



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IV

PROVISIONS RELATING TO THE SCHEDULE D CHARGE

CHAPTER V

COMPUTATIONAL PROVISIONS

Special provisions

96 Farming and market gardening: relief for fluctuating profits

- (1) Subject to the provisions of this section, a person who is or has been carrying on a trade of farming or market gardening in the United Kingdom may claim that subsection (2) or (3) below shall have effect in relation to his profits from that trade for any two consecutive years of assessment if his profits for either year do not exceed such part of his profits for the other year as is there specified.
- (2) If the claimant's profits for either year do not exceed seven-tenths of his profits for the other year or are nil, his profits for each year shall be adjusted so as to be equal to one-half of his profits for the two years taken together or, as the case may be, for the year for which there are profits.
- (3) If the claimant's profits for either year exceed seven-tenths but are less than three-quarters of his profits for the other year, his profits for each year shall be adjusted by adding to the profits that are lower and deducting from those that are higher an amount equal to three times the difference between them less three-quarters of those that are higher.
- (4) No claim shall be made under this section—
 - (a) in respect of any year of assessment before a year in respect of which a claim has already been made under this section; or

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- (b) in respect of a year of assessment in which the trade is (or by virtue of section 113(1) is treated as) set up and commenced or permanently discontinued.
- (5) Any adjustment under this section shall have effect for all the purposes of the Income Tax Acts (including any further application of this section where the second of any two years of assessment is the first of a subsequent pair) except that—
- (a) subsection (2) above shall not prevent a person obtaining relief under those Acts for a loss sustained by him in any year of assessment;
 - (b) any adjustment under this section shall be disregarded for the purposes of section 63(1)(b); and
 - (c) where, after a claim has been made under this section in respect of the profits for any two years of assessment, the profits for both or either of those years are adjusted for any other reason, this section shall have effect as if the claim had not been made but without prejudice to the making of a further claim in respect of those profits as so adjusted.
- (6) This section applies to the profits of a trade carried on by a person in partnership as it applies to the profits of a sole trader except that—
- (a) the profits to which the claim relates shall be those chargeable in accordance with section 111; and
 - (b) any claim in respect of those profits shall be made jointly by all the partners who are individuals;
- and where during the years of assessment to which the claim relates there is a change in the persons engaged in carrying on the trade but a notice is given under section 113(2), the claim shall be made jointly by all the persons who are individuals and have been engaged in carrying on the trade at any time during those years.
- Where a person who is required by this subsection to join in the making of a claim has died, this subsection shall have effect as if it required his personal representatives to join in making the claim.
- (7) In this section references to profits from a trade for a year of assessment are references to the profits or gains from that trade which are chargeable to income tax for that year before—
- (a) any deduction for losses sustained in any year of assessment;
 - (b) any deduction or addition for capital allowances or charges (not being allowances or charges given or made by deduction or addition in the computation of profits or gains);
 - (c) any deduction for relief under Schedule 9 to the Finance Act 1981 (stock relief).
- (8) Any claim under this section shall be made by notice given to the inspector not later than two years after the end of the second of the years of assessment to which the claim relates but any such further claim as is mentioned in subsection (5)(c) above shall not be out of time if made before the end of the year of assessment following that in which the adjustment is made.
- (9) Where a person makes a claim under this section in respect of any year of assessment, any claim by him for relief for that year under any other provision of the Income Tax Acts—
- (a) shall not be out of time if made before the end of the period in which the claim under this section is required to be made; and

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- (b) if already made, may be revoked or amended before the end of that period; but no claim shall by virtue of this subsection be made, revoked or amended after the determination of the claim under this section.
- (10) There shall be made all such alterations of assessments or repayments of tax (whether in respect of such profits as are mentioned in subsection (1) above or of other income of the person concerned) as may be required in consequence of any adjustment under this section.
- (11) Nothing in this section shall be construed as applying to profits chargeable to corporation tax.
- (12) This section applies where the first of the two years mentioned in subsection (1) above is the year 1987-88 or a subsequent year of assessment.

97 Treatment of farm animals etc

Schedule 5 shall have effect with respect to the treatment, in computing profits or gains for the purposes of Case I of Schedule D, of animals and other living creatures kept for the purposes of farming or any other trade.

98 Tied premises

- (1) In computing for tax purposes the profits or gains or losses of a trade carried on by a lessor of tied premises—
 - (a) there shall be taken into account as a trading receipt any rent payable for the premises to him, and there shall be allowed as deduction any rent paid for the premises by him, but
 - (b) no deduction shall be allowed in respect of the premises either by reference to his being entitled to a rent for the premises which is less than the rent which might have been obtained (or less than their annual value or the rent payable by him for them) or in respect of the annual value of the premises.
- (2) For the purposes of this section, premises shall be deemed to be tied premises in relation to any lessor of the premises, and in relation to any trade carried on by him, if, but only if, in the course of that trade, he is concerned (whether as principal or agent) in the supply of goods sold or used on the premises and accordingly deals with the premises or his interest in the premises as property employed for the purposes of that trade; and in this section “the relevant trade”, in relation to any tied premises and to any lessor thereof, means any trade carried on by him in relation to which they are tied premises.
- (3) Where part only of premises in respect of which rent is paid by or payable to a lessor of the premises are tied premises in relation to him, the rent paid or payable for the tied premises shall for the purposes of this section be taken to be that part of the entire rent which, on a fair and just apportionment, is attributable to them.
- (4) Subject to subsection (5) below, a lessor of tied premises who is chargeable to tax for any chargeable period in respect of the profits or gains of the relevant trade shall not be liable for that period (or for the part of it during which he carries on that trade) to any tax in respect of the premises under Schedule A.
- (5) Where, for any chargeable period or part of a chargeable period, a lessor of tied premises becomes entitled to any rent under a lease comprising the tied premises and

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other premises, but is by virtue of subsection (4) above relieved of liability to tax in respect of the tied premises under Schedule A—

- (a) his liability in respect of the rent shall be computed in the first instance as it would be apart from this section, but
 - (b) his total liability (so computed) in respect of the rent shall be reduced by the part which, on a fair and just apportionment, is attributable to the tied premises for the chargeable period or part thereof for which he is so relieved of liability in respect of them.
- (6) If the lessor of tied premises outside the United Kingdom is chargeable to tax for any chargeable period in respect of the profits or gains of the relevant trade, he shall not be liable for that period (or for the part of it during which he carries on that trade) to tax under Case V of Schedule D in respect of any rent for the premises.
- (7) Where the person carrying on a trade is, in the case of any premises, entitled in equity to the interest of any lessor of those premises, then, in relation to that person, subsections (1) to (3) above shall apply as if he were the lessor of the premises, and as if any rent payable to or paid by the lessor were payable to or paid by him; and, in relation to the lessor of the premises, subsections (4) and (5) above (or, in the case of premises outside the United Kingdom, subsection (6) above) shall apply as they would apply to the person carrying on the trade if the lessor's interest in the premises and in any other relevant land were vested in him.
- (8) In this section “lease” includes an agreement for a lease if the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage or heritable security, and “lessor” shall be construed accordingly, and includes the successors in title of a lessor.

99 Dealers in land

- (1) In computing for tax purposes the profits or gains of a trade of dealing in land, there shall be disregarded—
- (a) so much of the cost of woodlands in the United Kingdom purchased in the course of the trade as is attributable to trees or saleable underwood growing on the land; and
 - (b) where any amount has been disregarded under paragraph (a) above and, on a subsequent sale of the woodlands in the course of the trade, all or any of the trees or underwood to which the amount disregarded was attributable are still growing on the land, so much of the price for the land as is equal to the amount so disregarded in respect of those trees or underwood.
- (2) In computing the profits or gains of a trade of dealing in land, any trading receipt falling within subsection (1), (4) or (5) of section 34 or section 35 or 36 shall be treated as reduced by the amount on which tax is chargeable by virtue of that section.
- (3) Where, on a claim being made under subsection (2)(b) of section 36, the amount on which tax was chargeable by virtue of that section is treated as reduced, subsection (2) above shall be deemed to have applied to the amount as reduced, and any such adjustment of liability to tax shall be made (for all relevant chargeable periods) whether by means of an assessment or otherwise, as may be necessary, and may be so made at any time at which it could be made if it related only to tax for the chargeable period in which that claim is made.

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- (4) Subsection (1) above shall not apply where the purchase mentioned in paragraph (a) of that subsection was made under a contract entered into before 1st May 1963.