



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Taxation of income from land

41 Income from overseas property

(1) In section 65 of the Taxes Act 1988 (general provision about Cases IV and V assessments), after subsection (2) there shall be inserted the following subsections—

“(2A) Subject to section 65A and to the provisions of section 41(5) to (9) of the Finance Act 1995 (which contain transitional provisions for the years 1995-96 to 1997-98), income tax chargeable under Case V of Schedule D on income which—

- (a) arises from any business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over any land outside the United Kingdom; and
- (b) is not income immediately derived by any person from the carrying on by him of any trade, profession or vocation, either solely or in partnership,

shall be computed in accordance with the rules which are applicable under the Income Tax Acts to the computation of the profits or gains of a Schedule A business.

(2B) The provisions of Schedule A shall apply for determining for the purposes of subsection (2A) above whether income falls within paragraph (a) of that subsection as they would apply if—

- (a) the land in question were in the United Kingdom, or
- (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom;

Status: This is the original version (as it was originally enacted).

and any provision of the Income Tax Acts in pursuance of which there is deemed in certain cases to be a Schedule A business in relation to any land in the United Kingdom shall have effect, where the corresponding circumstances arise with respect to land outside the United Kingdom, as if, for the purposes of that subsection, there were deemed to be a business such as is mentioned in that paragraph.”; and in subsection (4) of that section for “Subsections (1), (2) and (3)” there shall be substituted “Subsections (1) to (3)”.

(2) After section 65 of that Act there shall be inserted the following section—

“65A Case V income from land overseas etc

(1) Notwithstanding anything in section 21(4), subsection (2A) of section 65 shall require the rules referred to in that subsection to be applied separately in relation to—

- (a) any business which is treated for the purposes of that subsection as if it were a Schedule A business, and
 - (b) any actual Schedule A business of the person chargeable,
- as if, in each case, that business were the only Schedule A business carried on by that person.

(2) Section 21(3), so far as applied by virtue of section 65(2A) for the purposes of the computation of the amount of any income chargeable to tax under Case V of Schedule D, shall have effect as if it required sections 80 and 81 to be disregarded in the computation of the amount of any profits or gains, or losses, of a Schedule A business.

(3) Sections 503 and 504 of this Act and section 29 of the 1990 Act (furnished holiday accommodation) shall be disregarded in the computation in accordance with section 65(2A) of any income chargeable to tax under Case V of Schedule D.

(4) Section 65(2A) and this section shall not apply for the purposes of corporation tax.”

(3) In section 161 of the Capital Allowances Act 1990 (interpretative provisions), after subsection (2) there shall be inserted the following subsection—

“(2A) This Act applies in accordance with subsection (2A) of section 65 of the principal Act in relation to cases where a person is treated for the purposes of that subsection as if any actual or deemed business of his were a Schedule A business as it applies in relation to cases where a person is carrying on a Schedule A business.”

(4) In Schedule 8 to the Taxation of Chargeable Gains Act 1992 (which contains provision excluding from the charge to capital gains tax premiums taxed under Schedule A), after paragraph 7 there shall be inserted the following paragraph—

“7A References in paragraphs 5 to 7 above to an amount brought into account as a receipt of a Schedule A business shall include references to any amount which, in accordance with section 65(2A) of the Taxes Act, is brought into account for the purposes of Case V of Schedule D as if it were such a receipt.”

- (5) Where any income falling within paragraphs (a) and (b) of subsection (2A) of section 65 of the Taxes Act 1988 which is chargeable to tax for any year of assessment under Case V of Schedule D would (apart from this section) be computed, wholly or partly, on an amount of income arising in the year preceding the year of assessment, that subsection shall have effect as if the income chargeable to tax for that year under Schedule A were to be computed, to the same extent, by reference to the year preceding the year of assessment (instead of being computed in accordance with the rule in section 21(2) of that Act), and as if the rules applied by section 65(2A) of that Act had effect accordingly.
- (6) Notwithstanding anything in section 21(4) of the Taxes Act 1988, for the years 1995-96 and 1996-97 subsection (2A) of section 65 shall be treated as requiring the rules referred to in that subsection to be applied, in a case where a person is chargeable under Case V of Schedule D in respect of the rents or other receipts from more than one property situated outside the United Kingdom, separately in relation to each property outside the United Kingdom—
 - (a) as if a separate Schedule A business were carried on in relation to each property, and
 - (b) in the case of each such business, as if that business were the only Schedule A business carried on by the person chargeable.
- (7) Where subsection (5) above applies for the computation of the income from any property for any year of assessment, then for that year no allowance or charge under the Capital Allowances Act 1990 shall be made on any person by virtue of this section for any purpose connected with the taxation of the income from that property.
- (8) Section 379A of the Taxes Act 1988 (Schedule A losses) shall not apply by virtue of section 65(2A) of that Act for the computation of any income chargeable to tax under Case V of Schedule D for any year of assessment before the year 1998-99.
- (9) Section 65(2A) of the Taxes Act 1988 shall not apply in any case which, if the land in question were in the United Kingdom, would be a case falling within section 39(5) above.
- (10) Subject to subsections (5) to (9) above, this section has effect for the year 1995-96 and subsequent years of assessment.