



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART II

[^{F1}PROVISIONS RELATING TO THE SCHEDULE A CHARGE]

General

[^{F1}21 Persons chargeable and basis of assessment.

^{F2}

Textual Amendments

- F1** Ss. 21-21B substituted (with effect as mentioned in s. 38(2)(3) of the amending Act) for s. 21 by Finance Act 1998 (c. 36), s. 38(1), **Sch. 5 para. 4** (with Sch. 5 paras. 73, 76)
- F2** S. 21 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005* (c. 5), Sch. 1 para. 11, **Sch. 3** (with Sch. 2)

[^{F3}21A Computation of amount chargeable.

- (1) Except as otherwise expressly provided, the profits of a Schedule A business are computed in the same way as the profits of a trade are computed for the purposes of Case I of Schedule D.
- (2) The following provisions apply in accordance with subsection (1)—
 - section 72 (apportionment);
 - the provisions of Chapter V of Part IV (computational provisions relating to the Schedule D charge), except as mentioned in subsection (4) below;
 - section 577 (business entertainment expenses);
 - section 577A (expenditure involving crime);
 - sections 579 and 580 (redundancy payments);
 - [^{F4}section 588] (training courses for employees);

Status: Point in time view as at 06/04/2005.

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[^{F5}section 589A] (counselling services for employees);
section 73(2) of the ^{M1}Finance Act 1988 (consideration for restrictive undertakings);
section 43 of the ^{M2}Finance Act [^{F6}1989 (Schedule D: computation)];
section 76 of that Act (expenses in connection with non-approved retirement benefit schemes);
^{F7}
sections 42 and 46(1) and (2) of the Finance Act 1998 (provisions as to computation of profits and losses).

(3) Section 74(1)(d) of this Act (disallowance of provisions for future repairs) applies in relation to a Schedule A business as if the reference to premises occupied for the purposes of the trade were to premises held for the purposes of the Schedule A business.

(4) The following provisions in Chapter V of Part IV of this Act do not apply, or are excepted from applying, in accordance with subsection (1)—

^{F8}
section 87 (treatment of premiums taxed as rent),
^{F9}
section 98 (tied premises: receipts and expenses treated as those of trade).

[Part 1 of Schedule 22 to the Finance Act 2001 (deduction for capital expenditure ^{F10}(5) on remediation of contaminated land) applies in accordance with subsection (1), and the other Parts of that Schedule (further provision as to relief for remediation of contaminated land) have effect in relation to a Schedule A business in accordance with their provisions.]]

Textual Amendments

- F3** Ss. 21-21B substituted (with effect as mentioned in s. 38(2)(3) of the amending Act) for s. 21 by Finance Act 1998 (c. 36), s. 38(1), **Sch. 5 para. 4** (with Sch. 5 paras. 73, 76)
- F4** Words in s. 21A(2) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 7(a)** (with Sch. 7)
- F5** Words in S. 21A(2) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 7(b)** (with Sch. 7)
- F6** Words in s. 21A(2) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 7(c)** (with Sch. 7)
- F7** Words in s. 21A(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 12(2), **Sch. 3** (with Sch. 2)
- F8** Words in s. 21A(4) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 12(3)(a), **Sch. 3** (with Sch. 2)
- F9** Words in s. 21A(4) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 12(3)(b), **Sch. 3** (with Sch. 2)
- F10** S. 21A(5) inserted (with effect in accordance with s. 70(1) of the amending Act) by Finance Act 2001 (c. 9), s. 70(3), **Sch. 23 para. 1**

Marginal Citations

- M1** 1988 c. 39.
M2 1989 c. 26.

Status: Point in time view as at 06/04/2005.

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[^{F3}21B Application of other rules applicable to Case I of Schedule D.

The following provisions apply for the purposes of Schedule A in relation to a Schedule A business as they apply for the purposes of Case I of Schedule D in relation to a trade—

sections 103 to 106 ^{F11} . . . and 110 (post-cessation receipts and expenses, etc.) [^{F12}, with any reference to a trade within the charge to income tax being read as a reference to a UK property business] ;

^{F11}

section 337(1) (effect of company beginning or ceasing to carry on trade);

section 401(1) (pre-trading expenditure);

section 44 of and Schedule 6 to the Finance Act 1998 (change of accounting basis).]

Textual Amendments

- F3** Ss. 21-21B substituted (with effect as mentioned in s. 38(2)(3) of the amending Act) for s. 21 by Finance Act 1998 (c. 36), s. 38(1), **Sch. 5 para. 4** (with Sch. 5 paras. 73, 76)
- F11** Words in s. 21B repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 13(a)(c), **Sch. 3** (with Sch. 2)
- F12** Words in s. 21B inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 13(b)** (with Sch. 2)

[^{F13}21C The Schedule A charge and mutual business.

- (1) The following provisions have effect for the purpose of applying the charge to [^{F14}corporation] tax under Schedule A in relation to mutual business.
- (2) The transactions or relationships involved in mutual business are treated as if they were transactions or relationships between persons between whom no relationship of mutuality existed.
- (3) Any surplus arising from the business is regarded as a profit (and any deficit as a loss) if it would be so regarded if the business were not mutual.
- (4) [^{F15}The company to which the profit arises is the company which would] satisfy that description if the business were not mutual business.
- (5) Nothing in this section affects the operation of section 488 (co-operative housing associations).]

Textual Amendments

- F13** S. 21C inserted (with effect as mentioned in s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), s. 38(1), **Sch. 5 para. 5** (with Sch. 5 paras. 73, 76)
- F14** Word in s. 21C (1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 14(a)** (with Sch. 2)
- F15** Words in s. 21C (4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 14(b)** (with Sch. 2)

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22 Assessments.

F16

Textual Amendments

F16 S. 22 repealed (with effect in accordance with s. 39(4)(5) and Sch. 29 Pt. 8(1) Note of the repealing Act) by Finance Act 1995 (c. 4), ss. 39(3), 162, Sch. 6 para. 3, Sch. 29 Pt. 8(1), Note

23 Collection from lessees and agents.

F17

Textual Amendments

F17 S. 23 repealed (with effect in accordance with s. 39(4)(5) and Sch. 29 Pt. 8(1) Note of the repealing Act) by Finance Act 1995 (c. 4), ss. 39(3), 162, Sch. 6 para. 3, Sch. 29 Pt. 8(1), Note

24 Construction of Part II.

- (1) ^{M3}In this Part, except where the context otherwise requires—
- “lease” includes an agreement for a lease, and any tenancy, but does not include a mortgage or heritable security, and “lessee”, “lessor” and “letting” shall be construed accordingly;
 - “lessee” and “lessor” include respectively the successors in title of a lessee or a lessor;
 - “premises” includes any land; and
 - “premium” includes any like sum, whether payable to the immediate or a superior landlord or to a person connected (within the meaning of section 839) with the immediate or a superior landlord.
- (2) ^{M4}For the purposes of this Part, any sum (other than rent) paid on or in connection with the granting of a tenancy shall be presumed to have been paid by way of premium except in so far as other sufficient consideration for the payment [^{F18}can be] shown to have been given.
- (3) ^{M5}Where paragraph (c) of section 38(1) applies, the premium, or an appropriate part of the premium, payable for or in connection with either lease mentioned in that paragraph may be treated as having been required under the other.
- (4) References in this section to a sum shall be construed as including the value of any consideration, and references to a sum paid or payable or to the payment of a sum shall be construed accordingly.
- (5) ^{M6}In the application of this Part to Scotland—
- “assignment” means an assignation;
 - “intermediate landlord” means, where an occupying lessee is a sub-lessee, any person for the time being holding the interest of landlord under a sub-lease which comprises the property of which the occupying lessee is sub-lessee, but does not include the immediate landlord;

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“premium” includes in particular a grassum payable to any landlord or intermediate landlord on the creation of a sub-lease; and

“reversion” means the interest of the landlord in the property subject to the lease.

(6) ^{M7}In Schedule A and in sections 25 to 31—

(a) references to a lease extend only to a lease conferring a right, as against the person whose interest is subject to the lease, to the possession of the premises;

(b) “rent” includes a payment by the tenant to defray the cost of work of maintenance of, or repairs to, the demised premises, not being work required by the lease to be carried out by the tenant; ^{F19} . . .

(c) ^{F19}

(7) ^{F19}

Textual Amendments

F18 Words in s. 24(2) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), s. 134(1), **Sch. 20 Para. 1**

F19 S. 24(6)(c)(7) and word preceding s. 24(6)(c) repealed (with effect as mentioned in s. 38(2)(3) of the repealing Act) by Finance Act 1998 (c. 36), s. 165, **Sch. 27 Pt. 3(4)**, Note

Marginal Citations

M3 SOURCE-1970 s. 90(1); 1972 s. 81(3)

M4 SOURCE-1970 s. 90(2)

M5 SOURCE-1970 s. 90(2A), (2B); 1972 s. 81(4)

M6 SOURCE-1970 s. 90(3)

M7 SOURCE-1970 s. 71(2)

Status:

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