) both of them are bodies corporate, or one of them is a firm and the other is a body corporate, and in either case some other person has control over both of them.

Textual Amendments

- F44** Words in s. 168 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. 599 (with Sch. 2)

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169 Cost to buyer of stock valued on sale basis of valuation

- (1) This section applies for the purpose of calculating the profits of the trade carried on by the buyer of trading stock.
- (2) If the value of the stock is determined in accordance with—
 - (a) section 164(3) or sections 165 to 167 (sale basis of valuation), or
 - (b) section 175(3) or sections 176 to 178 of ITTOIA 2005 (corresponding income tax rules),
 the cost of the stock to the buyer is taken to be the value as so determined.

170 Meaning of “sale” and related expressions

- (1) In sections 164 to 167 (except in section 167(5)) references to a sale include a transfer for valuable consideration.
- (2) In relation to a transfer which is not a sale—
 - “amount realised on the sale” means the value of the consideration given for the transfer,
 - “buyer” means the person to whom the transfer is made, and
 - “seller” means the person who makes the transfer.

171 Determination of questions

Any question arising under section 164(3) or sections 165 to 167 (sale basis of valuation of trading stock) must be determined in the same way as an appeal.

CHAPTER 12

DEDUCTIONS FROM PROFITS: UNREMITTABLE AMOUNTS

172 Application of Chapter

- (1) This Chapter applies if—
 - (a) an amount received by, or owed to, a company carrying on a trade (“the trader”) is brought into account as a receipt in calculating the profits of the trade,
 - (b) the amount is paid or owed in a territory outside the United Kingdom, and
 - (c) some or all of the amount is unremittable.
- (2) An amount received is unremittable if it cannot be transferred to the United Kingdom merely because of foreign exchange restrictions.
- (3) An amount owed is unremittable if it cannot be paid in the United Kingdom and—
 - (a) it temporarily cannot be paid in the territory in which it is owed merely because of foreign exchange restrictions, or
 - (b) it can be paid in that territory but, if it were paid there, the amount paid would not be transferable to the United Kingdom merely because of foreign exchange restrictions.
- (4) “Foreign exchange restrictions” are restrictions imposed by any of the following—

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- (a) the laws of the territory where the amount is paid or owed,
 - (b) executive action of its government, and
 - (c) the impossibility of obtaining there currency that could be transferred to the United Kingdom.
- (5) Section 464(1) (matters to be brought into account in the case of loan relationships) does not prevent any amount from being brought into account in accordance with section 173 or 175.

173 Relief for unremittable amounts

- (1) If—
- (a) the trader has profits from the trade in a period of account, and
 - (b) an unremittable amount has been brought into account as a receipt for that period,
- a deduction of the amount is allowed from those profits (but see subsection (5)).
- (2) If the trader has profits from the trade in a period of account and the total of—
- (a) any unremittable amounts brought into account as receipts for that period, and
 - (b) any amount carried forward under this subsection or subsection (3) from the previous period of account,
- exceeds the amount of those profits, the excess may be carried forward to the next period of account.
- (3) If the trader does not have profits from the trade in a period of account and an unremittable amount has been brought into account as a receipt for that period, the total of—
- (a) any unremittable amounts brought into account as receipts for that period, and
 - (b) any amount carried forward under this subsection or subsection (2) from the previous period of account,
- may be carried forward to the next period of account.
- (4) If an amount is carried forward under this section to a period of account in which the trader has profits from the trade, a deduction of the amount is allowed from those profits (but see subsection (5)).
- (5) The total amount deducted under this section from the profits from a trade in a period of account must not exceed the amount of the profits.

174 Restrictions on relief

- (1) No deduction is allowed under section 173 in relation to an amount so far as—
- (a) it is used to finance expenditure or investment outside the United Kingdom, or
 - (b) it is applied outside the United Kingdom in another way.
- (2) No deduction is allowed under section 173 in relation to an amount owed so far as a payment under a contract of insurance has been received in relation to it.
- (3) No deduction is allowed under section 173 in relation to an amount brought into account in calculating profits if relief under section 1275 (unremittable income) may be claimed in relation to that amount.

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175 Withdrawal of relief

- (1) This section applies if—
 - (a) some or all of an unremittable amount has been deducted from profits under section 173, and
 - (b) any of the following events occurs.
- (2) The events are that—
 - (a) the amount or part of it ceases to be unremittable,
 - (b) an allowable provision for impairment loss is made in respect of the amount or part of it,
 - (c) the amount or part of it is used to finance expenditure or investment outside the United Kingdom,
 - (d) the amount or part of it is applied outside the United Kingdom in another way,
 - (e) the amount or part of it is exchanged for, or discharged by, an amount that is not unremittable, and
 - (f) if the amount is an amount owed, a payment under a contract of insurance is received in relation to the amount or part of it.
- (3) The amount or the part of it in question is brought into account as a receipt in calculating the profits of the trade of the period of account in which the event occurs, but only so far as—
 - (a) it has been deducted from profits under section 173, and
 - (b) it has not already been brought into account as a receipt in calculating the profits of the trade as a result of this section.
- (4) If the event is the receipt of a payment under a contract of insurance, the amount brought into account as a receipt must not exceed the amount of the payment.
- (5) In subsection (2)(b) “allowable provision for impairment loss” means either—
 - (a) a debit in respect of the impairment of a financial asset (see section 476(1)) which is brought into account under Part 5 (loan relationships), or
 - (b) a provision in respect of which a deduction is allowable under section 55 (bad debts).

CHAPTER 13

DISPOSAL AND ACQUISITION OF KNOW-HOW

176 Meaning of “know-how” etc

- (1) In this Chapter “know-how” means any industrial information or techniques likely to assist in—
 - (a) manufacturing or processing goods or materials,
 - (b) working a source of mineral deposits (including searching for, discovering or testing mineral deposits or obtaining access to them), or
 - (c) carrying out any agricultural, forestry or fishing operations.
- (2) For this purpose—

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“mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth and for this purpose geothermal energy is treated as a natural deposit, and

“source of mineral deposits” includes a mine, an oil well and a source of geothermal energy.

- (3) For the purposes of this Chapter any consideration received for giving, or wholly or partly fulfilling, an undertaking which—
 - (a) is given in connection with a disposal of know-how, and
 - (b) restricts, or is designed to restrict, any person's activities in any way, is treated as consideration received for the disposal of the know-how.
- (4) It does not matter whether or not the undertaking is legally enforceable.
- (5) For the purposes of this Chapter references to a sale of know-how include an exchange of know-how and any provision of this Chapter referring to a sale has effect with the necessary modifications.
- (6) Those modifications include, in particular, reading references to the proceeds of sale and to the price as including the consideration for the exchange.

177 Disposal of know-how if trade continues to be carried on

- (1) This section applies if—
 - (a) a company carrying on a trade receives consideration for the disposal of know-how which has been used in the trade,
 - (b) the company continues to carry on the trade after the disposal, and
 - (c) neither section 178 (disposal of know-how as part of disposal of all or part of a trade) nor section 179 (seller controlled by buyer etc) applies.
- (2) The amount or value of the consideration is treated for corporation tax purposes as a trading receipt, except so far as it is brought into account under section 462 of CAA 2001 (disposal values).
- (3) If the know-how is sold together with other property, the net proceeds of the sale of the know-how are treated as being so much of the net proceeds of the sale of all the property as, on a just and reasonable apportionment, is attributable to the know-how.
- (4) For this purpose all property sold as a result of one bargain is treated as sold together even though—
 - (a) separate prices are, or purport to be, agreed for separate items of that property, or
 - (b) there are, or purport to be, separate sales of separate items of that property.
- (5) Any question about the way in which a sum is to be apportioned under this section must be determined in accordance with section 563(2) to (6) of CAA 2001 (procedure for determining certain questions affecting two or more persons) if it materially affects two or more taxpayers.
- (6) For this purpose a question materially affects two or more taxpayers if, at the time when the question falls to be determined, it appears that the determination is material to the liability to tax (for whatever period) of two or more persons.

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178 Disposal of know-how as part of disposal of all or part of a trade

- (1) This section applies if —
 - (a) a person carrying on a trade receives consideration for the disposal of know-how which has been used in the trade, and
 - (b) the know-how is disposed of as part of the disposal of all or part of the trade.
- (2) If the person disposing of the know-how is within the charge to corporation tax, the consideration is treated for corporation tax purposes as a capital receipt for goodwill.
- (3) If the person acquiring the know-how—
 - (a) is within the charge to corporation tax, and
 - (b) provided the consideration,
 the consideration is treated for corporation tax purposes as a capital payment for goodwill.
- (4) But the consideration is not treated for corporation tax purposes as a capital payment for goodwill if, before the acquisition, the trade was carried on wholly outside the United Kingdom.
- (5) If the person disposing of the know-how is within the charge to corporation tax—
 - (a) that person, and
 - (b) the person acquiring the know-how (whether or not within the charge to corporation tax),
 may jointly elect for this section not to apply (but see section 179).
- (6) The election must be made within two years of the disposal.
- (7) If—
 - (a) an election is made under section 194 of ITTOIA 2005 (corresponding income tax provision), and
 - (b) the person making the acquisition mentioned in that section is within the charge to corporation tax,
 the persons making the election under that section are treated as also making an election under this section (even though the person disposing of the know-how is not within the charge to corporation tax).

179 Seller controlled by buyer etc

- (1) This section applies if a disposal of know-how is by way of sale and—
 - (a) the seller is a body of persons over which the buyer has control,
 - (b) the buyer is a body of persons over which the seller has control, or
 - (c) both the seller and the buyer are bodies of persons and another person has control over both of them.
- (2) In such a case—
 - (a) section 177 does not apply, and
 - (b) no election may be made under section 178.
- (3) For the purposes of this section “body of persons” includes a firm.

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CHAPTER 14

ADJUSTMENT ON CHANGE OF BASIS

Adjustment on change of basis

180 Application of Chapter

- (1) This Chapter applies if—
 - (a) a company carrying on a trade changes, from one period of account to the next, the basis on which profits of the trade are calculated for corporation tax purposes,
 - (b) the old basis accorded with the law or practice applicable in relation to the period of account before the change, and
 - (c) the new basis accords with the law and practice applicable in relation to the period of account after the change.
- (2) The practice applicable in any case means the accepted practice in cases of that description as to how profits of a trade should be calculated for corporation tax purposes.
- (3) A company changes the basis on which profits of a trade are calculated for corporation tax purposes if the company makes—
 - (a) a relevant change of accounting approach (see subsection (4)), or
 - (b) a change in the tax adjustments applied (see subsections (5) and (6)).
- (4) A “relevant change of accounting approach” means—
 - (a) a change of accounting principle or practice that, in accordance with generally accepted accounting practice, gives rise to a prior period adjustment, or
 - (b) a change from using UK generally accepted accounting practice to using generally accepted accounting practice with respect to accounts drawn up in accordance with international accounting standards.
- (5) A “tax adjustment” means any adjustment required or authorised by law in calculating profits of a trade for corporation tax purposes.
- (6) A “change in the tax adjustments applied”—
 - (a) does not include a change made in order to comply with amending legislation not applicable to the previous period of account, but
 - (b) includes a change resulting from a change of view as to what is required or authorised by law or as to whether any adjustment is so required or authorised.

181 Giving effect to positive and negative adjustments

- (1) An amount by way of adjustment must be calculated in accordance with section 182.
- (2) If the amount produced by the calculation is positive—
 - (a) the amount is brought into account as a receipt in calculating the profits of the trade, and
 - (b) the receipt is treated as arising on the first day of the first period of account for which the new basis is adopted.

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- (3) If the amount produced by the calculation is negative—
- (a) a deduction is allowed for the amount as an expense of the trade in calculating the profits of the trade, and
 - (b) the expense is treated as arising on the first day of the first period of account for which the new basis is adopted.
- (4) This section is subject to—
- (a) section 183 (no adjustment for certain expenses previously brought into account),
 - (b) section 184 (cases where adjustment not required until assets realised or written off), and
 - (c) section 185 (change from realisation basis to mark to market).

182 Calculation of the adjustment

The amount of the adjustment is calculated as follows. *Step 1*

Add together any amounts representing the extent to which, comparing the two bases, profits were understated (or losses overstated) on the old basis.

The amounts are—

	<i>Amounts</i>
1	Receipts which on the new basis would have been brought into account in calculating the profits of a period of account before the change, so far as they were not so brought into account.
2	Expenses which on the new basis fall to be brought into account in calculating the profits of a period of account after the change, so far as they were brought into account in calculating the profits of a period of account before the change.
3	Deductions in respect of opening trading stock or opening work in progress in the first period of account on the new basis, so far as they— <ol style="list-style-type: none"> (a) are not matched by credits in respect of closing trading stock or closing work in progress in the last period of account before the change, or (b) are calculated on a different basis that if used to calculate those credits would have given a higher figure.
4	Amounts recognised for accounting purposes in respect of depreciation in the last period of account before the change,

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so far as they were not the subject of an adjustment for corporation tax purposes, where such an adjustment would be required on the new basis.

Step 2

Then deduct any amounts representing the extent to which, comparing the two bases, profits were overstated (or losses understated) on the old basis.

The amounts are—

Amounts

- | | |
|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Receipts which were brought into account in a period of account before the change, so far as they would not have been so brought into account if the profits had been calculated on the new basis. |
| 2 | Expenses which were not brought into account in calculating the profits of a period of account before the change, so far as they— <ul style="list-style-type: none">(a) would have been brought into account for a period of account before the change if the profits had been calculated on the new basis, and(b) would have been brought into account for a period of account after the change if the profits had continued to be calculated on the old basis. |
| 3 | Credits in respect of closing trading stock or closing work in progress in the last period of account before the change, so far as they— <ul style="list-style-type: none">(a) are not matched by deductions in respect of opening trading stock or opening work in progress in the first period of account on the new basis, or(b) are calculated on a different basis that if used to calculate those deductions would have given a lower figure. |
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An amount so deducted may not be deducted again in calculating the profits of a period of account.

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Expenses previously brought into account

183 No adjustment for certain expenses previously brought into account

- (1) This section applies if, as a result of a change of basis, expenses brought into account before the change on the old basis would on the new basis be brought into account over more than one period of account after the change.
- (2) In such a case—
 - (a) no adjustment is made under this Chapter, and
 - (b) in calculating the profits of the trade no deduction is allowed for the expenses for any period of account after the change.

Realising or writing off assets

184 Cases where adjustment not required until assets realised or written off

- (1) This section applies if there is a change of basis resulting from a tax adjustment affecting the calculation of any of the following amounts.
- (2) The amounts are—
 - (a) any amount brought into account in respect of closing trading stock in the last period of account before the change of basis,
 - (b) any amount brought into account in respect of opening trading stock in the first period of account on the new basis, and
 - (c) any amount brought into account in respect of depreciation.
- (3) The receipt of the trade or (as the case may be) the expense of the trade is treated as arising only when the asset to which it relates is realised or written off.

Mark to market

185 Change from realisation basis to mark to market

- (1) This section applies if there is a change of basis from—
 - (a) not recognising a profit or loss on an asset until the asset is realised, to
 - (b) bringing assets into account in each period of account at a fair value.
- (2) So far as—
 - (a) a receipt within item 1 of Step 1 in section 182 represents the fair value of an asset that is trading stock, or
 - (b) an expense within item 2 of that step relates to such an asset,
 the receipt of the trade or (as the case may be) the expense of the trade is treated as not arising until the period of account in which the value of the asset is realised.
- (3) In the case of a receipt of the trade, this is subject to any election under section 186 (election for spreading).
- (4) In this section “trading stock” has the same meaning as in section 163.

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186 Election for spreading if section 185 applies

- (1) If section 185 applies, the company carrying on the trade may elect for any receipt treated as arising under this Chapter to be spread over 6 periods of account.
- (2) The election must be made within 12 months of the end of the first accounting period to which the new basis applies.
- (3) If an election is made, an amount equal to one-sixth of the amount of the receipt—
 - (a) is treated as arising, and
 - (b) is brought into account in calculating the profits of the trade,in each of the 6 periods of account beginning with the first period to which the new basis applies.
- (4) But if, before the whole of the receipt has been so brought into account, the company permanently ceases to carry on the trade, the whole of the amount so far as not previously brought into account—
 - (a) is treated as arising, and
 - (b) is brought into account in calculating the profits of the trade,immediately before the cessation.

187 Transfer of insurance business

- (1) This section applies if—
 - (a) an asset to which section 185 or 186 applies is transferred from one insurance company to another,
 - (b) the transfer is made under an insurance business transfer scheme, and
 - (c) immediately after the transfer, the transferee is UK resident or the asset is held for the purposes of a business carried on by the transferee in the United Kingdom through a permanent establishment.
- (2) For the purposes of section 185, the asset is not to be treated as realised by the transferor merely because of its transfer under the scheme.
- (3) If the transfer is of the transferor's whole business, the transferee is responsible under section 185 or 186 for bringing into account any amount required to be brought into account after the transfer.

CHAPTER 15

POST-CESSATION RECEIPTS

Charge to tax on post-cessation receipts

188 Charge to tax on post-cessation receipts

The charge to corporation tax on income applies to post-cessation receipts arising from a trade.

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189 Extent of charge to tax

- (1) A post-cessation receipt is chargeable to tax under this Chapter only so far as it is not otherwise chargeable to corporation or income tax.
- (2) Accordingly, a post-cessation receipt arising from a trade is not chargeable to tax under this Chapter so far as it is brought into account in calculating the profits of the trade of any period.
- (3) A post-cessation receipt is not chargeable to tax under this Chapter if—
 - (a) it is received by or on behalf of a non-UK resident company which is beneficially entitled to it, and
 - (b) it represents income arising outside the United Kingdom.
- (4) A post-cessation receipt is not chargeable to tax under this Chapter if it arises from a trade carried on wholly outside the United Kingdom.

Meaning of “post-cessation receipts”

190 Basic meaning of “post-cessation receipt”

- (1) In this Part “post-cessation receipt” means a sum—
 - (a) which is received after a person permanently ceases to carry on a trade, and
 - (b) which arises from the carrying on of the trade before the cessation.
- (2) In this Chapter, except in sections 194 and 195, references to a person permanently ceasing to carry on a trade include—
 - (a) in the case of a company, the occurrence of an event treated under section 18 of ITTOIA 2005 (companies beginning or ceasing to be within charge to income tax) as the company permanently ceasing to carry on the trade, and
 - (b) in the case of a trade carried on by a person in partnership, the occurrence of an event treated under section 246(4) of ITTOIA 2005 (basic meaning of “post-cessation receipt”) as the person permanently ceasing to carry on the trade.

191 Other rules about what counts as post-cessation receipts

- (1) The following provisions treat certain amounts as post-cessation receipts for the purposes of this Part—
 - section 82(6) (contributions to local enterprise organisations or urban regeneration companies),
 - section 101(3) (distribution of assets of mutual concerns),
 - section 108(3) (receipt of benefits by donor or connected person),
 - section 192 (debts paid after cessation),
 - section 193 (debts released after cessation), as qualified, where appropriate, by section 56(4) (car^{F45} ... hire),
 - section 194 (transfer of rights if transferee does not carry on trade), and
 - section 1277 (income charged on withdrawal of relief after source ceases: unremittable income).
- (2) Section 95 (acquisition of trade: receipts from transferor's trade) and section 194 (transfer of rights if transferee does not carry on trade) treat certain amounts as not being post-cessation receipts for the purposes of this Part.

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Textual Amendments

- F45** Words in s. 191(1) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 51](#)

Sums treated as post-cessation receipts

192 Debts paid after cessation

- (1) This section applies if, in calculating the profits of a trade for corporation or income tax purposes, a deduction is made in respect of a debt under—
 - (a) section 55 (bad debts), or
 - (b) section 35 of ITTOIA 2005 (bad and doubtful debts),and a person permanently ceases to carry on the trade.
- (2) A sum received after the cessation is treated as a post-cessation receipt so far as the deduction is made.

193 Debts released after cessation

- (1) This section applies if—
 - (a) in calculating the profits of a trade of any period for corporation or income tax purposes, a deduction is allowed for the expense giving rise to a debt owed by the person who carried on the trade,
 - (b) the person has permanently ceased to carry on the trade at or after the end of that period,
 - (c) after the cessation, all or part of the debt is released, and
 - (d) the release is not part of a statutory insolvency arrangement.
- (2) The amount released is treated as a post-cessation receipt.

194 Transfer of rights if transferee does not carry on trade

- (1) This section applies if—
 - (a) a company (“the transferor”) permanently ceases to carry on a trade,
 - (b) the transferor transfers to another person (“the transferee”) for value the right to receive sums arising from the carrying on of the trade, and
 - (c) the transferee does not subsequently carry on the trade.
- (2) The transferor is treated as receiving a post-cessation receipt.
- (3) The amount of the receipt is—
 - (a) the amount or value of the consideration for the transfer, if the transfer is at arm's length, or
 - (b) the value of the rights transferred as between parties at arm's length, if the transfer is not at arm's length.
- (4) Any sums mentioned in subsection (1)(b) which are received after the cessation of the trade are not post-cessation receipts.
- (5) This section is subject to section 195 (transfer of trading stock).

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Sums that are not post-cessation receipts

195 Transfer of trading stock

- (1) When a company permanently ceases to carry on a trade, a sum realised by the transfer of trading stock is not a post-cessation receipt if a valuation of the stock is brought into account in accordance with Chapter 11 (valuation of stock).
- (2) In this section “trading stock” has the meaning given by section 163.

Deductions

196 Allowable deductions

- (1) In calculating the amount on which tax is charged under this Chapter, deductions are allowed in accordance with—
 - (a) this section, and
 - (b) section 197,
 from the amount which would otherwise be chargeable to tax under this Chapter.
- (2) A deduction is allowed for a loss, expense or debit which, if the person carrying on the trade had not permanently ceased to do so—
 - (a) would have been deducted in calculating the profits of the trade for corporation or income tax purposes, or
 - (b) would have been deducted from or set off against the profits of the trade for corporation or income tax purposes,
 but no deduction is allowed if the loss, expense or debit arises directly or indirectly from the cessation itself.
- (3) No deduction for an amount is allowed under this section if the amount has been allowed under any other provision of the Tax Acts.

197 Further rules about allowable deductions

- (1) An amount may not be deducted more than once under section 196.
- (2) A deduction under that section of a loss must be made from post-cessation receipts charged for an earlier accounting period in preference to those charged for a later accounting period.
- (3) But this does not authorise the deduction of a loss from post-cessation receipts charged for an accounting period before the accounting period in which the loss is made.

Election to carry back

198 Election to carry back

- (1) This section applies if a post-cessation receipt is received by a company in an accounting period beginning not later than 6 years after the company permanently ceased to carry on the trade.

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- (2) The company may elect that the tax chargeable in respect of the receipt is to be charged as if the receipt had been received on the date of the cessation (but see sections 199 and 200).
- (3) The election must be made before the end of the period of two years beginning immediately after the end of the accounting period in which the receipt is received.

199 Deductions already made are not displaced

- (1) This section applies if—
 - (a) a company which has permanently ceased to carry on a trade makes an election under section 198 in respect of a post-cessation receipt (“the carried back receipt”), and
 - (b) a deduction in respect of a loss has already been made under section 196 for an accounting period later than that in which the cessation occurred.
- (2) Nothing in section 196 (read with section 197(2)) requires or permits a deduction in respect of that loss to be allowed, as a result of the election, for the accounting period in which the cessation occurred instead of the accounting period for which the deduction has already been made.
- (3) But if the deduction was made for the accounting period in which the carried back receipt was received, subsection (2) applies to the loss only so far as it has been deducted from post-cessation receipts other than the carried back receipt.

200 Election given effect in accounting period in which receipt is received

- (1) If a company makes an election under section 198, the additional tax is payable for the accounting period in which the receipt is received (and not for the accounting period in which the cessation occurred).
- (2) In subsection (1) “the additional tax” means an amount of tax equal to the difference between—
 - (a) the amount of tax that is chargeable on the company for the accounting period in which the cessation occurred (“amount A”), and
 - (b) the amount of tax that would have been chargeable on the company for that period if the election had not been made (“amount B”).
- (3) If—
 - (a) the company has made, under section 198, one or more other elections for receipts to be treated as received in the period in which the cessation occurred, and
 - (b) effect has been given to those elections,the effect of those elections is taken into account in determining amounts A and B.

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CHAPTER 16

PRIORITY RULES

201 Provisions which must be given priority over this Part

- (1) Any receipt or other credit item, so far as it falls within—
 - (a) Chapter 2 of this Part (receipts of trade), and
 - (b) Chapter 3 of Part 4 so far as it relates to a UK property business, is dealt with under Chapter 3 of Part 4.
- (2) Any receipt or other credit item, so far as it falls within—
 - (a) this Part, and
 - (b) Chapter 4 of Part 10 (income from holding an office), is dealt with under Chapter 4 of Part 10.

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