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Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 1

OVERVIEW

1 Overview of Act

(1) This Act imposes charges to income tax under—
- (a) Part 2 (trading income),
- (b) Part 3 (property income),
- (c) Part 4 (savings and investment income), and
- (d) Part 5 (certain miscellaneous income).

(2) Those charges to tax have effect for the purposes of section 1(1) of ICTA (the general charge to income tax).

(3) Exemptions from those charges are dealt with in Part 6 (exempt income) but any Part 6 exemptions which are most obviously relevant to particular types of income are also mentioned in the provisions about those types of income.

(4) What is or is not mentioned in those provisions does not limit the effect of Part 6.

(5) This Act also contains—
- (a) provision about rent-a-room relief and foster-care relief (see Part 7),
- (b) special rules for foreign income (see Part 8),
- (c) special rules for partnerships (see Part 9), and
- (d) certain calculation rules and general provisions (see Part 10).

(6) For abbreviations and defined expressions used in this Act, see section 885 and Schedule 4.

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2 Overview of priority rules

(1) This Act contains some rules establishing an order of priority in respect of certain amounts which would otherwise—

(a) fall within a charge to income tax under two or more Chapters or Parts of this Act, or

(b) fall within a charge to income tax under a Chapter or Part of this Act and ITEPA 2003.

(2) See, in particular—

section 4 (provisions which must be given priority over Part 2),
section 261 (provisions which must be given priority over Part 3),
section 262 (priority between Chapters within Part 3),
section 366 (provisions which must be given priority over Part 4),
section 367 (priority between Chapters within Part 4),
section 575 (provisions which must be given priority over Part 5), and
section 576 (priority between Chapters within Part 5).

(3) But the rules in those sections need to be read with other rules of law (whether in this Act or otherwise) about the scope of particular provisions or the order of priority to be given to them.

(4) Section 171(2) of FA 1993 (profits of Lloyd's underwriters charged only under Chapter 2 of Part 2 of this Act) is one example of another rule of law.

PART 2

TRADING INCOME

CHAPTER 1

INTRODUCTION

3 Overview of Part 2

(1) This Part imposes charges to income tax under—

(a) Chapter 2 (the profits of a trade, profession or vocation which meet the territorial conditions mentioned in section 6),

(b) Chapter 17 (amounts treated as adjustment income under section 228), and

(c) Chapter 18 (post-cessation receipts that are chargeable under this Part).

(2) Part 6 deals with exemptions from the charges under this Part.

(3) See, in particular, the exemptions under sections 777 (VAT repayment supplements) and 778 (incentives to use electronic communications).

(4) The charges under this Part apply to non-UK residents as well as UK residents but this is subject to sections 6(2) and (3) and 243(3) and (4) (charges on non-UK residents only on UK income).

(5) The rest of this Part contains rules relevant to the charges to tax under this Part.

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(6) This section needs to be read with the relevant priority rules (see sections 2 and 4).

4 Provisions which must be given priority over Part 2

(1) Any receipt or other credit item, so far as it falls within—
  (a) Chapter 2 of this Part (receipts of trade, profession or vocation), and
  (b) Chapter 3 of Part 3 so far as it relates to a UK property business,
is dealt with under Part 3.

(2) Any receipt or other credit item, so far as it falls within—
  (a) this Part, and
  (b) Part 2, 9 or 10 of ITEPA 2003 (employment income, pension income or social security income),
is dealt with under the relevant Part of ITEPA 2003.

CHAPTER 2

INCOME TAXED AS TRADE PROFITS

Charge to tax on trade profits

5 Charge to tax on trade profits

Income tax is charged on the profits of a trade, profession or vocation.

6 Territorial scope of charge to tax

(1) Profits of a trade arising to a UK resident are chargeable to tax under this Chapter wherever the trade is carried on.

(2) Profits of a trade arising to a non-UK resident are chargeable to tax under this Chapter only if they arise—
  (a) from a trade carried on wholly in the United Kingdom, or
  (b) in the case of a trade carried on partly in the United Kingdom and partly elsewhere, from the part of the trade carried on in the United Kingdom.

(3) This section applies to professions and vocations as it applies to trades.

7 Income charged

(1) Tax is charged under this Chapter on the full amount of the profits of the tax year.

(2) For this purpose the profits of a tax year are the profits of the basis period for the tax year.

(3) For the rules identifying the basis period for a tax year, see Chapter 15.

(4) This section is subject to Part 8 (foreign income: special rules).

(5) And, for the purposes of section 830 (meaning of “relevant foreign income”), the profits of a trade, profession or vocation arise from a source outside the United

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Kingdom only if the trade, profession or vocation is carried on wholly outside the United Kingdom.

8 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the profits.

Trades and trade profits

9 Farming and market gardening

(1) Farming or market gardening in the United Kingdom is treated for income 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 person, other than farming carried on as part of another trade, is treated for income tax purposes as one trade.

(3) In the case of farming carried on by a firm, this rule is explained by section 859(1).

10 Commercial occupation of land other than woodlands

(1) The commercial occupation of land in the United Kingdom is treated for income 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 9),
  (b) if the land is being prepared for forestry purposes, or
  (c) if the land comprises woodlands (which is dealt with by section 11).

11 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 income 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 267 and 768 (which, when read with this section, secure that profits or losses from the commercial occupation of woodlands in the United Kingdom are ignored for income tax purposes).

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12 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 charged to income tax as if the concern were a trade carried on in the United Kingdom.

But this does not impose a charge to tax on a non-UK resident in the case of a concern outside the United Kingdom.

(3) Any losses arising out of the land are treated for the purposes of Chapter 1 of Part 10 of ICTA (loss 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) This section does not apply to a concern if section 10 (commercial occupation of land other than woodlands) applies to the occupation of the land out of which the profits or losses arise.

13 Visiting performers

(1) This section applies if an entertainer, sportsman or sportswoman of a prescribed description (a "performer")—

(a) is non-UK resident in a tax year, and
(b) performs a relevant activity in the United Kingdom in the tax year.

(2) If a payment or transfer connected with the relevant activity is made, the performer is treated for income tax purposes as performing the relevant activity in the course of a trade, profession or vocation carried on in the United Kingdom.

(3) It does not matter whether the payment or transfer is made to the performer or anyone else.

(4) Subsection (2) does not apply—

(a) so far as the performer would otherwise be performing the relevant activity in the course of a trade, profession or vocation carried on in the United Kingdom, or
(b) if the relevant activity is performed in the course of an employment or office.

(5) If a payment or transfer connected with the relevant activity is made to —

(a) a person other than the performer, and
(b) that person is of a prescribed description,

the payment or transfer is treated for income tax purposes as made instead to the performer in the course of a trade, profession or vocation carried on in the United Kingdom.

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(6) Subsection (5) does not apply in such circumstances as may be prescribed.

(7) If—

(a) income tax is chargeable on profits arising from payments or transfers (made to any person), and

(b) the payments or transfers are connected with the relevant activity,

the tax is charged as if the payments or transfers were received in the course of a separate trade, profession or vocation (distinct from any other trade, profession or vocation carried on by the performer).

(8) In this section and section 14—

"payment" means a payment from which income tax is to be deducted under section 555(2) of ICTA,

"prescribed" means prescribed by regulations,

"regulations" means regulations made by the Treasury,

"relevant activity" means an activity of a prescribed description, and

"transfer" means a transfer in respect of which income tax is to be accounted for under section 555(3) of ICTA,

and a payment or transfer is connected with a relevant activity if it has a connection of the prescribed kind with that activity.

14 Visiting performers: supplementary

(1) Regulations may provide—

(a) for the deduction, in calculating any profits of the performer arising from the payment or transfer, of expenses incurred by other persons in relation to the payment or transfer,

(b) that any liability to income tax (whether of the performer or anyone else) which would, apart from section 13(5), arise in relation to the payment or transfer is not to arise (or is to arise so far as prescribed).

(2) Regulations may provide—

(a) for the apportionment of profits between different trades, professions or vocations of the performer,

(b) for the apportionment between different tax years of the profits arising from relevant activities of the performer,

(c) for losses made in any trade, profession or vocation of the performer to be deducted from or set off against the profits of another trade, profession or vocation of the performer,

(d) that prescribed provisions of the Income Tax Acts about losses, or about expenses, are not to apply (or are to apply with prescribed modifications) in prescribed circumstances relating to the performer.

(3) References in this section to a trade, profession or vocation of the performer include references to the separate one referred to in section 13(7) as well as to any other carried on by the performer.

(4) Regulations may—

(a) make provision generally for giving effect to section 13, and

(b) make different provision for different cases or descriptions of cases.

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15 Divers and diving supervisors

(1) This section applies if—

(a) a person performs the duties of employment as a diver or diving supervisor in the United Kingdom or in any area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (c. 29),

(b) the duties consist wholly or mainly of seabed diving activities, and

(c) any employment income from the employment would otherwise be chargeable to tax under Part 2 of ITEPA 2003.

(2) The performance of the duties of employment is instead treated for income tax purposes as the carrying on of a trade in the United Kingdom.

(3) For the purposes of this section the following are seabed diving activities—

(a) taking part as a diver in diving operations concerned with the exploration or exploitation of the seabed, its subsoil and their natural resources, and

(b) acting as a diving supervisor in relation to any such diving operations.

16 Oil extraction and related activities

(1) If a person carries on any oil-related activities as part of a trade, those activities are treated for income tax purposes as a separate trade, distinct from all other activities carried on by the person as part of the trade.

(2) For this purpose the following are oil-related activities—

(a) oil extraction activities, and

(b) any activities consisting of the acquisition, enjoyment or exploitation of oil rights.

(3) "Oil extraction activities" and "oil rights" have the meaning given by section 502(1) of ICTA.

Modifications etc. (not altering text)

C1 S. 16 excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 87**, 1034, (with transitional provisions and savings in Sch. 2)

Starting and ceasing to trade

17 Effect of becoming or ceasing to be a UK resident

(1) This section applies if—

(a) an individual carries on a trade wholly or partly outside the United Kingdom otherwise than in partnership, and

(b) the individual becomes or ceases to be UK resident.

(2) The individual is treated for income tax purposes—

(a) as permanently ceasing to carry on the trade at the time of the change of residence, and

(b) so far as the individual continues to carry on the trade, as starting to carry on a new trade immediately afterwards.

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(3) But subsection (2) does not prevent a loss made before the change of residence from being set off under section 385 of ICTA against profits arising after the change.

(4) This section applies to professions and vocations as it applies to trades.

(5) In the case of a trade carried on by a firm, see sections 852(6) and (7) and 854(5).

18 Effect of company starting or ceasing to be within charge to income tax

(1) This section applies if a company starts or ceases to be within the charge to income tax under this Chapter 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 permanently ceasing to carry on the trade when it ceases to be within the charge.

Trading income and property income

19 Tied premises

(1) This section applies if —
- (a) in the course of carrying on a trade a person ("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 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.

20 Caravan sites where trade carried on

(1) This section applies if—
- (a) a person ("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 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 a tax year, 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 tax year.

(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.

21 Surplus business accommodation

(1) This section applies if—

(a) a person ("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 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 a period of account, 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.

(7) This section applies to professions and vocations as it applies to trades.

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22 Payments for wayleaves

(1) This section applies if—

(a) a person ("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 9 of Part 3 in respect of the rent for the wayleave (rent receivable for UK electric-line wayleaves), or

(b) expenses would otherwise be brought into account in calculating the profits charged under that Chapter,

the trader may instead bring both the rent and 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 expenses into account in calculating the profits of the trade.

(4) In this section "rent" includes—

(a) a receipt mentioned in section 266(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.

(7) This section applies to professions and vocations as it applies to trades.

Rent-a-room and foster-care relief

23 Rent-a-room and foster-care relief

(1) The rules for calculating the profits of a trade carried on by an individual are subject to Chapter 1 of Part 7 (rent-a-room relief).

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(2) That Chapter provides relief on income from the use of furnished accommodation in the individual's only or main residence (see, in particular, sections 792 and 796).

(3) The rules for calculating the profits of a trade, profession or vocation carried on by an individual are subject to Chapter 2 of Part 7 (foster-care relief).

(4) That Chapter provides relief on income from the provision by the individual of foster care (see, in particular, sections 813, 816, 822 and 823).

CHAPTER 3

TRADE PROFITS: BASIC RULES

24 Professions and vocations

Apart from section 30 (animals kept for trade purposes), the provisions of this Chapter apply to professions and vocations as they apply to trades.

25 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 income tax purposes.

(2) This does not—
  (a) require a person to comply with the requirements of the Companies Act 1985 (c. 6) or the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) except as to the basis of calculation, or
  (b) impose any requirements as to audit or disclosure.

(3) This section is subject to section 160 (barristers and advocates in early years of practice).

(4) This section does not affect provisions of the Income Tax Acts relating to the calculation of the profits of Lloyd's underwriters.

26 Losses calculated on same basis as profits

(1) The same rules apply for income tax purposes in calculating losses of a trade as apply in calculating profits.

(2) This is subject to any express provision to the contrary.

27 Receipts and expenses

(1) In the Income 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) There is no implication that an amount has been actually received or paid.

(3) This section is subject to any express provision to the contrary.

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28 Items treated under CAA 2001 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 charges as receipts of a trade, and

(b) the provisions of CAA 2001 which treat allowances as expenses of a trade.

29 Interest

For the purpose of calculating the profits of a trade, interest is an item of a revenue nature, whatever the nature of the loan.

30 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.

(4) This section does not apply to professions or vocations.

31 Relationship between rules prohibiting and allowing deductions

(1) Any relevant permissive rule in this Part—

(a) has priority over any relevant prohibitive rule in this Part, but

(b) is subject to sections 48 (car or motor cycle hire) and 55 (crime-related payments).

(2) In this section "any relevant permissive rule in this Part" means any provision of—

(a) Chapter 5 (apart from sections 60 to 67),

(b) Chapter 11, or

(c) Chapter 13,

which allows a deduction in calculating the profits of a trade.

(3) In this section "any relevant prohibitive rule in this Part", in relation to any deduction, means any provision of this Part (apart from sections 48 and 55) which might otherwise be read as—

(a) prohibiting the deduction, or

(b) restricting the amount of the deduction.

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CHAPTER 4

TRADE PROFITS: RULES RESTRICTING DEDUCTIONS

Introduction

32 Professions and vocations

The provisions of this Chapter apply to professions and vocations as they apply to trades.

Capital expenditure

33 Capital expenditure

In calculating the profits of a trade, no deduction is allowed for items of a capital nature.

Wholly and exclusively and losses rules

34 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.

Bad and doubtful debts

35 Bad and doubtful debts

(1) In calculating the profits of a trade, no deduction is allowed for a debt owed to the person carrying on the trade, except so far as—
  (a) the debt is bad,
  (b) the debt is estimated to be bad, or
  (c) the debt is released wholly and exclusively for the purposes of the trade as part of a statutory insolvency arrangement.

(2) If the debtor is bankrupt or insolvent, the whole of the debt is estimated to be bad for the purposes of subsection (1)(b), except so far as any amount may reasonably be expected to be received on the debt.

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Unpaid remuneration

36 Unpaid remuneration

(1) This section applies if, in calculating the profits of a trade of a period of account—
- (a) an amount is charged in the accounts for the period in respect of employees' remuneration, and
- (b) a deduction for the remuneration would otherwise be allowable for the period.

(2) No deduction is allowed for the remuneration for the period of account unless it is paid before the end of the period of 9 months immediately following the end of the period of account.

(3) If the remuneration is paid after the end of that 9 month period, a deduction for it is allowed for the period of account in which it is paid.

37 Unpaid remuneration: supplementary

(1) For the purposes of section 36 an amount charged in the accounts in respect of employees' remuneration includes an amount for which provision is made in the accounts with a view to its becoming employees' remuneration.

(2) For the purposes of section 36 it does not matter whether an amount is charged for—
- (a) particular employments, or
- (b) employments generally.

(3) If the profits of the trade are calculated before the end of the 9 month period mentioned in section 36(2)—
- (a) it must be assumed, in making the calculation, that any remuneration which is unpaid when the calculation is made will not be paid before the end of that period, but
- (b) if the remuneration is subsequently paid before the end of that period, nothing in this subsection prevents the calculation being revised and any tax return being amended accordingly.

(4) For the purposes of this section and section 36 remuneration is paid when it—
- (a) is treated as received by an employee for the purposes of ITEPA 2003 by section 18, 19, 31 or 32 of that Act (receipt of money and non-money earnings), or
- (b) would be so treated if it were not exempt income.

(5) In this section and section 36—

"employee" includes an office-holder and "employment" therefore includes an office, and

"remuneration" means an amount which is or is treated as earnings for the purposes of ITEPA 2003.

Employee benefit contributions

38 Restriction of deductions

(1) This section applies if, in calculating the profits of a person's trade of a period—

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(a) the profits of the trade of the period are required to be calculated for income tax purposes, and

(b) a deduction would otherwise be allowable for the period for any employee benefit contributions made or to be made by the person ("the employer") (but see subsection (4)).

(2) No deduction is allowed for the contributions for the period except so far as—

(a) qualifying benefits are provided, or qualifying expenses are paid, out of the contributions during the period or within 9 months from the end of it, or

(b) if the making of the contributions is itself the provision of qualifying benefits, the contributions are made during the period or within 9 months from the end of it.

(3) An amount disallowed under subsection (2) is allowed as a deduction for a subsequent period so far as—

(a) qualifying benefits are provided out of the contributions before the end of the subsequent period, or

(b) if the making of the contributions is itself the provision of qualifying benefits, the contributions are made before the end of the subsequent period.

(4) This section does not apply to any deduction that is allowable for—

(a) anything given as consideration for goods or services provided in the course of a trade or profession,

(b) contributions under a registered pension scheme or under a superannuation fund to which section 615(3) of ICTA applies,

(c) contributions under a qualifying overseas pension scheme in respect of an individual who is a relevant migrant member of the pension scheme in relation to the contributions, or

(d) contributions under an accident benefit scheme.

For the purposes of paragraph (c) "qualifying overseas pension scheme" and "relevant migrant member" have the same meaning as in Schedule 33 to FA 2004 (see paragraphs 4 to 6 of that Schedule).

(5) See also—

section 39 (making of "employee benefit contributions"),
section 40 (provision of qualifying benefits),
section 41 (timing and amount of certain qualifying benefits),
section 42 (provision or payment out of employee benefit contributions),
section 43 (profits calculated before end of 9 month period), and
section 44 (interpretation of sections 38 to 44).

39 Making of "employee benefit contributions"

(1) For the purposes of section 38 the employer makes an "employee benefit contribution" if—

(a) the employer pays money or transfers an asset to another person ("the third party"), and

(b) the third party is entitled or required, under the terms of an employee benefit scheme, to hold or use the money or asset for or in connection with the

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provision of benefits to, or in respect of, present or former employees of the employer.

(2) For this purpose "employee benefit scheme" means a trust, scheme or other arrangement for the benefit of persons who are, or include, present or former employees of the employer.

40 Provision of qualifying benefits

(1) For the purposes of section 38 qualifying benefits are provided if there is—
  (a) a payment of money, or
  (b) a transfer of assets,
which meets condition A, B, C or D.

(2) Condition A is that the payment or transfer gives rise both to an employment income tax charge and to an NIC charge.

(3) Condition B is that the payment or transfer would give rise to both charges if—
  (a) the duties of the employment in respect of which the payment or transfer was made were performed in the United Kingdom, and
  (b) the person in respect of whose employment the payment or transfer was made met at all relevant times the conditions as to residence or presence in Great Britain or Northern Ireland prescribed under section 1(6) of the Contributions and Benefits Act.

(4) Condition C is that the payment or transfer is made in connection with the termination of the recipient's employment with the employer.

(5) Condition D is that the payment or transfer is made under an employer-financed retirement benefits scheme.

(6) None of the conditions is met if the payment or transfer is by way of loan.

(7) In this section—

"the Contributions and Benefits Act" means—
  (a) the Social Security Contributions and Benefits Act 1992 (c. 4), or
  (b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7),

"employment income tax charge" means a charge to tax under ITEPA 2003 (whether on the recipient or on someone else), and

"NIC charge" means a liability to pay national insurance contributions under section 6 (Class 1 contributions), section 10 (Class 1A contributions) or section 10A (Class 1B contributions) of the Contributions and Benefits Act.

41 Timing and amount of certain qualifying benefits

(1) If the provision of a qualifying benefit—
  (a) takes the form of a payment of money, and
  (b) is not made under an employer-financed retirement benefits scheme,
the benefit is provided for the purposes of section 38 when the money is treated as received for the purposes of Chapter 4 of Part 2 of ITEPA 2003 (applying the rules in section 18 of that Act (receipt of money earnings)).

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(2) If the provision of a qualifying benefit takes the form of a transfer of an asset, the amount provided for the purposes of section 38 is the total of—
  (a) the amount (if any) spent on the asset by the third party, and
  (b) in a case where the asset was transferred to the third party by the employer, the amount of the deduction that would be allowable as mentioned in subsection (1) of that section in respect of the transfer.

(3) But if the amount given by subsection (2) is more than the amount that—
  (a) is charged to tax under ITEPA 2003 in respect of the transfer, or
  (b) would be so charged if condition B in section 40 were met,

the deduction allowable under section 38(2) or (3) is limited to that lower amount.

42 Provision or payment out of employee benefit contributions

(1) For the purposes of section 38(2)(a)—
  (a) any qualifying benefits provided, or
  (b) any qualifying expenses paid,

by the third party after the receipt by the third party of employee benefit contributions are treated as being provided or paid out of the contributions.

(2) This operates up to the total amount of the contributions reduced by the amount of any benefits or expenses previously provided or paid as mentioned in section 38(2)(a).

(3) For the purposes of section 38(3)(a) any qualifying benefits provided by the third party after the receipt by the third party of employee benefit contributions are treated as being provided out of the contributions.

(4) This operates up to the total amount of the contributions reduced by the amount of any benefits or expenses previously provided or paid as mentioned in section 38(2)(a) or (3)(a).

(5) For the purposes of this section no account is taken of any other amount received or paid by the third party.

43 Profits calculated before end of 9 month period

(1) This section applies if the profits of the trade are calculated before the end of the 9 month period mentioned in section 38(2).

(2) It must be assumed, in making the calculation, that any benefits, expenses or contributions which are not provided, paid or made when the calculation is made will not be provided, paid or made before the end of that period.

(3) But if the benefits, expenses or contributions are subsequently provided, paid or made before the end of that period, nothing in this section prevents the calculation being revised and any tax return being amended accordingly.

44 Interpretation of sections 38 to 44

(1) In this section and sections 38 to 43—

"accident benefit scheme" means an employee benefit scheme under which benefits may be provided only by reason of a person's disablement, or death,

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caused by an accident occurring during the person's service as an employee of the employer,

"employee benefit contribution" is to be read in accordance with section 39(1),

"employee benefit scheme" has the meaning given by section 39(2),

"the employer" is to be read in accordance with section 38(1),

"employer-financed retirement benefits scheme" has the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see section 393A of that Act),

"qualifying benefits" is to be read in accordance with section 40,

"qualifying expenses" includes any expenses of the third party (other than the provision of benefits to employees of the employer)—

(a) which are incurred in operating the employee benefit scheme, and

(b) which, if incurred by the employer, would be deductible in calculating for income tax purposes the employer's profits for any period, and

"the third party" is to be read in accordance with section 39(1).

(2) A reference in this section and sections 38 to 43 to a person's employee includes the holder of an office under that person, and "employment" is to be read accordingly.

Business entertainment and gifts

45 Business entertainment and gifts: general rule

(1) The general rule is that no deduction is allowed in calculating the profits of a trade for expenses incurred in providing entertainment or gifts in connection with the trade.

(2) A deduction for expenses which are incurred—

(a) in paying sums to or on behalf of an employee of the person carrying on the trade ("the trader"), or

(b) in putting sums at the disposal of an employee of the trader,

is prohibited by the general rule if (and only if) the sums are paid, or put at the employee's disposal, exclusively for meeting expenses incurred or to be incurred by the employee in providing the entertainment or gift.

(3) The general rule is subject to exceptions—

for entertainment (see section 46), and

for gifts (see section 47).

(4) For the purposes of this section and those two sections—

(a) "employee", in relation to a company, includes a director of the company and a person engaged in the management of the company,

(b) "entertainment" includes hospitality of any kind, and

(c) the expenses incurred in providing entertainment or a gift include expenses incurred in providing anything incidental to the provision of entertainment or a gift.

46 Business entertainment: exceptions

(1) The prohibition in section 45 on deducting expenses incurred in providing entertainment does not apply in either of cases A and B.

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(2) Case A is where—
  (a) the entertainment is of a kind which it is the trader's trade to provide, and
  (b) the entertainment is provided in the ordinary course of the trade either for payment or free of charge in order to advertise to the public generally.

(3) Case B is where the entertainment is provided for employees of the trader unless—
  (a) the entertainment is also provided for others, and
  (b) the provision of the entertainment for the employees is incidental to its provision for the others.

47 Business gifts: exceptions

(1) The prohibition in section 45 on deducting expenses incurred in providing gifts does not apply in any of cases A, B, C and D.

(2) Case A is where—
  (a) the gift is of an item which it is the trader's trade to provide, and
  (b) the item is given away in the ordinary course of the trade in order to advertise to the public generally.

(3) Case B is where the gift incorporates a conspicuous advertisement for the trader unless—
  (a) the gift is food, drink, tobacco or a token or voucher exchangeable for goods, or
  (b) the cost of the gift to the trader, together with any other gifts (except food, drink, tobacco or a token or voucher exchangeable for goods) given to the same person in the same basis period, exceeds £50.

The Treasury may by order amend the sum for the time being specified in paragraph (b) so as to increase it.

(4) Case C is where gifts are provided for employees of the trader unless—
  (a) gifts are also provided for others, and
  (b) the provision of the gifts for the employees is incidental to the provision of gifts for the others.

(5) Case D is where the gift is given to—
  (a) a charity,
  (b) the Historic Buildings and Monuments Commission for England, or
  (c) the Trustees of the National Heritage Memorial Fund.

Car or motor cycle hire

48 Car or motor cycle hire

(1) This section applies if, in calculating the profits of a trade, a deduction is allowed for expenses incurred on the hiring of a car or motor cycle—
  (a) which is not a qualifying hire car or motor cycle (see section 49(2)), and
  (b) the retail price of which when new exceeds £12,000.

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(2) The amount of the deduction which would otherwise be allowable is reduced by multiplying the amount by the fraction—

$$\frac{£12{,}000 + \mathrm{RP}}{2 \times \mathrm{RP}}$$

where RP is the retail price of the car or motor cycle when new.

(3) Subsection (4) applies if the deduction is reduced as a result of subsection (2) 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 under section 97 (debts incurred and later released), or
  (b) is treated as a post-cessation receipt under section 249 (debts released after cessation),

  is reduced by multiplying it by the fraction in subsection (2).

(5) The power under section 74(4) of CAA 2001 to increase or further increase the sums of money specified in Chapter 8 of Part 2 of CAA 2001 includes the power to increase or further increase the sum of money specified in subsection (1)(b) or (2).

49 Car or motor cycle hire: supplementary

(1) In section 48 "car or motor cycle" means a mechanically propelled road vehicle other than one—
  (a) of a construction primarily suited for the conveyance of goods or burden of any description, or
  (b) of a type not commonly used as a private vehicle and unsuitable for such use.

(2) In section 48 "a qualifying hire car or motor cycle" means a car or motor cycle which—
  (a) is hired under a hire-purchase agreement (see subsection (3)) 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 when new, or
  (c) is a qualifying hire car for the purposes of Part 2 of CAA 2001 (under section 82 of CAA 2001).

(3) For this purpose "hire-purchase agreement" means an agreement under which—
  (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
  (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following events occurs,

  but does not include a conditional sale agreement (see subsection (5)).

(4) The events are—

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(a) the exercise of an option to purchase by that person,
(b) the doing of any other specified act by any party to the agreement, and
(c) the happening of any other specified event.

(5) A "conditional sale agreement" means an agreement for the sale of goods under which—
(a) the purchase price or part of it is payable by instalments, and
(b) the goods are to remain the property of the seller (even though they are to be in the possession of the buyer) until specified conditions as to the payment of instalments or otherwise are met.

(6) In this section and section 48 "new" means unused and not second-hand.

50 Hiring cars (but not motor cycles) with low carbon dioxide emissions

(1) Section 48 does not apply to expenses incurred on the hiring of—
(a) a car with low CO2 emissions, or
(b) an electrically-propelled car.

(2) For this purpose—
"car with low CO2 emissions" has the meaning given by section 45D of CAA 2001, and
"electrically-propelled car" has the meaning given by that section.

(3) This section does not apply to expenses incurred on the hiring of any such car—
(a) under a contract entered into after 31st March 2008, or
(b) for a period of hire which begins after that date.

Patent royalties

51 Patent royalties

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

Interest payments

52 Exclusion of double relief for interest

(1) In calculating the profits of a trade, no deduction is allowed—
(a) for any tax year for the interest paid on a debt or liability in respect of which relief is given under section 353 of ICTA (see subsection (5) below), or
(b) for any relevant tax year for other interest on the same debt or liability.

(2) A tax year is a relevant one if the interest in respect of which the relief is given could, but for the relief, have been brought into account in calculating the profits of a trade of the tax year.

(3) For the purposes of subsection (1)(b) all interest which—
(a) is capable of being brought into account in calculating the profits of a trade, and

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(b) is payable by any person on money advanced to the person on current account,

is treated as interest on the same debt.

(4) It does not matter if the money is advanced—

(a) on one or more accounts, or

(b) by the same or separate banks or other persons.

(5) For the purposes of this section relief under section 353 of ICTA is to be treated as given only when the claim for the relief can no longer be varied (whether on appeal or otherwise).

(6) For a rule excluding relief under section 353 of ICTA if interest on a debt or liability is brought into account in calculating the profits of a trade, see section 368(3) of ICTA.

Social security contributions

53 Social security contributions

(1) In calculating the profits of a trade, no deduction is allowed for any contribution paid by any person under—

(a) Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4), or

(b) Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

(2) But this prohibition does not apply to an employer's contribution.

(3) For this purpose "an employer's contribution" means—

(a) a secondary Class 1 contribution,

(b) a Class 1A contribution, or

(c) a Class 1B contribution,

within the meaning of Part 1 of the Social Security Contributions and Benefits Act 1992 or of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Penalties, interest and VAT surcharges

54 Penalties, interest and VAT surcharges

(1) In calculating the profits of a trade, no deduction is allowed for any penalty or interest mentioned in the first column of the following table.

(2) This is the table—

Penalty or interest	***Description of tax, levy or duty***
Interest under any provision of Part 9 of TMA 1970	Income tax, capital gains tax and corporation tax
Interest required to be paid by regulations made under section 71 of FA 2004 (construction industry)	
Penalty under any of sections 60 to 70 of VATA 1994	Value added tax

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Interest under section 74 of VATA 1994	
Penalty under any of sections 8 to 11 of FA 1994	Excise duties
Penalty under any of paragraphs 12 to 19 of Schedule 7 to FA 1994	Insurance premium tax
Interest under paragraph 21 of that Schedule	
Penalty under any provision of Part 5 of Schedule 5 to FA 1996	Landfill tax
Interest under paragraph 26 or 27 of that Schedule	
Penalty under any provision of Schedule 6 to FA 2000	Climate change levy
Interest under any of paragraphs 70, 81 to 85 and 109 of that Schedule	
Penalty under any provision of Part 2 of FA 2001	Aggregates levy
Interest under any of paragraphs 5 to 9 of Schedule 5 to, paragraph 6 of Schedule 8 to and paragraph 5 of Schedule 10 to FA 2001	
Penalty under section 25 or 26 of FA 2003	Customs, export and import duties
Penalty under any provision of Part 4 of FA 2003	Stamp duty land tax
Interest under any provision of that Part	

(3) In calculating the profits of a trade, no deduction is allowed for any surcharge under section 59 of VATA 1994.

Crime-related payments

55 Crime-related payments

(1) In calculating the profits of a trade, no deduction is allowed for expenses incurred—
  (a) in making a payment if the making of the payment constitutes a criminal offence, or
  (b) in making a payment outside the United Kingdom if the making of a corresponding payment in any part of the United Kingdom would constitute a criminal offence in that part.

(2) In calculating the profits of a trade, no deduction is allowed for expenses incurred in making a payment induced by a demand which constitutes—
  (a) the offence of blackmail under section 21 of the Theft Act 1968 (c. 60) (England and Wales),
  (b) the offence of extortion (Scotland), or

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(c) the offence of blackmail under section 20 of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (Northern Ireland).

CHAPTER 5

TRADE PROFITS: RULES ALLOWING DEDUCTIONS

Introduction

56 Professions and vocations

Apart from sections 87 to 90 (scientific research and expenses connected with patents, designs and trade marks), the provisions of this Chapter apply to professions and vocations as they apply to trades.

Pre-trading expenses

57 Pre-trading expenses

(1) This section applies if a person incurs expenses for the purposes of a trade before (but not more than 7 years before) the date on which the person 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).

Incidental costs of obtaining finance

58 Incidental costs of obtaining finance

(1) In calculating the profits of a trade, a deduction is allowed for incidental costs of obtaining finance by means of—
(a) a loan, or
(b) the issue of loan stock,
if the interest on the loan or stock is deductible in calculating the profits of the trade.

(2) "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.

(3) 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.

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(4) 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 a loan or loan stock so far as attributable to its being repayable at a premium or having been obtained or issued at a discount, and
- (d) stamp duty.

(5) This section needs to be read with section 59 (which provides for restrictions in relation to convertible loans and loan stock etc.).

Modifications etc. (not altering text)

C2 S. 58 modified (with effect as mentioned in s. 56 of the amending Act) by Finance Act 2005 (c. 7), **s. 51(3)(5)**

59 Convertible loans and loan stock etc.

(1) No deduction is allowed under section 58 in respect of a loan or loan stock if—
- (a) it carries the right of conversion into, or to the acquisition of, shares or other securities, and
- (b) the right is exercisable before the end of the period of 3 years from the date when the loan was obtained or the stock issued ("the 3 year period").

(2) "Other securities" does not include a loan or loan stock—
- (a) the interest on which is deductible in calculating the profits of the person's trade, and
- (b) which does not carry such a right as is mentioned in subsection (1).

(3) But the restriction imposed by subsection (1) does not apply if the right is not, or is not wholly, exercised before the end of the 3 year period.

(4) In such a case any incidental costs of obtaining finance incurred before the end of the 3 year period are treated as incurred immediately after the end of it.

(5) If the right is exercised within the 3 year period as to part of the loan or loan stock, only the following incidental costs of obtaining finance are treated as incurred.

(6) The costs are those corresponding to the proportion of the loan or loan stock in respect of which the right is not exercised within that period.

Tenants under taxed leases

60 Tenants under taxed leases: introduction

(1) Sections 61 to 67 apply if land used in connection with a trade is subject to a taxed lease.

(2) Section 61 (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.

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(3) But any deduction for an expense under section 61 is subject to the application of any provision of Chapter 4 of this Part.

(4) In this section and sections 61 to 67 the following expressions have the same meaning as in Chapter 4 of Part 3 (profits of property businesses: lease premiums etc.)—

"receipt period" (see section 288(6)),
"taxed lease" (see section 287(4)),
"taxed receipt" (see section 287(4)), and
"unreduced amount" (see section 290(2)).

(5) Section 290(3) and (4) (unreduced amount of taxed receipt under section 277 as a result of section 278) applies for the purposes of sections 61 to 65.

(6) In sections 64 to 67 references to a reduction under section 288 by reference to a taxed receipt have the same meaning as in Chapter 4 of Part 3 (see section 290(6)).

(7) In the application of sections 64 to 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.

61 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—

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

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—

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

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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 62 (limit on deductions if tenant entitled to mineral extraction allowance).

62 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 a tax year 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 61 for a qualifying day falling within that or a later tax year.

(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 61 for a qualifying day falling within that or a later tax year is calculated by multiplying the amount that, apart from this section, would be the amount of the deduction for the qualifying day by—

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

where—

WE is the whole of the expenditure, and

AP is the allowable part of the expenditure.

63 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 the tenant's interest in the land, or the part of it, as property employed for the purposes of carrying on a trade.

(2) Section 61 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 292 (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 64 and 65 (restrictions on section 61 expenses where the additional calculation rule is relevant).

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64 Restrictions on section 61 expenses: lease premium receipts

(1) This section applies if—

(a) a lease has been granted out of the taxed lease, and

(b) in calculating the amount of a receipt of a property business under Chapter 4 of Part 3 (profits of property businesses: lease premiums etc.) in respect of the lease, there is a reduction under section 288 (the additional calculation rule) by reference to the taxed receipt.

In this section and sections 65 and 67 such a receipt is referred to as a "lease premium receipt".

(2) Subsections (3) to (5) provide for the application of section 61 as a result of section 63 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 61 as a result of section 63 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.

(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 288 by reference to the taxed receipt, and

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

(7) Section 65 explains how this section operates if the lease does not extend to the whole of the premises subject to the taxed lease.

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65 Restrictions on section 61 expenses: lease of part of premises

(1) This section applies if—

(a) the conditions in section 64(1)(a) and (b) are met, 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 61, 63 and 64 apply separately in relation to the part of the premises subject to the lease and to the remainder of the premises.

(4) If—

(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 61, 63 and 64 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 61, 63 and 64 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.

66 Corporation tax receipts treated as taxed receipts

Section 296 (corporation tax receipts treated as taxed receipts) applies for the purposes of sections 60 to 67.

67 Restrictions on section 61 expenses: corporation tax receipts

(1) This section provides for the application of section 61 as a result of section 63 if—

(a) a lease has been granted out of the taxed lease,

(b) in calculating the amount of a corporation tax receipt in respect of the lease, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and

(c) the amount chargeable on the superior interest is the taxed receipt for the purposes of section 61.

(2) Sections 61 and 63 to 65 apply as follows—

(a) the corporation tax receipt is treated as if it were a lease premium receipt for the purposes of sections 64 and 65,

(b) references in those sections to the reduction under section 288 by reference to the taxed receipt are, in relation to the corporation tax receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and

(c) for the purposes of those sections the receipt period of the corporation tax receipt is—

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(i) in the case of a corporation tax receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and

(ii) in the case of a corporation tax receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.

(3) There is a corporation tax receipt in respect of a lease if—

(a) there is a receipt of a Schedule A business or an overseas property business (within the meaning of section 70A(4) of ICTA) as a result of section 34 or 35 of ICTA (treatment of premiums etc. as rent and assignments for profit of lease granted at an undervalue) in respect of the lease for an accounting period ending after 5th April 2005, or

(b) there would be such a receipt, but for the operation of section 37(2) or (3) of ICTA (reductions in certain receipts under section 34 or 35 of ICTA).

(4) References to a reduction under section 37(2) or (3) of ICTA in a corporation tax receipt by reference to the amount chargeable on the superior interest are to the difference between—

(a) the amount of the corporation tax receipt before the operation of section 37(2) or (3) of ICTA, and

(b) the amount of the corporation tax receipt after the operation of that subsection,

so far as attributable to the amount chargeable on the superior interest for the purposes of section 37 of ICTA.

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 person carrying on the trade.

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(2) The deduction is allowed for the period of account 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 person 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
  (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,

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(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,

(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—

(a) an education or 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 or a controlled, maintained, grant-maintained integrated, controlled integrated, voluntary or 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 person 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 person carrying on the trade ("the employer") incurs the expenses,

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(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

(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 person 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 tax for a tax year 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,

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an assessment of an amount or further amount of tax due as a result of the condition not being met may be made under section 29(1) of TMA 1970.

(3) Such an assessment must be made before the end of the period of 6 years immediately following the end of the tax year in which the failure to meet the condition occurred.

(4) If subsection (2) applies, the employer must give the Inland Revenue 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.

(5) If the Inland Revenue have reason to believe that the employer has failed to give such a notice, they may by notice require the employer to provide such information as they may reasonably require for the purposes of this section about—
   (a) the failure to begin the course,
   (b) the continued employment, or
   (c) the re-employment.

(6) A notice under subsection (5) may specify a time (not less than 60 days) within which the required information must be provided.

Redundancy payments etc.

76 Redundancy payments and approved contractual payments

(1) Sections 77 to 79 apply if—
   (a) a person ("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 80 "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.

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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.

(5) If there is a change in the persons carrying on the trade, subsection (4) does not apply so long as a person carrying on the trade immediately before the change continues to carry it on after the change.

(6) The deduction under this section is allowed for the period of account 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 there is a change in the persons carrying on the trade, this section does not apply so long as a person carrying on the trade immediately before the change continues to carry it on after the change.

(3) If, in calculating the profits of the trade—

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(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.

(4) 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.

(5) 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.

(6) The deduction under this section is allowed for the period of account in which the payment is made (or treated under subsection (5) as made).

80 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 79 apply as if the payment were—
(a) a redundancy payment, or
(b) an approved contractual payment,

made by the employer.

Personal security expenses

81 Personal security expenses

(1) This section applies if—
(a) an individual ("the trader") carries on a trade (alone or in a partnership of individuals),
(b) there is a special threat to the personal physical security of the trader which arises wholly or mainly because of the particular trade,
(c) a service or asset which improves personal security is used by or provided for the trader to meet the threat,
(d) the person incurring expenses in connection with that use or provision does so with the sole object of meeting the threat, and
(e) a deduction for the expenses would not otherwise be allowable in calculating the profits of the trade because (and only because) they were not incurred wholly and exclusively for the purposes of the trade.

(2) In calculating the profits of the trade, a deduction is allowed for the expenses—

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(a) in the case of a service, if the benefit resulting to the trader consists wholly or mainly of an improvement of the trader's personal physical security, and
(b) in the case of an asset, if the person incurring the expenses intends the asset to be used to improve personal physical security (whether solely or partly).

(3) If the person incurring the expenses intends the asset to be used solely to improve personal physical security, any use of the asset which is incidental to improving personal physical security is ignored.

(4) If the person incurring the expenses intends the asset to be used partly to improve personal physical security, a deduction is allowed only for the proportion of the expenses which is attributable to the intended use to improve personal physical security.

(5) The fact that a service or asset improves the personal physical security of a member of the trader's family or household (as well as that of the trader) does not prevent a deduction from being allowed.

(6) In determining whether or not this section applies in relation to an asset, it does not matter if—
(a) the asset becomes fixed to land, or
(b) the trader is or becomes entitled to the property in the asset or (if the asset is a fixture) to any estate or interest in the land concerned.

(7) In this section—
"asset" includes equipment and a structure (such as a wall), but does not include a car, ship or aircraft or a dwelling or grounds appurtenant to a dwelling, and
"service" does not include a dwelling or grounds appurtenant to a dwelling.

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 person 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.

(4) For this purpose it does not matter whether a person receives, or is entitled to receive, the benefit —

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(a) from the organisation or 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 on the date on which the benefit is received, or
(b) if the contributor has permanently ceased to carry on the trade before that date, is treated as a post-cessation receipt (see Chapter 18).

(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 National Assembly for Wales (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.

(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.

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Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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
- (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

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(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 three months before the date on which the order is made.

Scientific research

87 Expenses of research and development

(1) If a person 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 person,

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
- (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.

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(5) In this section "research and development" has the meaning given by section 837A of ICTA and includes oil and gas exploration and appraisal.

(6) This section does not apply to professions or vocations.

88 Payments to research associations, universities etc.

(1) If a person carrying on a trade—
  (a) pays any sum to an approved scientific research association which has as its object scientific research related to the class of trade to which the trade belongs, or
  (b) pays any sum to be used for such scientific research to an approved university, college research institute or other similar institution,

  a deduction is allowed for the sum in calculating the profits of the trade.

(2) The deduction is allowed for the period of account in which the payment is made.

(3) "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) a scientific research association, or
  (b) 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 references in this section to scientific research related to a class of trade include—
  (a) scientific research which may lead to or facilitate an extension of trades of the class, and
  (b) scientific research of a medical nature which has a special relation to the welfare of workers employed in trades of the class.

(6) If a question arises as to—
  (a) whether, or
  (b) what extent,

  any activities constitute or constituted scientific research, the Inland Revenue must refer the question for decision to the Secretary of State, whose decision is final.

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

(8) This section does not apply to professions or vocations.

Expenses connected with patents, designs and trade marks

89 Expenses connected with patents

(1) 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.

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(2) This section does not apply to professions or vocations.

90 Expenses connected with designs or trade marks

(1) 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.

(2) This section does not apply to professions or vocations.

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 person 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.

Expenses connected with foreign trades

92 Expenses connected with foreign trades

(1) This section applies if—
- (a) an individual ("the trader") carries on a foreign trade (alone or in partnership),
- (b) the trader is absent from the United Kingdom wholly and exclusively for the purpose of carrying on the foreign trade or the foreign trade and one or more other trades (whether or not foreign trades),
- (c) qualifying expenses are incurred in connection with the foreign trade, and
- (d) a deduction for the expenses would not otherwise be allowable in calculating the profits of the foreign trade because (and only because) they were not incurred wholly and exclusively for the purposes of the foreign trade.

(2) In calculating any profits of the foreign trade which are not charged in accordance with section 832 (relevant foreign income charged on the remittance basis), a deduction is allowed for the expenses.

(3) Any of the following expenses are qualifying expenses incurred in connection with the foreign trade—
- (a) expenses incurred by the trader in travelling between a place in the United Kingdom and a place where the foreign trade is carried on,
- (b) expenses incurred by the trader on board and lodging at a place where the foreign trade is carried on,
- (c) if the trader's absence from the United Kingdom is for a continuous period of 60 days or more, family expenses (as defined in section 94), and

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(d) if the trader also carries on another trade outside the United Kingdom (whether or not a foreign trade), expenses incurred by the trader in travelling between a place where the foreign trade is carried on and a place outside the United Kingdom where the other trade is carried on.

(4) In this section and section 93 "foreign trade" means a trade carried on wholly outside the United Kingdom.

93 Allocation of expenses

(1) Expenses within section 92(3)(a), (b) or (c) are allocated to the foreign trade.

(2) If—

(a) the expenses are within section 92(3)(a) or (b), and

(b) the trader carries on more than one foreign trade at the place in question outside the United Kingdom,

those expenses are allocated between the foreign trades on a just and reasonable basis.

(3) If—

(a) the expenses are within section 92(3)(c), and

(b) the trader's absence is for the purpose of carrying on more than one foreign trade,

those expenses are allocated between the foreign trades on a just and reasonable basis.

(4) Expenses within section 92(3)(d) are allocated—

(a) to the trade carried on at the trader's place of destination, if that trade is a foreign trade, and

(b) in any other case, to the foreign trade carried on at the trader's place of departure.

(5) If the trader carries on more than one foreign trade at—

(a) the place of destination (in a case falling within subsection (4)(a)), or

(b) the place of departure (in a case falling within subsection (4)(b)),

the expenses are allocated between the foreign trades on a just and reasonable basis.

94 Family expenses

(1) In section 92(3)(c) "family expenses" means expenses of a journey made by the trader's spouse or child if the journey—

(a) is between a place in the United Kingdom and a place outside the United Kingdom where any of the trades is carried on, and

(b) is made in order to accompany the trader at the beginning of the period of absence or to visit the trader during that period or to return after a journey made for either purpose.

(2) But no more than two outward and two return journeys made by the same person in a tax year fall within subsection (1).

(3) In this section "child" includes a stepchild but does not include a person who is aged 18 or over at the start of the outward journey.

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CHAPTER 6

TRADE PROFITS: RECEIPTS

Introduction

95 Professions and vocations

Apart from section 105 (industrial development grants), the provisions of this Chapter apply to professions and vocations as they apply to trades.

Capital receipts

96 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 this Part, are brought into account as receipts in calculating the profits of the trade.

Debts released

97 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 person 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 on the date of the release.

Amounts received following earlier cessation

98 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

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(b) which are not brought into account in calculating the profits of the transferor's trade for income or corporation tax purposes for any period before the cessation,

are brought into account in calculating the profits of the transferee's trade in the period of account 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 18).

Reverse premiums

99 Reverse premiums

(1) For the purposes of sections 101 and 102 a payment or other benefit is a reverse premium—
(a) if conditions A to C are met, and
(b) it is not excluded by section 100.

(2) Condition A is that a person ("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.

100 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 lease-back arrangement.

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(4) A "sale and lease-back arrangement" means any such arrangement as is described in section 779(1) or (2) or 780(1) of ICTA.

Modifications etc. (not altering text)

C3 S. 100(1) excluded (26.3.2007) by The Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045), reg. 20(2) (as amended by The Income Tax (Construction Industry Scheme) (Amendment) Regulations 2007 (S.I. 2007/672), **reg. 5(3)**)

101 Tax treatment of reverse premiums

(1) A reverse premium is treated for income 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 income tax in accordance with section 311 (reverse premium taxed as property business receipt).

102 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.

(3) The whole amount or value of the reverse premium brought into account under section 101 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) But 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.

103 Connected persons and property arrangements

For the purposes of this section and sections 99 to 102—

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(a) persons are treated as connected with each other if they are connected (for which see section 878(5)) 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).

Assets of mutual concerns

104 Distribution of assets of mutual concerns

(1) This section applies if—

(a) a deduction has been allowed 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 person ("the recipient") who 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 18).

(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,

(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 income tax on the person 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 person making the transfer or surrender is treated as receiving consideration equal to the value of the right.

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(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 income or corporation tax.

Industrial development grants

105 Industrial development grants

(1) This section applies if a person 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).

(3) This section does not apply to professions or vocations.

Proceeds of insurance etc.

106 Sums recovered under insurance policies etc.

(1) This section applies if—
  (a) a deduction is allowed for a loss or expense in calculating the profits of a trade,
  (b) a person 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).

CHAPTER 7

TRADE PROFITS: GIFTS TO CHARITIES ETC.

107 Professions and vocations

The provisions of this Chapter apply to professions and vocations as they apply to trades.

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108 Gifts of trading stock to charities etc.

(1) This section applies if a person 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 110),

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 paragraph 1 of Schedule 18 to FA 2002 (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,

(c) the Trustees of the British Museum,

(d) the Trustees of the Natural History Museum, and

(e) the National Endowment for Science, Technology and the Arts.

(5) This section needs to be read with section 109 (receipt by donor or connected person of benefit attributable to certain gifts).

Modifications etc. (not altering text)

C4 S. 108 excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 445(1)**, 1034 (with transitional provisions and savings in Sch. 2)

109 Receipt by donor or connected person of benefit attributable to certain gifts

(1) This section applies if a person carrying on a trade ("the donor") makes a gift in relation to which—

(a) section 108 applies, or

(b) section 63(2) of CAA 2001 applies (gifts to charities etc. of plant or machinery used in the trade),

and the donor, or a person connected with the donor, receives a benefit which is in any way attributable to the making of the gift.

(2) 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 on the date on which the benefit is received, or

(b) if the donor has permanently ceased to carry on the trade before that date, is treated as a post-cessation receipt (see Chapter 18).

110 Meaning of "designated educational establishment"

(1) For the purposes of section 108 "designated educational establishment" means an educational establishment designated, or within a category designated, in regulations made—

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(a) for England and Scotland, by the Secretary of State,
(b) for Wales, by the National Assembly for Wales, 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, the Inland Revenue 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 National Assembly for Wales, 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 National Assembly for Wales 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) 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.)).

CHAPTER 8

TRADE PROFITS: HERD BASIS RULES

Introduction

111 Election for application of herd basis rules

(1) A person who keeps or has kept a production herd for the purposes of a trade may make an election under this Chapter (a "herd basis election").

(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 30), but
(b) are treated instead in accordance with sections 114 to 123 ("the herd basis rules").

(3) This Chapter is expressed in terms of farmers but applies to any person who 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.

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112 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.

113 Other interpretative provisions

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

(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

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(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

114 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.

115 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.

116 Replacement of animals in herd

(1) This section applies for the purpose of calculating the profits of the trade if—
(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 117 (amount of receipt if old animal slaughtered under disease control order),
(b) section 120 (acquisition of new herd begun within 5 years of sale), and
(c) section 122 (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.

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(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.

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

(1) This section applies for the purposes of section 116.

(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 116 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.

118 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 116), or
- (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 119).

(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,

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(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.

119 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 120 applies (acquisition of new herd begun within 5 years of sale), or

(b) section 122 applies (replacement of part sold begun within 5 years of sale),

but paragraph (a) is subject to subsection (5) of section 120 (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.

120 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 116 (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 121 (sale for reasons outside farmer's control)).

(3) For the purposes of section 116, 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

(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 118 (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—

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(a) section 119 (sale of whole or substantial part of herd where replacement not begun within 5 years), or
(b) section 122 (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 115 (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.

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

(1) This section applies for the purposes of section 116, as applied by section 120(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 120(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 116 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.

122 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 116 (replacement of animals in herd) applies so far as the animals included in the part sold are replaced (but see section 123 (sale for reasons outside farmer's control)).

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(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.

123 Section 122: sale for reasons outside farmer's control

(1) This section applies for the purposes of section 116, as applied by section 122(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 116 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

124 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) 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, or
  (b) if that is the tax year in which the farmer starts to carry on the trade and the farmer is not a firm, on or before the second anniversary of the normal self-assessment filing date for that tax year.

(3) "The first relevant period of account" means the first period of account in which the farmer 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—

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(a) has ceased to keep before making the election, or
(b) first keeps after making the election.

(7) A herd basis election has effect for every 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.

(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.

125 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 period of account in which the farmer starts to keep the herd is treated as the first 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.

126 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
(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 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 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 period of account and every subsequent 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,

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(b) a devolved authority,
(c) a local authority, or
(d) another public authority.

Preventing abuse of the herd basis rules

127 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.

(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

128 Information if election made

(1) The Inland Revenue may by notice require the person carrying on a trade in relation to which a herd basis election is made to deliver a return of such information about—
(a) the animals kept for the purposes of the trade, and
(b) the products of those animals,
as may be required by the notice.

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(2) The return must be delivered to the Inland Revenue within the time specified in the notice.

129 Further assessment etc. if herd basis rules apply

(1) If the herd basis rules apply in calculating the profits of a tax year after an assessment for that tax year 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: FILMS AND SOUND RECORDINGS

Introduction

130 Expenditure to which this Chapter applies

(1) This Chapter makes provision about—
  (a) expenditure incurred on the production or acquisition of the original master version of a film or sound recording, and
  (b) preliminary expenditure in relation to a film.

(2) In this Chapter references to production expenditure are to expenditure incurred on the production of the original master version of a film or sound recording.

(3) In this Chapter references to acquisition expenditure are to expenditure incurred on the acquisition of the original master version of a film or sound recording.

(4) In this Chapter references to the original master version of a film or sound recording include any rights in the original master version of a film or sound recording that are held or acquired with it.

(5) In this Chapter references to production or acquisition expenditure do not include—
  (a) interest (as to which, see section 29), or
  (b) the incidental costs of obtaining finance (as to which, see sections 58 and 59).

(6) In this Chapter "preliminary expenditure", in relation to a film, means expenditure which—
  (a) can reasonably be said to have been incurred with a view to enabling a decision to be taken as to whether to make the film,
  (b) is payable before the first day of principal photography (if the decision is to make the film), and
  (c) is not repayable under a contract or other arrangement if the film is not made.

(7) In this Chapter "any prohibitive rule" means any provision of the Income Tax Acts which—
  (a) prohibits a deduction from being made, or
  (b) restricts the extent to which it is allowed,

  in calculating the profits of a trade.

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131 Meaning of "film" and related expressions

(1) In this Chapter "film" includes any record, however made, of a sequence of visual images which is capable of being used as a means of showing that sequence as a moving picture.

(2) For the purposes of this Chapter each part of a series of films is treated as a separate film.

(3) But if the Secretary of State has given a direction under paragraph 1(4) of Schedule 1 to the Films Act 1985 (c. 21) that parts of a series of films are to be treated as a single film for the purposes of that Schedule, they are also treated as a single film for the purposes of this Chapter.

(4) In this Chapter references to a film include the film soundtrack (if any).

(5) For the purposes of this Chapter a film is completed when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.

132 Meaning of "original master version" and "certified master version"

(1) In this Chapter "original master version" means—
  (a) in relation to a film, the original master negative, tape or disc, and
  (b) in relation to a sound recording, the original master audio tape or disc.

(2) In this Chapter references to the original master version of a film include the original master version of the film soundtrack (if any).

(3) In this Chapter "certified master version", in relation to a film, means an original master negative, tape or disc which is certified under paragraph 3 of Schedule 1 to the Films Act 1985 as a qualifying film, tape or disc for the purposes of this Chapter.

133 Meaning of "relevant period"

In this Chapter "relevant period", in relation to a trade, means—
  (a) a period of account of the trade, or
  (b) if no accounts of the trade are drawn up for a period, the basis period for a tax year.

Expenditure treated as revenue in nature

134 Expenditure treated as revenue in nature

(1) If a person carrying on a trade incurs production or acquisition expenditure, the expenditure is treated for income tax purposes as expenditure of a revenue nature.

(2) If expenditure is treated under this section as revenue in nature, sums received by the person carrying on the trade from the disposal of the original master version—
  (a) are treated for income tax purposes as receipts of a revenue nature, and
  (b) are brought into account in calculating the profits of the trade of the relevant period in which they are received.

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(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.

(4) This section does not apply if an election under section 143 below or section 40D of F(No.2)A 1992 (corresponding corporation tax provision) has effect in relation to the expenditure.

Films and sound recordings: normal rules for allocating expenditure

135 Films and sound recordings: production or acquisition expenditure

(1) This section applies for the purpose of calculating the profits of a trade of a relevant period if—
  (a) the trade consists of or includes the exploitation of the original master versions of films or sound recordings,
  (b) the original master versions do not constitute trading stock of the trade (within the meaning of section 174),
  (c) the person carrying on the trade incurs production or acquisition expenditure in, or before, the relevant period, and
  (d) no election under section 143 below or section 40D of F(No.2)A 1992 has effect in relation to the expenditure.

(2) A deduction is allowed for the amount of the production or acquisition expenditure allocated to the relevant period, but this is subject to the application of any prohibitive rule.

(3) The person carrying on the trade must allocate to the relevant period so much of the expenditure as is just and reasonable (but see subsection (5)).

(4) In making this allocation regard must be had to the following—
  (a) the amount of the expenditure which remains unallocated at the beginning of the period,
  (b) the amount of the expenditure incurred in the period,
  (c) the proportion which the estimated value of the original master version realised in the period (by way of income or otherwise) bears to the sum of the value so realised and the estimated remaining value at the end of the period, and
  (d) 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.

(5) The person carrying on the trade may also allocate to the relevant period a further amount, so long as the total amount allocated to the period does not exceed the value of the original master version realised in the period (by way of income or otherwise).

(6) Expenditure may not be allocated to the relevant period under this section if it is allocated—
  (a) under this section to any other relevant period,

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(b) under any other provision of this Chapter to the relevant period or any other relevant period,

(c) under section 40B of F(No.2)A 1992 (corporation tax provision corresponding to this section) to any other relevant period, or

(d) under section 41 of that Act (corporation tax provision corresponding to section 137 below) or 42 of that Act (corporation tax provision corresponding to sections 138 to 140 below) to the relevant period or any other relevant period.

(7) If any expenditure in respect of the original master version is allocated to the relevant period—

(a) under any other provision of this Chapter, or

(b) under section 41 or 42 of F(No.2)A 1992,

no other production or acquisition expenditure in respect of the original master version may be allocated to the relevant period under this section.

Certified master versions: special rules for allocating expenditure

136 Application of provisions about certified master versions

Sections 137 to 140 (certified master versions: certain expenditure) apply for the purpose of calculating the profits of a trade of a relevant period if—

(a) the trade consists of or includes the exploitation of films,

(b) the films do not constitute trading stock of the trade (within the meaning of section 174),

(c) the expenditure in question is of a revenue nature (whether as a result of section 134 or otherwise), and

(d) no election under section 143 below or section 40D of F(No.2)A 1992 has effect in relation to the expenditure.

137 Certified master versions: preliminary expenditure

(1) This section applies if—

(a) the person carrying on the trade has incurred preliminary expenditure in connection with a film in, or before, the relevant period,

(b) the certified master version condition is met (see subsection (2)), and

(c) the film is genuinely intended for theatrical release.

(2) The certified master version condition is—

(a) if the film is completed, that the original master version of it is a certified master version, or

(b) if the film is not completed, that it is reasonably likely that, if the film were completed, the original master version of it would be a certified master version.

(3) A deduction is allowed for the amount of the preliminary expenditure allocated to the relevant period, but this is subject to the application of any prohibitive rule.

(4) The person carrying on the trade may allocate up to 100% of the preliminary expenditure to the relevant period.

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) But the total amount allocated under this section must not exceed 20% of the budgeted total expenditure on the film, calculated as at the first day of principal photography.

(6) Expenditure may not be allocated to the relevant period under this section if—
- (a) it is allocated under this section to any other relevant period,
- (b) it is allocated under any other provision of this Chapter to the relevant period or any other relevant period,
- (c) it is allocated under section 41 of F(No.2)A 1992 to any other relevant period,
- (d) it is allocated under section 40B or 42 of that Act to the relevant period or any other relevant period, or
- (e) a deduction in respect of it has otherwise been made in calculating the profits of the trade for income or corporation tax purposes.

(7) If any preliminary expenditure in connection with the film is allocated to the relevant period—
- (a) under section 135 above, or
- (b) under section 40B of F(No.2)A 1992,

no other preliminary expenditure in connection with the film may be allocated to the relevant period under this section.

(8) So far as a deduction is given in respect of any expenditure—
- (a) under this section, or
- (b) under section 41 of F(No.2)A 1992,

no further deduction is allowed in respect of that expenditure in calculating the profits of the trade for income tax purposes.

138 Certified master versions: production or acquisition expenditure

(1) This section applies if—
- (a) the person carrying on the trade has incurred production or acquisition expenditure in respect of the original master version of a film in, or before, the relevant period,
- (b) the film was completed in, or before, that period,
- (c) the original master version is a certified master version, and
- (d) the film is genuinely intended for theatrical release.

(2) A deduction is allowed for the amount of the expenditure allocated to the relevant period, but this is subject to the application of any prohibitive rule.

(3) The person carrying on the trade may allocate up to the permissible amount of the expenditure to the relevant period.

(4) The permissible amount of the expenditure is the smallest amount given by the following calculations.

(5) The calculations are—

Calculation 1

Calculate one-third of the total production or acquisition expenditure incurred by the person in respect of the original master version ("the total expenditure").

Calculation 2

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Calculate one-third of the sum obtained by deducting from the total expenditure—

(a) any amount of the total expenditure already allocated under section 137,

(b) any amount of the total expenditure already allocated under section 41 of F(No.2)A 1992, and

(c) any amount of the total expenditure that has already been, or is capable of being, allocated under section 139 or 140 below or under section 42 of F(No.2)A 1992 as applied by section 48(1) to (3) of F(No.2)A 1997 (corresponding corporation tax provision).

Calculation 3

Calculate so much of the total expenditure as has not already been allocated to the relevant period or any other relevant period—

(a) under this section or any other provision of this Chapter, or

(b) under any of sections 40B, 41 or 42 of F(No.2)A 1992.

(6) If the relevant period is less than 12 months the above references to one-third are to be read as references to a proportionately smaller fraction.

(7) If any production or acquisition expenditure in respect of the original master version is allocated to the relevant period—

(a) under section 135 above, or

(b) under section 40B of F(No.2)A 1992,

no other production or acquisition expenditure in respect of the original master version may be allocated to the relevant period under this section.

VALID FROM 07/04/2005

[F1 138A Certified master versions: acquisition expenditure

(1) This section applies if—

(a) the person carrying on the trade has incurred acquisition expenditure in respect of the original master version of a film in, or before, the relevant period,

F2 [(aa) section 140 does not apply in relation to that film,]

(b) the original master version has not previously been acquired by that person,

(c) the film was completed in, or before, that period,

(d) the original master version is a certified master version,

(e) the film is genuinely intended for theatrical release, and

(f) there has not already been a disqualifying deduction in respect of expenditure relating to the film (see section 140A).

(2) A deduction is allowed for the amount of the expenditure allocated to the relevant period, but this is subject to the application of any prohibitive rule.

(3) The person carrying on the trade may allocate up to the permissible amount of the expenditure to the relevant period.

F3 [(3A) But the total amount allocated under this section may not exceed the total production expenditure in respect of the original master version.]

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(4) The permissible amount of the expenditure is the smallest amount given by the following calculations.

(5) The calculations are—

Calculation 1

Calculate one-third of the total acquisition expenditure incurred by the person in respect of the original master version ("the total expenditure").

F4 . . . . . .

Calculation 3

Calculate so much of the total expenditure as has not already been allocated to the relevant period or any other relevant period—

(a) under this section or any other provision of this Chapter, or

(b) under any of sections 40B or 42 of F(No.2)A 1992.

(6) If the relevant period is less than 12 months the above references to one-third are to be read as references to a proportionately smaller fraction.

F5 **[** (6A) Where the total acquisition expenditure incurred by the person in respect of the original master version exceeds the total production expenditure in respect of the original master version, the calculations in subsection (5) have effect as if that total acquisition expenditure were an amount equal to that total production expenditure.**]**

(7) If any acquisition expenditure in respect of the original master version is allocated to the relevant period—

(a) under section 135 above, or

(b) under section 40B of F(No.2)A 1992,

no other acquisition expenditure in respect of the original master version may be allocated to the relevant period under this section.**]**

Textual Amendments

F1 Ss.138, 138A substituted for s. 138 (with effect as mentioned in Sch. 3 para. 3(2)(3) of the amending Act) by Finance Act 2005 (c. 7), s. 59, **Sch. 3 para. 3(1)(4)**

F2 S.138A(1)(aa) inserted (with effect as mentioned in Sch. 3 para. 12(6)-(8) of the amending Act) by Finance Act 2005 (c. 7), s. 59, **Sch. 3 para. 12(2)**

F3 S.138A(3A) inserted (with effect as mentioned in Sch. 3 para. 12(6)(7)(9) of the amending Act) by Finance Act 2005 (c. 7), s. 59, **Sch. 3 para. 12(3)**

F4 Words in s.138A(5) repealed (with effect as mentioned in Sch. 3 para. 12(6)-(8) of the amending Act) by Finance Act 2005 (c. 7), ss. 59, 104, Sch. 3 para. 12(4), **Sch. 11 Pt. 2(3)**

F5 S.138A(6A) inserted (with effect as mentioned in Sch. 3 para. 12(6)(7)(9) of the amending Act) by Finance Act 2005 (c. 7), s. 59, **Sch. 3 para. 12(5)**

Certified master versions: limited-budget films

139 Certified master versions: production expenditure on limited-budget films

(1) This section applies if—

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(a) the person carrying on the trade has incurred production expenditure in respect of the original master version of a film in, or before, the relevant period,
(b) the expenditure was incurred before 2nd July 2005 (see section 142 for timing rule),
(c) the original master version is a certified master version,
(d) the film is genuinely intended for theatrical release, and
(e) the total production expenditure in respect of the original master version is £15 million or less (see section 141).

(2) A deduction is allowed for the amount of the production expenditure allocated to the relevant period, but this is subject to the application of any prohibitive rule.

(3) The person carrying on the trade may allocate up to 100% of the production expenditure to the relevant period.

(4) Any expenditure which—
(a) has not been paid at the time the film is completed, and
(b) is not, at that time, the subject of an unconditional obligation to pay within 4 months after the date of completion,

is not regarded as production expenditure for the purposes of this section.

(5) Expenditure may not be allocated to the relevant period under this section if it is allocated—
(a) under this section to any other relevant period,
(b) under any other provision of this Chapter to the relevant period or any other relevant period,
(c) under section 42 of F(No.2)A 1992 as applied by section 48(1) and (2) of F(No.2)A 1997 (corporation tax provision corresponding to this section) to any other relevant period, or
(d) under section 40B or 41 of F(No.2)A 1992, or section 42 of that Act (but not as applied by section 48(1) and (2) of F(No.2)A 1997), to the relevant period or any other relevant period.

(6) If any production expenditure in respect of the original master version is allocated to the relevant period—
(a) under section 135 above, or
(b) under section 40B of F(No.2)A 1992,

no other production expenditure in respect of the original master version may be allocated to the relevant period under this section.

140 Certified master versions: acquisition expenditure on limited-budget films

(1) This section applies if—
(a) the person carrying on the trade has incurred acquisition expenditure in respect of the original master version of a film in, or before, the relevant period,
(b) the acquisition was a relevant acquisition (see subsection (2)),
(c) the expenditure was incurred before 2nd July 2005 (see section 142 for timing rule),
(d) the original master version is a certified master version,
(e) the film is genuinely intended for theatrical release, and

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(f) the total production expenditure in respect of the original master version is £15 million or less (see section 141).

(2) An acquisition is a relevant acquisition if—

(a) the acquisition is by the producer and the producer has not previously acquired the original master version of the film, or

(b) the acquisition is directly from the producer and the original master version of the film has not previously been acquired directly from the producer,

and for this purpose "the producer" means the person who commissions the making of the film and is entitled to control its exploitation.

(3) A deduction is allowed for the amount of the acquisition expenditure allocated to the relevant period, but this is subject to the application of any prohibitive rule.

(4) The person carrying on the trade may allocate up to 100% of the acquisition expenditure to the relevant period.

(5) But the total amount allocated under this section may not exceed the total production expenditure in respect of the original master version.

(6) Expenditure may not be allocated to the relevant period under this section if it is allocated—

(a) under this section to any other relevant period,

(b) under any other provision of this Chapter to the relevant period or any other relevant period,

(c) under section 42 of F(No.2)A 1992 as applied by section 48(1) to (3) of F(No.2)A 1997 to any other relevant period, or

(d) under section 40B or 41 of F(No.2)A 1992, or section 42 of that Act (but not as applied by section 48(1) to (3) of F(No.2)A 1997), to the relevant period or any other relevant period.

(7) If any acquisition expenditure in respect of the original master version is allocated to the relevant period—

(a) under section 135 above, or

(b) under section 40B of F(No.2)A 1992,

no other acquisition expenditure in respect of the original master version may be allocated to the relevant period under this section.

141 "Total production expenditure in respect of the original master version"

(1) The following provisions of this section define what is meant by "the total production expenditure in respect of the original master version" for the purposes of sections 139 and 140.

(2) "The total production expenditure in respect of the original master version" means the total of all the production expenditure in respect of the original master version—

(a) whenever the expenditure is incurred, and

(b) whether or not it is incurred by the person carrying on the trade.

(3) Any expenditure which—

(a) has not been paid at the time the film is completed, and

(b) is not, at that time, the subject of an unconditional obligation to pay within 4 months after the date of completion,

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is ignored.

(4) Any part of the production expenditure in respect of the original master version which—

(a) is incurred by a person under or as a result of a transaction entered into directly or indirectly between that person and a connected person, and

(b) might have been expected to have been of a greater amount ("the arm's length amount") if the transaction had been between independent persons dealing at arm's length,

is treated as having been of an amount equal to the arm's length amount.

142 When expenditure is incurred

(1) This section applies to determine when expenditure is treated as incurred for the purposes of sections 139 and 140.

(2) The general rule is that an amount of expenditure is treated as incurred as soon as there is an unconditional obligation to pay it.

(3) The general rule applies even if the whole or a part of the expenditure is not required to be paid until a later date.

(4) There are the following exceptions to the general rule.

(5) If under an agreement—

(a) the expenditure is on the provision of an original master version,

(b) an unconditional obligation to pay an amount of the expenditure comes into being as a result of the giving of a certificate or any other event,

(c) the giving of the certificate, or other event, occurs within the period of one month after the end of a relevant period, and

(d) at or before the end of the relevant period, the original master version has become the property of, or is otherwise under the agreement attributed to, the person subject to the unconditional obligation to pay,

the expenditure is treated as incurred immediately before the end of the relevant period.

(6) If under an agreement an amount of expenditure is not required to be paid until a date more than 4 months after the unconditional obligation to pay has come into being, the amount is treated as incurred on that date.

(7) If under an agreement—

(a) there is an unconditional obligation to pay an amount of expenditure on a date earlier than accords with normal commercial usage, and

(b) the sole or main benefit which might (as a result) have been expected to be obtained is that the amount would be treated, under the general rule, as incurred at an earlier time,

the amount is treated as incurred on the date on or before which it is required to be paid.

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VALID FROM 07/04/2005

[F6 Interpretation of sections 138 to 140

Textual Amendments

F6 S. 140A and preceding cross-heading inserted (with effect as mentioned in Sch. 3 para. 6(2)-(4) of the amending Act) by Finance Act 2005 (c. 7), **Sch. 3 para. 6(1)**

[F7 140A "Disqualifying deduction"]

(1) For the purposes of sections 138 and 139 a disqualifying deduction in respect of expenditure relating to the film occurs when—

(a) under sections 138, 138A or 140 a deduction is made in respect of acquisition expenditure in respect of the original master version of the film in calculating the profits of the trade of any relevant period,

(b) a claim under section 42 of F(No.2)A 1992 is made in relation to the trade, for any relevant period, in respect of expenditure incurred on the acquisition of that version,

(c) under any of sections 138 to 140 a deduction is made in respect of production or acquisition expenditure in respect of that version in calculating the profits of another trade or business of any relevant period, or

(d) a claim under section 42 of F(No.2)A 1992 is made in relation to another trade or business, for any relevant period, in respect of expenditure incurred on the production or acquisition of that version.

(2) For the purposes of sections 138A and 140 a disqualifying deduction in respect of expenditure relating to the film occurs when—

(a) under section 138 or 139 a deduction is made in respect of production expenditure in respect of the original master version of the film in calculating the profits of the trade of any relevant period,

(b) a claim under section 42 of F(No.2)A 1992 is made in relation to the trade, for any relevant period, in respect of expenditure incurred on the production of that version,

(c) under any of sections 138 to 140 a deduction is made in respect of production or acquisition expenditure in respect of that version in calculating the profits of another trade or business of any relevant period, or

(d) a claim under section 42 of F(No.2)A 1992 is made in relation to another trade or business, for any relevant period, in respect of expenditure incurred on the production or acquisition of that version.

(3) For the purposes of subsections (1) and (2)—

(a) it does not matter whether a claim under section 42 of F(No.2)A 1992 was made before, or on or after, 2nd December 2004, and

(b) references to a relevant period in relation to such a claim are to a relevant period within the meaning of section 40B of that Act.

(4) Where more than one deduction is made at the same time, the Inland Revenue may determine which of those deductions is to be regarded as made first for the purposes

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of determining, for the purposes of sections 138 to 140, whether a disqualifying deduction has already been made.

(5) In subsection (4) references to a deduction are to be read as including references to a claim under section 42 of F(No.2)A 1992.]

Textual Amendments

F7 S. 140A and preceding cross-heading inserted (with effect as mentioned in Sch. 3 para. 6(2)-(4) of the amending Act) by Finance Act 2005 (c. 7), **Sch. 3 para. 6(1)**

VALID FROM 07/04/2005

[F8 Deferred income agreements

Textual Amendments

F8 Ss. 142A-142E and preceding cross-heading inserted (with effect as mentioned in s. 65(2) of the amending Act) by Finance Act 2005 (c. 7), **s. 65(1)**

142A Deferred income agreements which exist when deduction made

(1) This section applies where—

(a) in calculating the profits of a relevant period of a trade carried on by a person ("P"), a deduction is made under any of sections 138 to 140 in respect of expenditure relating to a film ("the relevant expenditure"), and

(b) when the deduction is made, one or more deferred income agreements in respect of the film exist to which P is or has been a party and which P entered into on or after 2nd December 2004.

(2) An amount equal to the amount of excess relief is brought into account as a receipt in calculating the profits of the trade of the relevant period in respect of which the deduction was made.

(3) If, at the time immediately after the end of the 15 year period, P is carrying on the trade, P is to be treated for the purposes of section 135 (normal rules for allocating expenditure to periods) as incurring at that time relevant film expenditure of an amount equal to the amount of excess relief.

(4) The "amount of excess relief" is the amount given by the following formula—

$$D \times \left(1 - \frac{T1}{T2}\right)$$

where—

D is the amount of the deduction allowed;

T1 is the number of days in the 15 year period;

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T2 is the number of days in the period which begins with the operative date and ends with the final deferral date.

(5) The "15 year period" means the period of 15 years which begins with the operative date.

(6) The "operative date" means—
- (a) where the relevant expenditure is acquisition expenditure only, the date of the acquisition in question, and
- (b) in any other case, the date upon which the film is completed.

(7) The "final deferral date" means—
- (a) the last date of deferral in relation to the deferred income agreement mentioned in subsection (1)(b) (see section 142B), or
- (b) where there is more than one such agreement, the date which is the latest of the last dates of deferral in relation to those agreements.

(8) "Relevant film expenditure" means production or acquisition expenditure relating to the original master version of the film.

142B Meaning of "deferred income agreement in respect of a film"

(1) For the purposes of section 142A, a "deferred income agreement in respect of a film" means an agreement which satisfies condition A or condition B.

(2) Condition A is that the agreement (whether or not it supplements or varies another agreement)—
- (a) guarantees to any person an amount of income arising from the exploitation of the film, and
- (b) has the effect that the last date of deferral is a date after the end of the 15 year period.

(3) Condition B is that the agreement—
- (a) supplements or varies another agreement ("the earlier agreement") which guarantees to any person an amount of income arising from the exploitation of the film, and
- (b) has the effect that the last date of deferral is a date which is after the end of the 15 year period and after the last date of deferral (if any) in relation to the earlier agreement.

(4) The "last date of deferral" means the last date upon which an amount of the guaranteed income will or may arise.

(5) It does not matter whether any of the agreements mentioned in subsection (2) or (3) existed before 2nd December 2004.

(6) For the purposes of this section—
- (a) "agreement" means an agreement or series of agreements, and
- (b) an agreement "guarantees" an amount of income if the agreement, or any part of it, is designed to secure the receipt of that amount (or at least that amount) of income.

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142C Deferred income agreements entered into after deduction made

(1) This section applies where—

(a) on or after 2nd December 2004, a person ("P") enters into a deferred income agreement in respect of a film in the course of carrying on a trade, and

(b) before P entered into the agreement, event A or event B occurred in relation to the trade in respect of expenditure relating to the film ("the relevant expenditure").

(2) Event A occurs in relation to a trade in respect of expenditure relating to a film when a deduction is made under any of sections 138 to 140 in respect of that expenditure in calculating the profits of the trade of a relevant period ("the deduction").

(3) Event B occurs in relation to a trade in respect of expenditure relating to a film when a claim is made under section 42 of F(No.2)A 1992, in relation to the trade, for a deduction for a relevant period in respect of that expenditure ("the claim").

It does not matter whether the claim is made before, or on or after, 2nd December 2004.

(4) An amount equal to the net excess relief is brought into account as a receipt in calculating the profits of the trade of the relevant period in which P entered into the deferred income agreement.

(5) If, at the time immediately after the end of the 15 year period, P is carrying on the trade, P is to be treated for the purposes of section 135 (normal rules for allocating expenditure to periods) as incurring at that time relevant film expenditure of an amount equal to the net excess relief.

(6) The "15 year period" means the period of 15 years which begins with the operative date.

(7) The "operative date" means—

(a) where the relevant expenditure is acquisition expenditure only, the date of the acquisition in question, and

(b) in any other case, the date upon which the film is completed.

(8) "Deferred income agreement in respect of a film" has the same meaning as it has for the purposes of section 142A.

(9) "Relevant film expenditure" means production or acquisition expenditure relating to the original master version of the film.

142D Meaning of the "net excess relief"

(1) For the purposes of section 142C the "net excess relief" is the amount of excess relief reduced (but not below nil) by the recovered amount (if any).

(2) The "amount of excess relief" is the amount given by the following formula—

$$D \times \left(1 - \frac{\mathrm{T1}}{\mathrm{T2}}\right)$$

where—

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D is—

(a) in a case where event A has occurred, the amount of the deduction allowed, and

(b) in a case where event B has occurred, the amount which there was an entitlement to deduct under section 42 of F(No.2)A 1992 by virtue of the claim;

T1 is the number of days in the 15 year period;

T2 is the number of days in the period which begins with the operative date and ends with the final deferral date.

(3) The "final deferral date" means the last date of deferral in relation to the deferred income agreement mentioned in section 142C(1)(a) (see section 142B).

(4) In a case where event A has occurred, the "recovered amount" means the total of—

(a) the amount (if any) treated under section 142A as a receipt of the trade as a result of any application of that section in relation to the deduction as a result of P's entry into any deferred income agreement in respect of the film concerned, and

(b) the total of any amounts treated under section 142C as receipts of the trade as a result of any previous application of that section in relation to the deduction as a result of P's entry into any previous relevant agreements.

(5) In a case where event B has occurred, the "recovered amount" means the total of—

(a) the amount (if any) treated under section 60 of the Finance Act 2005 as a receipt of the trade as a result of any application of that section in relation to the claim as a result of P's entry into any deferred income agreement in respect of the film concerned,

(b) the total of any amounts treated under section 62 of the Finance Act 2005 as receipts of the trade as a result of any application of that section in relation to the claim as a result of P's entry into any previous relevant agreements, and

(c) the total of any amounts treated under section 142C as receipts of the trade as a result of any previous application of that section in relation to the claim as a result of P's entry into any previous relevant agreements.

(6) "Previous relevant agreement" means a deferred income agreement in respect of the film concerned which was entered into by P—

(a) in the case of event A, after the deduction was made and before the entry into the deferred income agreement mentioned in section 142C(1)(a), and

(b) in the case of event B, after the claim was made and before the entry into that deferred income agreement.

142E Sections 142A to 142D: time of entry into an agreement

(1) For the purposes of sections 142A to 142D a person is not to be regarded as entering into an agreement on or after 2nd December 2004 where the person entered into the agreement in pursuance of an obligation of the person which immediately before that date was an unconditional obligation.

(2) In determining, for the purposes of subsection (1), whether an obligation in pursuance of which a person entered into an agreement was an unconditional obligation immediately before 2nd December 2004, the obligation is not to be regarded as a

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conditional obligation at that time by reason only that it was contingent on a condition the fulfilment of which was outside the control of the person.**]**

Election for sections 134 to 140 not to apply

143 Election for sections 134 to 140 not to apply

(1) A person carrying on a trade which consists of or includes the exploitation of original master versions of films may elect for sections 134 to 140 not to apply in relation to expenditure if—
  (a) the person incurs expenditure on the production or acquisition of an original master version of a film,
  (b) the original master version is a certified master version,
  (c) its value is expected to be realisable over a period of not less than two years, and
  (d) the film is genuinely intended for theatrical release.

(2) The election must relate to all expenditure—
  (a) incurred, or
  (b) to be incurred,
  on the production or acquisition of the original master version in question.

(3) The election is irrevocable.

(4) The election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which ends the relevant period in which the original master version of the film is completed.

(5) For this purpose a film is completed—
  (a) at the time given by section 131(5), or
  (b) if the expenditure is acquisition expenditure and the acquisition takes place after that time, at the time of the acquisition.

(6) No election may be made in relation to expenditure on the production or acquisition of an original master version of a film if any of that expenditure has been allocated—
  (a) under any of sections 137 to 140 above, or
  (b) under section 41 or 42 of F(No.2)A 1992.

Supplementary

144 Meaning of "genuinely intended for theatrical release"

(1) This section determines for the purposes of this Chapter whether films are genuinely intended for theatrical release.

(2) The relevant intention is the intention at the time the film is completed of the person then entitled to determine how the film is to be exploited.

(3) "Theatrical release" means exhibition to the paying public at the commercial cinema.

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) A film is not regarded as genuinely intended for theatrical release unless it is intended that a significant proportion of the earnings from the film should be obtained by exhibition to the paying public at the commercial cinema.

CHAPTER 10

TRADE PROFITS: CERTAIN TELECOMMUNICATION RIGHTS

145 Professions and vocations

The provisions of this Chapter apply to professions and vocations as they apply to trades.

146 Meaning of "relevant telecommunication right"

In this Chapter a "relevant telecommunication right" means—

(a) a licence granted under section 1 of the Wireless Telegraphy Act 1949 (c. 54) in accordance with regulations made under section 3 of the Wireless Telegraphy Act 1998 (c. 6) (bidding for licences),

(b) an indefeasible right to use a telecommunications cable system, or

(c) a right derived (directly or indirectly) from such a licence or indefeasible right.

147 Expenditure and receipts treated as revenue in nature

(1) This section applies if, in accordance with generally accepted accounting practice, an amount in respect of—

(a) expenditure on the acquisition of a relevant telecommunication right, or

(b) a receipt from the disposal of a relevant telecommunication right,

is recognised in the accounts of a trade as an item in the calculation of profit or loss.

(2) The amount is treated for income tax purposes as an item of a revenue nature.

(3) "The acquisition of a relevant telecommunication right" includes—

(a) the extension of rights attached to a relevant telecommunication right, and

(b) if a relevant telecommunication right is subject to a derivative right, the cancellation or restriction of rights attached to the derivative right.

(4) "The disposal of a relevant telecommunication right" includes—

(a) the cancellation or restriction of rights attached to a relevant telecommunication right, and

(b) the granting of a derivative right or the extension of rights attached to a derivative right.

148 Credits or debits arising from revaluation

(1) This section applies if, in accordance with generally accepted accounting practice, an amount in respect of the revaluation of a relevant telecommunication right is recognised in the accounts of a trade (whether or not as an item in the calculation of profit or loss).

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(2) The amount is treated for income tax purposes as an item of a revenue nature.

(3) In calculating the profits of the trade, the amount is brought into account for the period of account in which it is recognised.

VALID FROM 19/07/2006

[F9 CHAPTER 10A

LEASES OF PLANT OR MACHINERY: SPECIAL RULES FOR LONG FUNDING LEASES

Textual Amendments

F9 Pt. 2 Ch. 10A, (ss 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F10 Lessors under long funding finance leases]

Textual Amendments

F10 Pt. 2 Ch. 10A inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F11 148A Lessor under long funding finance lease: rental earnings

(1) This section applies for the purpose of calculating the profits of a person carrying on a trade for a period of account in which he is the lessor of any plant or machinery under a long funding finance lease.

(2) The amount to be brought into account as the lessor's taxable income from the lease for the period of account is the amount of the rental earnings in respect of the lease for the period of account.

(3) The "rental earnings" for any period is the amount which, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment for that period in respect of the long funding lease where it meets the finance lease test.

(4) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan in the accounts in question, so much of the rentals under the lease as fall (or would fall) to be treated as interest are to be treated for the purposes of this section as rental earnings.**]**

Textual Amendments

F11 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F12 148B Lessor under long funding finance lease: exceptional items

(1) This section applies for the purpose of calculating the profits of a person carrying on a trade for a period of account if he is or has been the lessor under a long funding finance lease.

(2) This section has effect where a profit or loss (whether of an income or capital nature) —

(a) arises to the person in connection with the lease, and

(b) in accordance with generally accepted accounting practice falls to be recognised for accounting purposes in a period of account, but

(c) would not, apart from this section, be brought into account in calculating the profits of the person.

(3) The profit or loss is to be treated—

(a) in the case of a profit, as income of the person that is attributable to the lease,

(b) in the case of a loss, as a revenue expense incurred by the person in connection with the lease.

(4) Any reference in this section to an amount falling to be recognised for accounting purposes in a period of account is a reference to an amount falling to be recognised for accounting purposes—

(a) in the person's profit and loss account or income statement,

(b) in the person's statement of recognised gains and losses or statement of changes in equity, or

(c) in any other statement of items brought into account in computing the person's profits or losses for that period.**]**

Textual Amendments

F12 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F13 148C Lessor under long funding finance lease making termination payment

(1) This section applies for the purpose of calculating the profits of a person carrying on a trade for a period of account if he is or has been the lessor under a long funding finance lease.

(2) Where—

(a) the lease terminates, and

(b) a sum calculated by reference to the termination value is paid to the lessee,

no deduction in respect of the sum paid to the lessee is allowed in calculating the profits of the person.

(3) This section does not prevent a deduction in respect of a sum to the extent that the sum is brought into account in determining the person's rental earnings.**]**

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F13 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F14 Lessors under long funding operating leases]

Textual Amendments

F14 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F15 148D Lessor under long funding operating lease: periodic deduction

(1) This section applies for the purpose of calculating the profits of a person carrying on a trade in a period of account—

(a) for the whole of which, or

(b) for any part of which,

the person is the lessor of any plant or machinery under a long funding operating lease.

(2) A deduction is allowed in calculating the profits of the person for the period of account.

(3) The amount of the deduction for any period of account is determined as follows.

(4) First, find the "relevant value" for the purposes of subsection (6)(a), which is—

(a) if the only use of the plant or machinery by the lessor has been the leasing of it under the long funding operating lease as a qualifying activity, cost;

(b) if the last previous use of the plant or machinery by the lessor was the leasing of it under another long funding operating lease as a qualifying activity, market value;

(c) if the last previous use of the plant or machinery by the lessor was the leasing of it under a long funding finance lease as a qualifying activity, the recognised value;

(d) if the last previous use of the plant or machinery by the lessor was for the purposes of a qualifying activity other than leasing under a long funding lease, the lower of cost and market value;

(e) if the lessor owns the plant or machinery as a result of having incurred expenditure on its provision for purposes other than those of a qualifying activity, but—

(i) the plant or machinery is brought into use by the lessor for the purposes of a qualifying activity on or after 1st April 2006, and

(ii) that qualifying activity is the leasing of the plant or machinery under the long funding lease,

the relevant value is the lower of first use market value and first use amortised value.

(5) In subsection (4)—

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"cost" means the amount of the expenditure incurred by the lessor on the provision of the plant or machinery;

"first use amortised value" means the value that the plant or machinery would have at the time when it is first brought into use for the purposes of the qualifying activity, on the assumption that—

(a) the cost of acquiring the plant or machinery had been written off on a straight line basis over the remaining useful economic life of the plant or machinery, and

(b) any further capital expenditure incurred had been written off on a straight line basis over so much of the remaining economic life of the plant or machinery as remains at the time when the expenditure is incurred;

"first use market value" means the market value of the plant or machinery at the time when it is first brought into use for the purposes of the qualifying activity;

"market value" means the market value of the plant or machinery at the commencement of the term of the long funding operating lease;

"recognised value" means the value at which the plant or machinery is recognised in the books or other financial records of the lessor at the commencement of the long funding operating lease.

(6) From—

(a) the relevant value determined in accordance with subsection (4),

subtract

(b) the amount which, at the commencement of the term of the lease, is (or, in a case falling within subsection (4)(e), would have been) expected to be the residual value of the plant or machinery,

to find the expected gross reduction in value over the term of the lease.

(7) Apportion the amount of that expected gross reduction in value to each period of account in which any part of the term of the lease falls.

(8) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each period of account.

(9) The amount of the deduction for any period of account is the amount so apportioned to that period.**]**

Textual Amendments

F15 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F16 148E Long funding operating lease: lessor's additional expenditure

(1) This section applies if, in a period of account,—

(a) a person carrying on a trade is the lessor of any plant or machinery under a long funding operating lease,

(b) the person incurs capital expenditure in relation to the plant or machinery, and

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(c) that capital expenditure (the "additional expenditure") is not reflected in the market value of the plant or machinery at the commencement of the term of the lease.

(2) In a case falling within section 148D(4)(e), subsection (1)(c) has effect as if the reference to the commencement of the term of the lease were a reference to the time when the plant or machinery is first brought into use by the lessor for the purposes of the qualifying activity.

(3) Where this section applies, an additional deduction is allowed in calculating the profits of the person for each post-expenditure period of account in which the person is the lessor of the plant or machinery under the lease.

(4) The amount of the deduction for any such period of account is to be determined as follows.

(5) Find ARV, CRV, PRV and TRV where—

"ARV" is the amount which, at the time when the additional expenditure is incurred, is expected to be the residual value of the plant or machinery;

"CRV" is the amount which, at the commencement of the term of the lease, is expected to be the residual value of the plant or machinery;

"PRV" is the sum of any amounts that fell to be taken into account as RRV (see subsection (6)) in the application of this section in relation to any previous additional expenditure incurred by the person in relation to the leased plant or machinery;

"TRV" is the total of CRV and PRV.

(6) Find RRV, where—

(a) if ARV exceeds CRV, RRV is the portion of the excess that is a result of the additional expenditure, but

(b) if ARV does not exceed CRV, RRV is nil.

(7) From—

(a) the amount of the additional expenditure,

subtract

(b) RRV,

to find the expected partial reduction in value over the remainder of the term of the lease.

(8) Apportion the amount of that expected partial reduction in value to each post-expenditure period of account in which any part of the term of the lease falls.

(9) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each post-expenditure period of account.

(10) The amount of the additional deduction for any period of account is the amount so apportioned to that period.

(11) In this section "post-expenditure period of account" means any period of account ending after the incurring of the additional expenditure.**]**

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F16 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F17 **148F Lessor under long funding operating lease: termination of lease**

(1) This section applies for the purpose of calculating the profits of a person carrying on a trade in a period of account if—

(a) a long funding operating lease terminates in that period of account, and

(b) the person is the lessor under that lease immediately before the termination.

(2) Step 1 is to find—

(a) the termination amount (TA);

(b) the total of any sums paid to the lessee that are calculated by reference to the termination value (LP).

(3) Step 2 is to find—

(a) the relevant value for the purposes of section 148D(6)(a) (RV);

(b) the total of the deductions allowable under section 148D for periods of account for the whole or part of which the person was the lessor before the termination of the lease (TD1);

(c) the amount, if any, (ERV) by which RV exceeds TD1.

(4) Step 3 is to find—

(a) the total of any amounts of capital expenditure incurred by the person which constitute additional expenditure for the purposes of section 148E in the case of the lease (TAE);

(b) the total of any deductions allowable under section 148E for periods of account for the whole or part of which the person was the lessor before the termination of the lease (TD2);

(c) the amount, if any, (EAE) by which TAE exceeds TD2.

(5) Step 4 is to find the total of ERV and EAE (T).

(6) If (TA ? LP) exceeds T, treat a profit of an amount equal to the excess as arising to the person in the period of account in which the lease terminates.

(7) If T exceeds (TA ? LP), treat a loss of an amount equal to the excess as arising to the person in that period of account.

(8) A profit or loss treated as arising to the person under subsection (6) or (7) is to be treated—

(a) in the case of a profit, as income of the person attributable to the lease,

(b) in the case of a loss, as a revenue expense incurred by the person in connection with the lease.

(9) In calculating the profits of the person for the period, no deduction is allowed in respect of any sums paid to the lessee that are calculated by reference to the termination value.]

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Textual Amendments

F17 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F18 Lessees under long funding finance leases]

Textual Amendments

F18 Pt. 2 Ch. 10A inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F19 148G Lessee under long funding finance lease: limit on deductions

(1) This section applies for the purpose of calculating the profits of a person carrying on a trade, profession or vocation for a period of account in which the person is the lessee of any plant or machinery under a long funding finance lease.

(2) In calculating the person's profits for the period of account,—

(a) the amount deducted in respect of amounts payable under the lease,

must not exceed

(b) the amounts which, in accordance with generally accepted accounting practice, fall (or would fall) to be shown in the person's accounts as finance charges in respect of the lease.

(3) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, subsection (2) applies as if the lease were one which, under generally accepted accounting practice, fell to be treated as a finance lease.**]**

Textual Amendments

F19 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F20 148H Lessee under long funding finance lease: termination

(1) This section applies where—

(a) a person carrying on a trade, profession or vocation is or has been the lessee under a long funding finance lease, and

(b) in connection with the termination of the lease, a payment calculated by reference to the termination value falls to be made to the person.

(2) The payment is not to be brought into account in calculating the profits of the person for any period of account.

(3) Subsection (2) does not affect the amount of any disposal value that falls to be brought into account by the person under CAA 2001.**]**

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F20 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F21 Lessees under long funding operating leases]

Textual Amendments

F21 Pt. 2 Ch. 10A inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F22 148I Lessee under long funding operating lease

(1) This section applies for the purpose of calculating the profits of a person carrying on a trade, profession or vocation for a period of account in which the person is the lessee of any plant or machinery under a long funding operating lease.

(2) The deductions that may be allowed in calculating the profits of the person for the period of account are to be reduced in accordance with the following provisions of this section.

(3) The amount of the reduction for any period of account is to be determined as follows.

(4) First, find the "relevant value" for the purposes of subsection (6)(a), which is—

(a) the market value of the plant or machinery at the commencement of the term of the lease, unless paragraph (b) applies;

(b) if the lessee—

(i) owns the plant or machinery as a result of having incurred expenditure on its provision for purposes other than those of a qualifying activity, but

(ii) brings the plant or machinery into use for the purposes of a qualifying activity on or after 1st April 2006,

the lower of first use market value and first use amortised market value.

(5) In subsection (4)—

"first use amortised market value" means the value that the plant or machinery would have—

(a) at the time when it is first brought into use for the purposes of the qualifying activity, but

(b) on the assumption that the market value of the plant or machinery at the commencement of the term of the lease had been written off on a straight line basis over the remaining useful economic life of the plant or machinery;

"first use market value" means the market value of the plant or machinery at the time when it is first brought into use for the purposes of the qualifying activity.

(6) From—

(a) the relevant value determined in accordance with subsection (4),

subtract

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(b) the amount which, at the commencement of the term of the lease, is (or, in a case falling within subsection (4)(b), would have been) expected to be the market value of the plant or machinery at the end of the term of the lease,

to find the expected gross reduction over the term of the lease.

(7) Apportion the amount of that expected gross reduction to each period of account in which any part of the term of the lease falls.

(8) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each period of account.

(9) The amount of the reduction for any period of account is the amount so apportioned to that period.**]**

Textual Amendments

F22 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F23 Interpretation of this Chapter]

Textual Amendments

F23 Pt. 2 Ch. 10A inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

[F24 148J Interpretation of Chapter 10A

(1) This section has effect for the interpretation of this Chapter.

(2) In this Chapter—

"qualifying activity" has the same meaning as in Part 2 of CAA 2001;

"residual value", in relation to any plant or machinery leased under a long funding operating lease, means—

(a) the estimated market value of the plant or machinery on a disposal at the end of the term of the lease,

less

(b) the estimated costs of that disposal.

(3) Any reference in this Chapter to a sum being written off on a straight line basis over a period of time (the "writing-off period") is a reference to—

(a) the sum being apportioned between each of the periods of account in which any part of the writing-off period falls,

(b) that apportionment being made on a time basis, according to the proportion of the writing-off period that falls in each of the periods of account, and

(c) the sum being written off accordingly.

(4) Chapter 6A of Part 2 of CAA 2001 (interpretation of that Part so far as relating to long funding leases) also applies for the purposes of this Chapter.**]]**

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F24 Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 81, **Sch. 8 para. 13**

CHAPTER 11

TRADE PROFITS: OTHER SPECIFIC TRADES

Dealers in securities etc.

149 Taxation of amounts taken to reserves

(1) This section applies for the purpose of calculating the profits of a person's trade if a profit on the sale of securities would be brought into account in calculating the profits of the trade.

(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
- (b) recognised in the person'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 Chapter 2 of Part 4 of FA 1996).

150 Conversion etc. of securities held as circulating capital

(1) This section applies for the purpose of calculating the profits of a trade if—
- (a) a transaction falling within subsection (2) occurs in relation to securities ("the original holding"), and
- (b) a profit on the sale of the securities would be brought into account in calculating the profits of the trade.

(2) A transaction falls within this subsection if—

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(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 (CGT 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,

and it does not fall within section 151(1) or 152(1) below (exchanges of gilts for gilt strips and consolidation of gilt strips).

(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 person 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—

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

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—

(a) shares,

(b) loan stocks or similar securities (whether secured or unsecured) of a government, a local or other public authority (in the United Kingdom or elsewhere) or a company,

(c) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of TCGA 1992,

(d) in the case of a company with no share capital, interests in the company possessed by members of the company,

(e) quoted options to subscribe for shares which are treated as shares as a result of section 147 of TCGA 1992, and

(f) earn-out rights which are assumed to be securities as a result of section 138A(3) of TCGA 1992.

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151 Exchanges of gilts for gilt strips

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

(a) the person carrying it on ("the trader") exchanges a gilt-edged security for strips of the security, and

(b) a profit on the sale of the security would be brought into account in calculating the profits of the trade.

(2) The security is treated as having been redeemed at the time of the exchange by the payment to the trader of its market value.

(3) The trader is treated as having acquired each strip for the proportion of the market value of the security given by the following fraction.

(4) The fraction is—

$$\frac{SV}{TV}$$

where—

SV is the market value of one strip, and

TV is the total of the market values of all the strips received in exchange for the security.

(5) In this section references to market value are to market value at the time of the exchange.

(6) This section applies to professions and vocations as it applies to trades.

(7) See also—

section 153 (meaning of "gilt-edged security" and "strip"), and

section 154 (regulations for determining market value of securities or strips).

152 Consolidation of gilt strips

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

(a) strips of a gilt-edged security are consolidated into a single security by being exchanged by the person carrying on the trade ("the trader") for the single security, and

(b) a profit on the sale of any of the strips would be brought into account in calculating the profits of the trade.

(2) Each strip is treated as having been redeemed at the time of the exchange by payment to the trader of its market value.

(3) The trader is treated as having acquired the gilt-edged security for an amount equal to the total of the market values of the strips given in exchange.

(4) In this section references to market value are to market value at the time of the exchange.

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(5) This section applies to professions and vocations as it applies to trades.

(6) See also—

section 153 (meaning of "gilt-edged security" and "strip"), and

section 154 (regulations for determining market value of securities or strips).

153 Meaning of "gilt-edged security" and "strip"

(1) In this Act "gilt-edged security" means a security which—

(a) is a gilt-edged security for the purposes of TCGA 1992 (see Schedule 9 to that Act), or

(b) will be such a security on the making of an order under paragraph 1 of Schedule 9 to TCGA 1992, if the making of the order is anticipated in the prospectus under which the security is issued.

(2) For the purposes of sections 151 and 152 "strip", in relation to a gilt-edged security, means a security issued under the National Loans Act 1968 (c. 13) which meets conditions A to C.

(3) Condition A is that the security is issued for the purpose of representing the right to or of securing—

(a) a payment corresponding to a payment of interest or principal remaining to be made under the gilt-edged security, or

(b) two or more payments each corresponding to a payment to be so made.

(4) Condition B is that the security is issued in conjunction with the issue of one or more other securities which, together with that security—

(a) represent the right to, or

(b) secure,

payments corresponding to every payment remaining to be made under the gilt-edged security.

(5) Condition C is that the security is not itself a security which—

(a) represents the right to, or

(b) secures,

payments corresponding to a part of every payment remaining to be made under the gilt-edged security.

154 Regulations for determining market value of securities or strips

(1) The Treasury may by regulations make provision for the purposes of sections 151 and 152 as to the manner of determining the market value at any time of a gilt-edged security (including any strip).

(2) The regulations may—

(a) make different provision for different cases, and

(b) contain such incidental, supplemental, consequential and transitional provision as the Treasury consider appropriate.

(3) The power in this section does not affect the power under section 202(5) of FA 1996 (gilt stripping).

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Persons authorised for purposes of FISMA 2000

155 Levies and repayments under FISMA 2000

(1) This section applies for the purpose of calculating the profits of a trade carried on by a person who—
  (a) is authorised for the purposes of FISMA 2000 (see section 31(1) of that Act), but
  (b) is not an investment company (within the meaning of section 130 of ICTA).

(2) A deduction is allowed for any sum spent by the person in paying a levy, so far as it is not otherwise allowable.

(3) A payment made to the person as a result of a repayment provision is brought into account as a receipt.

(4) 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 ("scheme rules") 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 an award which is not an award of costs under rules made under section 230 of FISMA 2000 or under provision relating to costs contained in those standard terms).

(5) 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.

Dealers in land etc.

156 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 person 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 the trees or underwood is ignored.

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157 Relief in respect of mineral royalties

(1) This section applies for the purpose of calculating the profits of a trade if in a tax year a person who is UK resident, or ordinarily UK resident, carries on the trade the receipts of which include mineral royalties—

(a) which the person is entitled to receive under a mineral lease or agreement, and

(b) which are not chargeable to tax under Chapter 8 of Part 3 (rent receivable in connection with a UK section 12(4) concern) because of the priority rule in section 261.

(2) The person is treated as entitled to receive only half of the total of the mineral royalties arising under the lease or agreement in the tax year.

(3) Sections 341 to 343 (meaning of "mineral lease or agreement" and "mineral royalties") apply for the purposes of this section as they apply for the purposes of Chapter 8 of Part 3.

158 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 277,

(b) sums within section 279 (sums payable instead of rent),

(c) sums within section 280 (sums payable for surrender of a lease),

(d) sums within section 281 (sums payable for variation or waiver of term of lease),

(e) consideration for the assignment of a lease within section 282 (lease granted at an undervalue), and

(f) amounts received on the sale of an estate or interest in land within section 284 (sales with right to re-conveyance) or section 285 (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 277 to 285.

(4) But if—

(a) the person carrying on the trade makes a claim under section 301 or 302, and

(b) as a result of the claim a repayment of tax is made to that person,

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 tax year in which the claim under section 301 or 302 is made.

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Ministers of religion

159 Ministers of religion

(1) This section applies for the purpose of calculating the profits of the profession or vocation of a minister of a religious denomination.

(2) If the minister pays rent in respect of a dwelling-house and any part of the dwelling-house is used mainly and substantially for the purposes of the minister's duty, a deduction is allowed for—
- (a) one-quarter of the rent, or
- (b) if less, the part of the rent that, on a just and reasonable apportionment, is attributable to that part of the dwelling-house.

(3) If—
- (a) an interest in premises belongs to a charity or an ecclesiastical corporation,
- (b) because of that interest, the minister has a residence in the premises from which to perform the minister's duty, and
- (c) the minister incurs expenses on the maintenance, repair, insurance or management of the premises,

a deduction is allowed under this subsection for part of those expenses.

(4) The amount of the deduction under subsection (3) is—

$$\frac{A}{4} - B$$

where—

A is the amount of the expenses, and

B is the amount of the expenses for which a deduction is otherwise allowable.

Barristers and advocates

160 Alternative basis of calculation in early years of practice

(1) The profits of a barrister or advocate in independent practice for a period of account ending not more than 7 years after the start of such practice may be calculated in accordance with this section.

(2) For this purpose barristers and advocates start in independent practice when they first hold themselves out as available for fee-earning work.

(3) The profits of a barrister or advocate for a period of account to which this section applies may be calculated—
- (a) on a cash basis, or
- (b) by reference to fees earned whose amount has been agreed or in respect of which a fee note has been delivered.

(4) Once a particular basis has been adopted it must be applied consistently.

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(5) If for any period of account an accounting basis is adopted that complies with section 25 (generally accepted accounting practice), the exemption from that section given by this section ceases.

(6) In that case, section 25 applies to all subsequent periods of account.

Mineral exploration and access

161 Mineral exploration and access

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

Persons liable to pool betting duty

162 Payments by persons liable to pool betting duty

(1) This section applies for the purpose of calculating the profits of a trade if—
- (a) the person carrying on the trade is liable to pool betting duty,
- (b) there is a reduction in that duty, and
- (c) the person 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

163 Deduction for deemed employment payment

(1) This section applies for the purpose of calculating the profits of a trade, profession or vocation carried on by an intermediary who is treated as making a deemed employment payment in connection with the trade, profession or vocation.

(2) A deduction is allowed for—
- (a) the amount of the deemed employment payment, and

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(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.

(5) In this section "deemed employment payment" and "intermediary" have the same meaning as in Chapter 8 of Part 2 of ITEPA 2003.

164 Special rules for partnerships

(1) This section applies for the purpose of calculating the profits of a trade, profession or vocation carried on by a firm that is treated as making a deemed employment payment in connection with the trade, profession or vocation.

(2) The amount of the deduction allowed under section 163 is limited to the amount that reduces the profits of the firm for the tax year 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 in step 1 of the calculation in section 54(1) of ITEPA 2003 (calculation of deemed employment payment), and

(b) the amount deductible in 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.

VALID FROM 06/04/2007

[F25 Managed service companies

Textual Amendments

F25 S. 164A and cross-heading inserted (retrospective to 6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Finance Act 2007 (c. 11), s. 25, **Sch. 3 para. 9**

164A Deduction for deemed employment payments

(1) This section applies for the purpose of calculating the profits of a trade, profession or vocation carried on by a managed service company ("the MSC") which is treated as making a deemed employment payment in connection with the trade, profession or vocation.

(2) A deduction is allowed for—

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(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) The amount of the deduction allowed under subsection (2) is limited to the amount that reduces the profits of the firm for the tax year 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 "deemed employment payment", "employer's national insurance contributions" and "managed service company" have the same meaning as in Chapter 9 of Part 2 of ITEPA 2003.**]**

Waste disposal

165 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 person 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 166.

(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 166, 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—

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(a) the meaning of "site preparation expenditure", "waste disposal licence" and "waste disposal site", and

(b) a rule about pre-trading expenditure,

see section 167.

166 Allocation of site preparation expenditure

(1) The amount of site preparation expenditure allocated to a period of account for the purposes of section 165(2) is the amount given by the formula—

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

where—

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 income or corporation tax purposes under the enactments relating to capital allowances,

(b) any of that expenditure for which a deduction has been allowed in calculating for income or corporation tax purposes the profits of an earlier period of account, and

(c) if the trader started to carry on the trade before 6th 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—

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

where—

WD means the volume of waste materials deposited on the site before 6th 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—

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(a) was incurred by the trader in relation to the waste disposal site before 6th April 1989, and

(b) does not fall within subsection (2)(a) or (b).

167 Site preparation expenditure: supplementary

(1) For the purposes of this section and sections 165 and 166—

"site preparation expenditure", in relation to a waste disposal site, means expenditure incurred on preparing the site for the deposit of waste materials,

"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)),

(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 section 2 of the Pollution Prevention and Control Act 1999 (c. 24) or any corresponding provision for the time being in force in Northern Ireland,

(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), and

"waste disposal site" means a site used, or to be used, for the disposal of waste materials by their deposit on the site.

(2) For the purposes of sections 165 and 166, expenditure incurred for the purposes of a trade by a person about to carry on the trade is treated as if it were incurred—

(a) on the date on which the person starts to carry on the trade, and

(b) in the course of carrying it on.

168 Site restoration payments

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

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(a) a condition of a waste disposal licence (as defined in section 167(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—
(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

169 Cemeteries and crematoria: introduction

(1) This section and sections 170 to 172 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 person 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.

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(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.

170 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 171 (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 91(1)(b) of ICTA (relief for corporation tax purposes) or under both subsection (2)(b) above and section 91(1)(a) of ICTA,

  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 172 (exclusion of expenditure met by subsidies).

171 Allocation of ancillary capital expenditure

(1) The amount of ancillary capital expenditure allocated to the relevant period for the purposes of section 170(2)(b) is the amount given by the formula—

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

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 170(2)(b) above, or under section 91(1)(b) of ICTA, 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—

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

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).

172 Exclusion of expenditure met by subsidies

(1) Expenditure is excluded for the purposes of section 170 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.

(2) This is subject to the following exceptions.

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(3) Expenditure is not excluded for the purposes of section 170 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 170 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 170 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 income or corporation tax purposes the profits of a trade carried on by that person.

CHAPTER 12

TRADE PROFITS: VALUATION OF STOCK AND WORK IN PROGRESS

Valuation of trading stock

173 Valuation of trading stock on cessation

(1) If a person permanently ceases to carry on a trade, in calculating the profits of the trade—
  (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 175 to 178 (bases of valuation).

(2) But no valuation of the stock is required under this Chapter if paragraph 1(2) of Schedule 28AA to ICTA (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 change in the persons carrying on a trade, no valuation of the stock is required under this Chapter so long as a person carrying on the trade immediately before the change continues to carry it on after the change.

(4) If an individual carries on a trade alone, no valuation of the stock is required under this Chapter if the cessation is because of the individual's death.

174 Meaning of "trading stock"

(1) In this Chapter "trading stock" means—

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(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.

175 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 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 for income or corporation tax purposes,

the value is determined in accordance with section 176 (sale to unconnected person), 177 (sale to connected person) or 178 (election by connected persons).

(3) But if section 127 (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 127 (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.

176 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 in the United Kingdom and is entitled to deduct the cost of the stock as an expense in calculating the profits of that trade for income or corporation 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.

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(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.

177 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 in the United Kingdom and is entitled to deduct the cost of the stock as an expense in calculating the profits of that trade for income or corporation tax purposes,
- (b) the buyer is connected with the seller, and
- (c) no election is made under section 178 (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.

178 Sale basis of valuation: election by connected persons

(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 in the United Kingdom and is entitled to deduct the cost of the stock as an expense in calculating the profits of that trade for income or corporation 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 177 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 on or before the first anniversary of the normal self-assessment filing date for the tax year 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 177, 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.

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179 Connected persons

For the purposes of sections 175 to 178 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 section 839 of ICTA,

(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.

180 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 175(3) or sections 176 to 178 (sale basis of valuation), or

(b) section 100(1A) to (1C) of ICTA (corresponding corporation tax rules),

the cost of the stock to the buyer is taken to be the value as so determined.

181 Meaning of "sale" and related expressions

(1) In sections 175 to 178 (except in section 178(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.

Valuation of work in progress

182 Valuation of work in progress on cessation

(1) If—

(a) a person permanently ceases to carry on a profession or vocation, and

(b) the work in progress is valued in calculating the profits of the profession or vocation,

the value must be determined in accordance with section 184 (basis of valuation of work in progress) or 185 (election for valuation at cost).

(2) If there is a change in the persons carrying on a profession, subsection (1) does not apply so long as a person carrying on the profession immediately before the change continues to carry it on after the change.

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(3) If an individual carries on a profession alone or a vocation, subsection (1) does not apply if the cessation is because of the individual's death.

183 Meaning of "work in progress"

(1) In this Chapter "work in progress" means services performed in the ordinary course of the profession or vocation—

(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 includes any article produced, and any material used, in the performance of any such services.

(2) In this Chapter references to the transfer of work in progress include the transfer of any benefits and rights which accrue, or might reasonably be expected to accrue, from the performance of any such services.

184 Basis of valuation of work in progress

(1) If the work in progress is transferred for money or other valuable consideration to a person who—

(a) carries on, or intends to carry on, a profession or vocation in the United Kingdom, and

(b) is entitled to deduct the cost of the work as an expense in calculating the profits of that profession or vocation for income or corporation tax purposes,

the value of the work is taken to be the amount paid or other consideration given for the transfer.

(2) In any other case, the value of the work is taken to be the amount which would have been paid for a transfer of the work at the time of the cessation as between independent parties dealing at arm's length.

(3) These rules are subject to any election under section 185 (election for valuation at cost).

185 Election for valuation at cost

(1) The person who was carrying on the profession or vocation immediately before the cessation may elect that—

(a) the value of work in progress brought into account in calculating the profits of the period immediately before the cessation is to be the actual cost of the work, and

(b) the amount by which any sums received for the transfer of the work exceed the actual cost of the work is to be treated as a post-cessation receipt (see Chapter 18).

(2) An election under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the cessation occurred.

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Supplementary

186 Determination of questions by Commissioners

(1) Any question arising under—
- (a) section 175(3) or sections 176 to 178 (sale basis of valuation of trading stock), or
- (b) section 184(1) (valuation of work in progress transferred for valuable consideration),

must be determined by the General or Special Commissioners in the same way as an appeal.

(2) If the same General Commissioners have jurisdiction in relation to each of the persons whose trade, profession or vocation is concerned (including any company within the charge to corporation tax), the question must be determined by those Commissioners.

(3) But this does not apply if all parties concerned agree that the question should be determined by the Special Commissioners.

(4) In any other case, the question must be determined by the Special Commissioners.

CHAPTER 13

DEDUCTIONS FROM PROFITS: UNREMITTABLE AMOUNTS

187 Professions and vocations

The provisions of this Chapter apply to professions and vocations as they apply to trades.

188 Application of Chapter

(1) This Chapter applies if—
- (a) an amount received by, or owed to, a person 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—
- (a) the laws of the territory where the amount is paid or owed,
- (b) executive action of its government, and

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(c) the impossibility of obtaining there currency that could be transferred to the United Kingdom.

189 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.

190 Restrictions on relief

(1) No deduction is allowed under section 189 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 189 in relation to an amount owed so far as a deduction is allowed in respect of it under section 35 (bad and doubtful debts).

(3) No deduction is allowed under section 189 in relation to an amount owed so far as a payment under a contract of insurance has been received in relation to it.

(4) No deduction is allowed under section 189 in relation to an amount brought into account in calculating profits if relief under section 842 (unremittable income) may be claimed in relation to that amount.

191 Withdrawal of relief

(1) This section applies if—

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(a) some or all of an unremittable amount has been deducted from profits under section 189, 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) the amount or part of it is used to finance expenditure or investment outside the United Kingdom,
(c) the amount or part of it is applied outside the United Kingdom in another way,
(d) the amount or part of it is exchanged for, or discharged by, an amount that is not unremittable,
(e) a deduction is allowed in respect of the amount or part of it under section 35 (bad and doubtful debts), 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 for the period of account in which the event occurs, but only so far as—
(a) it has been deducted from profits under section 189, 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.

CHAPTER 14

DISPOSAL AND ACQUISITION OF KNOW-HOW

192 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—

"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,

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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.

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

(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,
- (b) the person continues to carry on the trade after the disposal, and
- (c) neither section 194 (disposal of know-how as part of disposal of all or part of a trade) nor section 195 (seller controlled by buyer etc.) applies.

(2) The amount or value of the consideration is treated for all 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.

194 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 income tax, the consideration is treated for income tax purposes as a capital receipt for goodwill.

(3) If the person acquiring the know-how—

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(a) is within the charge to income tax, and
(b) provided the consideration,

the consideration is treated for income tax purposes as a capital payment for goodwill.

(4) But the consideration is not treated for income 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 income tax—
(a) that person, and
(b) the person acquiring the know-how (whether or not within the charge to income tax),

may jointly elect for this section not to apply (but see section 195).

(6) The election must be made within two years of the disposal.

(7) If—
(a) an election is made under subsection (3) of section 531 of ICTA (corresponding corporation tax provision), and
(b) the person making the acquisition mentioned in that subsection is within the charge to income tax,

the persons making the election under that subsection 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 income tax).

195 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 193 does not apply, and
(b) no election may be made under section 194.

(3) For the purposes of this section "body of persons" includes a firm.

CHAPTER 15

BASIS PERIODS

Modifications etc. (not altering text)

C5 Pt. 2 Ch. 15 excluded (14.2.2006 with effect as mentioned in reg. 1(2) of the amending S.I.) by S.I. 1997/2681 reg. 6(1)(a) as amended by The Lloyd's Underwriters (Scottish Limited Partnerships) (Tax) (Amendment) Regulations 2006 (S.I. 2006/111), **reg. 8**

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Introduction

196 Professions and vocations

The provisions of this Chapter apply to professions and vocations as they apply to trades.

Accounting date

197 Meaning of "accounting date"

(1) In this Chapter "accounting date", in relation to a tax year, means—
- (a) the date in the tax year to which accounts are drawn up, or
- (b) if there are two or more such dates, the latest of them.

(2) This is subject to—
- (a) section 211(2) (middle date treated as accounting date), and
- (b) section 214(3) (date treated as accounting date if date changed in tax year in which there is no accounting date).

The normal rules

198 General rule

(1) The general rule is that the basis period for a tax year is the period of 12 months ending with the accounting date in that tax year.

(2) This applies unless a different basis period is given by one of the following sections—
section 199 (first tax year),
section 200 (second tax year),
section 201 (tax year in which there is no accounting date),
section 202 (final tax year),
section 209 or 210 (first accounting date shortly before end of tax year),
section 212 (tax year in which middle date treated as accounting date),
section 215 (change of accounting date in third tax year), and
section 216 (change of accounting date in later tax year).

199 First tax year

(1) The basis period for the tax year in which a person starts to carry on a trade—
- (a) begins with the date on which the person starts to carry on the trade, and
- (b) ends with 5th April in the tax year.

(2) But if a person starts and permanently ceases to carry on a trade in the same tax year, the basis period for the tax year is that given by section 202(2).

200 Second tax year

(1) The basis period for the second tax year in which a person carries on a trade is determined as follows.

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Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) If in that tax year—
  (a) the accounting date falls less than 12 months after the date on which the person starts to carry on the trade, and
  (b) the person does not permanently cease to carry on the trade,

the basis period is the period of 12 months beginning with the date on which the person starts to carry on the trade.

(3) If in that tax year—
  (a) the accounting date falls 12 months or more after the date on which the person starts to carry on the trade, and
  (b) the person does not permanently cease to carry on the trade,

the basis period is that given by the general rule in section 198.

(4) If in that tax year—
  (a) there is no accounting date, and
  (b) the person does not permanently cease to carry on the trade,

the basis period is the same as the tax year.

(5) If in that tax year the person permanently ceases to carry on the trade, the basis period is that given by section 202(1).

201 Tax year in which there is no accounting date

(1) If a person carries on a trade in a tax year and—
  (a) there is no accounting date in the tax year, and
  (b) the person does not start or permanently cease to carry on the trade in the tax year,

the basis period for the tax year is the period of 12 months beginning immediately after the end of the basis period for the previous tax year.

(2) But this is subject to—
  (a) section 200 (second tax year), and
  (b) sections 215 and 216 (change of accounting date in third tax year or later tax year).

202 Final tax year

(1) The basis period for the tax year in which a person permanently ceases to carry on a trade—
  (a) begins immediately after the end of the basis period for the previous tax year, and
  (b) ends with the date on which the person permanently ceases to carry on the trade.

(2) But if a person starts and permanently ceases to carry on a trade in the same tax year, the basis period—
  (a) begins with the date on which the person starts to carry on the trade, and
  (b) ends with the date on which the person permanently ceases to carry on the trade.

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Apportionment of profits

203 Apportionment etc. of profits to basis periods

(1) This section applies if the basis period for a tax year does not coincide with a period of account.

(2) Any of the following steps may be taken if they are necessary in order to arrive at the profits or losses of the basis period—

(a) apportioning the profits or losses of a period of account to the parts of that period falling in different basis 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.

(4) But the person carrying on the trade may use a different way of measuring the length of the periods concerned if—

(a) it is reasonable to do so, and

(b) the way of measuring the length of periods is used consistently for the purposes of the trade.

Modifications etc. (not altering text)

C6 S. 203(3)(4) applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 90(4)**, 1034 (with transitional provisions and savings in Sch. 2)

Overlap profits and losses

204 Meaning of "overlap period" and "overlap profit"

In this Chapter—

"overlap period" means a period which falls within two basis periods, and

"overlap profit" means profit which arises in an overlap period.

205 Deduction for overlap profit in final tax year

(1) If a person permanently ceases to carry on a trade in a tax year, a deduction is allowed for overlap profit in calculating the profits of the trade of the tax year.

(2) The amount of the deduction is calculated as follows.

Step 1

Add together the overlap profits arising in all overlap periods.

Step 2

Subtract from that any deductions for overlap profit made under section 220 (deduction for overlap profit on change of accounting date).

The balance is the amount of the deduction allowed under this section.

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206 Restriction on bringing losses into account twice

If a loss arises in, or is apportioned under section 203 to, two overlapping basis periods, the amount of the loss—

(a) is brought into account in calculating the profits of the first basis period, and

(b) is not brought into account in calculating the profits of the second basis period.

207 Treatment of business start-up payments received in an overlap period

(1) This section applies if—

(a) a person carrying on a trade receives a business start-up payment (see subsection (3)) in a period which falls within two basis periods, and

(b) the payment is not a lump sum payment.

(2) The payment—

(a) is brought into account in calculating the profits of the trade of the first basis period, and

(b) is not brought into account in calculating the profits of the trade of the second basis period.

(3) A "business start-up payment" means a payment under a Business Start-Up scheme which is of the kind originally known as enterprise allowance and is made—

(a) in England and Wales, by a training and enterprise council pursuant to arrangements under section 2(2)(d) of the Employment and Training Act 1973 (c. 50),

(b) in Scotland, by a local enterprise company under section 2(4)(c) of the Enterprise and New Towns (Scotland) Act 1990 (c. 35) in relation to arrangements under section 2(3) of that Act, or

(c) in Northern Ireland, by or on behalf of the Department for Employment and Learning under section 1(1A)(d) of the Employment and Training Act (Northern Ireland) 1950 (c. 29 (N.I.)).

Rules where first accounting date shortly before end of tax year

208 When the late accounting date rules apply

(1) Sections 209 and 210 contain rules for the purpose of—

(a) avoiding the need to apportion profits, and

(b) preventing overlap profit from arising,

in relation to the tax year in which a person ("the trader") starts to carry on a trade and the following tax year.

(2) Sections 209 and 210 apply in relation to a tax year if—

(a) the first accounting date is 31st March or 1st, 2nd, 3rd or 4th April, and

(b) that date falls in the tax year in which the trader starts to carry on the trade or in either of the following two tax years,

but the trader may elect for those sections not to apply in relation to a tax year.

(3) In this section and section 210 "the first accounting date" means—

(a) the first accounting date after the trader starts to carry on the trade, or

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(b) the date that is intended to be that accounting date if, at the time the trader delivers a return for a tax year, there has been no accounting date.

(4) An election under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year to which it relates.

209 Rule if there is an accounting date

(1) This section applies if there is an accounting date in a tax year and that date is 31st March or 1st, 2nd, 3rd or 4th April.

(2) If—

(a) the basis period for the tax year would otherwise end after the accounting date, and

(b) the part of the basis period that would otherwise fall after the accounting date is included in the basis period for the following tax year,

the basis period for the tax year ends on the accounting date.

210 Rules if there is no accounting date

(1) This section applies if there is no accounting date in a tax year ("the relevant tax year").

(2) If the trader—

(a) starts to carry on the trade in the relevant tax year, and

(b) does so before 1st April,

the basis period ends on the date in the relevant tax year that corresponds to the first accounting date.

(3) If the trader started to carry on the trade in the previous tax year and there was no accounting date in the previous tax year, the basis period for the relevant tax year—

(a) begins immediately after the end of the basis period for the previous tax year, and

(b) ends on the date in the relevant tax year that corresponds to the first accounting date.

(4) If the trader—

(a) starts to carry on the trade in the relevant tax year, and

(b) does so after 31st March,

the profits or losses of the trade of the relevant tax year are treated as nil.

(5) In that case, the actual profits or losses of the trade of the relevant tax year are treated as arising in the basis period for the following tax year, so far as they do not already do so.

Slight variations in accounting date

211 Treating middle date as accounting date

(1) This section applies for the purpose of preventing the rules in sections 215 to 220 from applying if—

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(a) accounts of a trade are drawn up to a particular day (rather than to a particular date), and
(b) that day is capable of falling on one of only 7 consecutive dates (or, if that day is in February, on one of only 8 consecutive dates).

(2) The person carrying on the trade may elect in relation to a tax year for the fourth of those dates ("the middle date") to be treated as the accounting date in the tax year.

(3) The election has effect for the purposes of this Chapter, but not for any other purposes.

(4) An election under this section—
(a) must specify the day to which the accounts are drawn up and the middle date, and
(b) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year to which it relates.

212 Consequence of treating middle date as accounting date

(1) If—
(a) a date ("the middle date") is treated under section 211 as the accounting date in a tax year ("the current tax year"),
(b) the basis period for the current tax year would otherwise be that given by the general rule in section 198, and
(c) subsection (2) or (3) applies,

the basis period for the current tax year begins immediately after the end of the basis period for the previous tax year and ends with the middle date.

(2) This subsection applies if—
(a) the accounting date in the previous tax year was not determined under section 211, and
(b) that accounting date was one of the 7 (or 8) dates on which the day in the current tax year to which accounts are drawn up is capable of falling.

(3) This subsection applies if—
(a) the accounting date in the previous tax year was determined under section 211, and
(b) the accounting date in the current tax year is the same as the accounting date in the previous tax year.

213 Circumstances in which middle date not treated as accounting date

(1) If—
(a) a date ("the middle date") is treated under section 211 as the accounting date in a tax year ("the earlier tax year"),
(b) the basis period for the earlier tax year ends on the middle date, and
(c) the basis period for the following tax year ("the later tax year") is that given by one of the provisions listed in subsection (2),

the basis period for the later tax year is determined as if the basis period for the earlier tax year had ended on the date to which accounts were actually drawn up in the earlier tax year.

(2) The provisions are—

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(a) section 201(1) (tax year in which there is no accounting date),
(b) section 202(1) (tax year in which person permanently ceases to carry on a trade),
(c) section 215(2) (change of accounting date in third tax year), and
(d) section 216(3) (change of accounting date in later tax year).

Special rules if accounting date changes

214 When a change of accounting date occurs

(1) If there is a change from one accounting date ("the old accounting date") to another accounting date ("the new accounting date"), the change of accounting date occurs—
(a) in the first tax year in which accounts are drawn up to the new accounting date, or
(b) if earlier, in the first tax year in which accounts are not drawn up to the old accounting date.

(2) A change from a date determined under section 211 to an actual accounting date is taken to be a change from one accounting date to another, even if the two dates are the same.

(3) If, because of subsection (1)(b), a change of accounting date occurs in a tax year in which there is no actual accounting date, the date corresponding to the new accounting date is treated as the accounting date in that tax year for the purpose of determining—
(a) the basis period for that tax year, and
(b) if section 219 applies, the basis period for the following tax year.

215 Change of accounting date in third tax year

(1) This section applies if—
(a) a change of accounting date occurs in the third tax year in which a person carries on a trade,
(b) the person does not permanently cease to carry on the trade in that tax year, and
(c) the accounting date in that tax year falls more than 12 months after the end of the basis period for the second tax year in which the person carries on the trade.

(2) The basis period—
(a) begins immediately after the end of the basis period for the second tax year in which the person carries on the trade, and
(b) ends with the accounting date in the third tax year in which the person carries on the trade.

216 Change of accounting date in later tax year

(1) This section applies if—
(a) a change of accounting date occurs in a tax year in which a person carries on a trade,
(b) the tax year is later than the third tax year in which the person carries on the trade, and

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(c) the person does not permanently cease to carry on the trade in the tax year.

(2) If—

(a) the conditions in section 217 are met (conditions for basis period to end with new accounting date), and

(b) the new accounting date falls less than 12 months after the end of the basis period for the previous tax year,

the basis period is that given by the general rule in section 198.

(3) If—

(a) the conditions in section 217 are met, and

(b) the new accounting date falls more than 12 months after the end of the basis period for the previous tax year,

the basis period begins immediately after the end of the basis period for the previous tax year and ends with the accounting date.

(4) If the conditions in section 217 are not met, the basis period for the tax year is the period of 12 months ending with the old accounting date.

217 Conditions for basis period to end with new accounting date

(1) The conditions in this section are met if—

(a) the person carrying on the trade gives appropriate notice of the change of accounting date to the Inland Revenue (see subsection (2)),

(b) the 18 month test is met (see subsection (3)), and

(c) either condition A or B is met (see subsections (4) to (6)).

(2) Appropriate notice of the change of accounting date is given to the Inland Revenue if (and only if) the notice is given—

(a) in a return under the provision of TMA 1970 that applies to the person carrying on a trade (see section 8, 8A or 12AA of that Act), and

(b) on or before the day on which the return is required to be made and delivered under that provision.

(3) The 18 month test is met if the period of account ending—

(a) with the new accounting date in the tax year in which the change of accounting date occurs, or

(b) if there is no new accounting date in that tax year, with the new accounting date in the first tax year in which accounts are drawn up to the new accounting date,

is not longer than 18 months.

(4) Condition A is that, in the 5 tax years immediately before the tax year in which the change of accounting date occurs, there has been no change of accounting date that counts for the purposes of this condition.

(5) A change of accounting date counts for the purposes of condition A if it results in the basis period for the tax year in which the change occurs ending with the accounting date in that tax year.

(6) Condition B is that—

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(a) the change of accounting date is made for commercial reasons (see section 218), and
(b) the notice under subsection (2) sets out the reasons for the change.

218 Commercial reasons for change of accounting date

(1) If the Inland Revenue do not give notice under this section to the person carrying on the trade, a change of accounting date is treated for the purposes of condition B in section 217 as made for commercial reasons.

(2) If the Inland Revenue do give notice under this section to the person carrying on the trade, a change of accounting date is treated for the purposes of condition B in section 217 as made for reasons which are not commercial.

(3) The notice must—
(a) state that the Inland Revenue are not satisfied that the change of accounting date is made for commercial reasons, and
(b) be given within the period of 60 days beginning with the date on which the notice under section 217(2) is received.

(4) A person to whom notice is given under this section may appeal against it within the period of 30 days beginning with the date on which it is given.

(5) On an appeal—
(a) if the Commissioners are satisfied that the change is made for commercial reasons, they may set aside the notice, and
(b) if they are not satisfied that the change is made for commercial reasons, they may confirm the notice.

(6) For the purposes of this section obtaining a tax advantage is not a commercial reason.

(7) Part 5 of TMA 1970 (appeals against assessments to tax), apart from section 50, applies in relation to an appeal under this section as it applies in relation to an appeal against an assessment to tax.

219 The year after an ineffective change of accounting date

(1) This section applies to a tax year in which a person carries on a trade if—
(a) the tax year falls immediately after a tax year in which a change of accounting date occurs, and
(b) the basis period for the tax year in which the change occurs ends with the old accounting date.

(2) If the accounting date in the tax year is the new accounting date, a change of accounting date is treated as occurring in that tax year for the purposes of sections 216 to 220 (including this section).

(3) If the accounting date in the tax year reverts to the old accounting date, that change of accounting date is ignored for the purposes of—
(a) section 214, and
(b) sections 216 to 220 (including this section).

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220 Deduction for overlap profit on change of accounting date

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

(a) a change of accounting date occurs in the tax year, and

(b) the basis period for the tax year is longer than 12 months.

(2) A deduction must be made for overlap profit.

(3) The amount of the deduction is calculated as follows.

Step 1

Add together the overlap profit arising in all overlap periods ending before the end of the tax year.

Step 2

Subtract from that any deductions made under this section for previous tax years.

The balance is “the remaining overlap profit”.

Step 3

Add together the number of days in all overlap periods ending before the end of the tax year.

Subtract from that the total number of days given by Step 5 on any previous occasions on which a deduction was made under this section.

The balance is “the number of days on which the remaining overlap profit arises”.

Step 4

Divide the remaining overlap profit by the number of days on which the remaining overlap profit arises.

The result of this step is “one day's worth of remaining overlap profit”.

Step 5

Subtract the number of days in the tax year from the number of days in the basis period.

The balance is “the number of days' worth of overlap profit that may be deducted on this occasion”.

Step 6

Multiply one day's worth of remaining overlap profit (see Step 4) by the number of days' worth of overlap profit that may be deducted on this occasion (see Step 5).

The result of this step is the amount of the deduction.

(4) The above steps are expressed in terms of numbers of days in periods, but the person carrying on the trade may use a different way of measuring the length of the periods concerned if—

(a) it is reasonable to do so, and

(b) the way of measuring the length of periods is used consistently for the purposes of the trade.

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(5) If the accounting date in the tax year is 31st March or 1st, 2nd, 3rd or 4th April, the person carrying on the trade may treat the basis period for the tax year as ending on 5th April for the purpose of calculating the amount of the deduction.

(6) If a period used in calculating the amount of the deduction contains a 29th February and—
  (a) the accounting date in the tax year is 5th April, or
  (b) the basis period for the tax year is treated under subsection (5) as ending on 5th April,

the person carrying on the trade may ignore the 29th February for the purpose of calculating the amount of the deduction.

CHAPTER 16

AVERAGING PROFITS OF FARMERS AND CREATIVE ARTISTS

221 Claim for averaging of fluctuating profits

(1) This Chapter enables an individual (a "taxpayer") to make a claim (an "averaging claim") if—
  (a) the taxpayer is, or has been, carrying on a qualifying trade, profession or vocation (alone or in partnership), and
  (b) the taxpayer's profits from it ("the relevant profits") fluctuate from one tax year to the next.

(2) A trade, profession or vocation is a "qualifying trade, profession or vocation" if—
  (a) it is farming or market gardening in the United Kingdom,
  (b) it is the intensive rearing in the United Kingdom of livestock or fish on a commercial basis for the production of food for human consumption, or
  (c) the taxpayer's profits from it are derived wholly or mainly from creative works.

(3) For this purpose "creative works" means—
  (a) literary, dramatic, musical or artistic works, or
  (b) designs,

created by the taxpayer personally or, if the qualifying trade, profession or vocation is carried on in partnership, by one or more of the partners personally.

(4) For the purposes of this Chapter references to the relevant profits of a tax year are to profits before making any deduction for a loss made in any tax year.

(5) If the taxpayer makes a loss in the qualifying trade, profession or vocation in a tax year, the relevant profits of the tax year for the purposes of this Chapter are nil.

222 Circumstances in which claim may be made

(1) An averaging claim may be made in relation to two consecutive tax years in which a taxpayer is or has been carrying on the qualifying trade, profession or vocation if—
  (a) the relevant profits of one of the tax years are less than 75% of the relevant profits of the other tax year, or

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(b) the relevant profits of one (but not both) of the tax years are nil.

(2) An averaging claim may be made in relation to a tax year which was the later year on a previous averaging claim.

(3) An averaging claim may not be made in relation to a tax year if an averaging claim has already been made in relation to a later tax year in respect of the trade, profession or vocation.

(4) An averaging claim may not be made in relation to the tax year in which—
(a) the taxpayer starts, or permanently ceases, to carry on the trade, profession or vocation, or
(b) in the case of a trade, profession or vocation within section 221(2)(c), it begins or ceases to be a qualifying trade, profession or vocation.

(5) An averaging claim must be made on or before the first anniversary of the normal self-assessment filing date for the second of the tax years to which the claim relates.

(6) But see section 225(4) (extended time limit if profits adjusted for some other reason).

223 Adjustment of profits

(1) If a taxpayer makes an averaging claim, the amount taken to be the taxpayer's profits of each of the tax years for which the claim is made is adjusted in accordance with this section.

(2) But this is subject to paragraph 3 of Schedule 1B to TMA 1970 (claim given effect in the second of the two tax years).

(3) If—
(a) the relevant profits of one of the tax years are 70% or less of the relevant profits of the other tax year, or
(b) the relevant profits of one (but not both) of the tax years are nil,

the amount of the adjusted profits of each of the tax years is the average of the relevant profits of the two tax years.

(4) If the relevant profits of one of the tax years—
(a) are more than 70%, but
(b) are less than 75%,

of the relevant profits of the other tax year, the amount of the adjusted profits of each of the tax years is calculated as follows, so as to reduce the variation between them.

Step 1

Calculate the amount of the adjustment by applying the formula—

$$(D \times 3) - (P \times 0.75)$$

where—

D is the difference between the relevant profits of the two tax years, and

P is the relevant profits of the tax year of which those profits are higher.

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Step 2

Add the amount of the adjustment to the relevant profits of the tax year of which those profits are lower.

The result is the amount of the adjusted profits of that tax year.

Step 3

Subtract the amount of the adjustment from the relevant profits of the tax year of which those profits are higher.

The result is the amount of the adjusted profits of that tax year.

224 Effect of adjustment

(1) The adjusted profits are taken to be the relevant profits of the tax years to which the claim relates for all income tax purposes, including the further application of this Chapter.

(2) This is subject to—
  (a) subsection (3) of this section and section 225(2), and
  (b) paragraph 3 of Schedule 1B to TMA 1970.

(3) If the relevant profits of one of the tax years are nil, this Chapter does not prevent the taxpayer from obtaining relief under the Income Tax Acts for a loss made by the taxpayer in the tax year in question or any other tax year.

(4) A claim by the taxpayer for relief under any other provision of the Income Tax Acts for either of the tax years to which an averaging claim relates ("the other claim")—
  (a) is not out of time if made on or before the last date on which the averaging claim could have been made, and
  (b) if already made, may be amended or revoked on or before that date.

(5) For this purpose—
  (a) references to a claim include an election or notice, and
  (b) if the other claim is made in a return, the reference to amending or revoking the other claim is to amending the return by amending or omitting the other claim.

(6) For provision determining in which tax year a claim, amendment or revocation made as a result of subsection (4) has effect, see paragraph 4 of Schedule 1B to TMA 1970 (claim, amendment or revocation given effect in the second of the two tax years).

225 Effect of later adjustment of profits

(1) This section applies if, after the taxpayer has made an averaging claim, the relevant profits in either or both of the tax years to which the claim relates are adjusted for another reason.

(2) The averaging claim is ignored.

(3) But this does not prevent a further averaging claim from being made in relation to the taxpayer's profits as adjusted for the other reason.

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(4) A further averaging claim is not out of time as long as it is made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the adjustment for the other reason is made.

CHAPTER 17

ADJUSTMENT INCOME

Introduction

226 Professions and vocations

The provisions of this Chapter apply to professions and vocations as they apply to trades.

Adjustment on change of basis

227 Application of Chapter

(1) This Chapter applies if—
- (a) a person carrying on a trade changes, from one period of account to the next, the basis on which profits of the trade are calculated for income 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,

but does not apply to income which is charged in accordance with section 832 (relevant foreign income charged on the remittance basis).

(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 income tax purposes.

(3) A person changes the basis on which profits of a trade are calculated for income tax purposes if the person 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 change of accounting principle or practice that, in accordance with generally accepted accounting practice, gives rise to a prior period adjustment.

(5) A "tax adjustment" means any adjustment required or authorised by law in calculating profits of a trade for income 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.

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228 Adjustment income and adjustment expense

(1) An amount by way of adjustment must be calculated in accordance with section 231.

(2) If the amount produced by the calculation is positive, it is treated as income and charged to income tax under this Chapter.

It is referred to in this Chapter as "adjustment income".

(3) If the amount produced by the calculation is negative, a deduction is allowed for it in calculating the profits of the trade.

It is referred to in this Chapter as an "adjustment expense".

(4) This section is subject to section 234 (no adjustment for certain expenses previously brought into account).

229 Income charged

(1) Tax is charged under this Chapter on the full amount of any adjustment income arising in the tax year.

(2) This is subject to—
- (a) sections 237 to 239 (which provide for spreading of adjustment income), and
- (b) Part 8 (foreign income: special rules).

230 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the adjustment income.

231 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—

	Amounts
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.

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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— (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, so far as they were not the subject of an adjustment for income 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— (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

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period of account before the change, so far as they—

(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.

An amount so deducted may not be deducted again in calculating the profits of a period of account.

Treatment of adjustment income and adjustment expense

232 Treatment of adjustment income

(1) Adjustment income is treated as arising on the last day of the first period of account for which the new basis is adopted.

(2) But this is subject to sections 235 (cases where adjustment not required until assets realised or written off) and 236 (change from realisation basis to mark to market).

(3) Adjustment income is treated for the purposes of Chapter 1 of Part 10 of ICTA (loss relief) as profits of the trade for the tax year in which tax is charged on it.

(4) In the case of an individual whose income from the trade is—

(a) earned income within section 833(4)(c) of ICTA, or

(b) relevant UK earnings within section 189(2)(b) of FA 2004,

adjustment income is similarly earned income or relevant UK earnings.

Modifications etc. (not altering text)

C7 S. 232(1)(2) applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 524(5)**, **526(6)**, 1034 (with transitional provisions and savings in Sch. 2)

233 Treatment of adjustment expense

(1) An adjustment expense is treated as an expense of the trade arising on the last day of the first period of account for which the new basis is adopted.

(2) But this is subject to sections 235 (cases where adjustment not required until assets realised or written off) and 236 (change from realisation basis to mark to market).

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Expenses previously brought into account

234 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

235 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 or closing work in progress in the last period of account before the change of basis,

(b) any amount brought into account in respect of opening trading stock or opening work in progress in the first period of account on the new basis, and

(c) any amount brought into account in respect of depreciation.

(3) Adjustment income or (as the case may be) an adjustment expense is treated as arising only when the asset to which it relates is realised or written off.

Modifications etc. (not altering text)

C8 S. 235 applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 524(5)**, **526(6)**, 1034 (with transitional provisions and savings in Sch. 2)

Mark to market

236 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 231 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,

adjustment income or (as the case may be) an adjustment expense is treated as not arising until the period of account in which the value of the asset is realised.

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(3) In the case of adjustment income, this is subject to any election under section 237 (election for spreading).

(4) In this section "trading stock" has the same meaning as in section 174.

Modifications etc. (not altering text)

C9 S. 236 applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 524(5)**, **526(6)**, 1034 (with transitional provisions and savings in Sch. 2)

237 Election for spreading if section 236 applies

(1) If section 236 applies, the person who is liable to tax on any adjustment income may elect for the adjustment income to be spread over 6 periods of account.

(2) The election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the change of basis occurs.

(3) If an election is made, an amount equal to one-sixth of the amount of the adjustment income—

(a) is treated as arising, and

(b) is charged to tax,

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 adjustment income has been charged to tax, the person permanently ceases to carry on the trade, the whole of the amount so far as not previously brought into charge to tax—

(a) is treated as arising, and

(b) is charged to tax,

immediately before the cessation.

Spreading of adjustment income: barristers and advocates

238 Spreading on ending of exemption for barristers and advocates

(1) If an individual makes a change of basis—

(a) on ceasing to take advantage of the exemption given by section 160 (barristers and advocates in early years of practice), or

(b) on that exemption coming to an end,

any adjustment income is spread over 10 tax years as follows.

(2) In each of the 9 tax years beginning with that in which the whole amount of the adjustment income would otherwise be chargeable to tax, an amount equal to—

(a) one tenth of the amount of the adjustment income, or

(b) if less, 10% of the profits of the profession of the tax year,

is treated as arising and is charged to tax.

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(3) For this purpose "the profits of the profession" means the profits as calculated for the purposes of this Part leaving out of account any allowances or charges under CAA 2001.

(4) In the tenth tax year the balance of the adjustment income is treated as arising and is charged to tax.

(5) If, before the whole of the adjustment income has been charged to tax, the individual permanently ceases to carry on the profession, this section continues to apply but with the omission of the alternative limit in subsection (2)(b).

(6) This section is subject to any election under section 239 (election to accelerate charge).

239 Election to accelerate charge under section 238

(1) An individual who under section 238 is liable to tax for a tax year on an amount of adjustment income may elect for an additional amount to be treated as arising in the tax year.

(2) The election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year.

(3) The election must specify the amount to be treated as income arising in the tax year (which may be any amount of the adjustment income not previously charged to tax).

(4) If an election is made, section 238 applies in relation to any subsequent tax year as if the amount of adjustment income (as reduced by any previous application of this section) were reduced by the amount given by the following formula—

$$A \times \frac{10}{T}$$

where—

A is the additional amount treated as arising in the tax year for which the election is made, and

T is the number of tax years remaining after that tax year in the period of 10 tax years referred to in section 238.

Supplementary

240 Liability of personal representatives if person liable dies

(1) This section applies in the case of the death of a person who would otherwise have been liable to tax under this Chapter on adjustment income.

(2) The tax under this Chapter for which the person would otherwise have been liable—
  (a) is to be assessed and charged on the personal representatives, and
  (b) is to be a debt due from and payable out of the deceased's estate.

(3) The personal representatives may make any election under this Chapter that the deceased might have made.

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CHAPTER 18

POST-CESSATION RECEIPTS

Introduction

241 Professions and vocations

The provisions of this Chapter apply to professions and vocations as they apply to trades.

Charge to tax on post-cessation receipts

242 Charge to tax on post-cessation receipts

Income tax is charged on post-cessation receipts arising from a trade.

243 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 income or corporation 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 for 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 who 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.

(5) A post-cessation receipt is not chargeable to tax under this Chapter in the case of a partner in a firm if—
  (a) it represents income arising outside the United Kingdom from a trade carried on by the firm, and
  (b) the partner's share of the firm's income arising out of the United Kingdom is treated as relevant foreign income by section 857(3) (partners to whom the remittance basis applies).

244 Income charged

(1) Tax is charged under this Chapter on the full amount of the receipts received in the tax year.

(2) This is subject to—
  (a) sections 254 and 255 (allowable deductions), and
  (b) section 257 (election to carry back).

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245 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the receipts.

Meaning of "post-cessation receipts"

246 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) For this purpose the reference to a person permanently ceasing to carry on a trade includes the occurrence of an event which under section 337(1) of ICTA is treated as the discontinuance of a trade.

(3) Subsection (4) applies if—
- (a) a firm carries on a trade,
- (b) a person ceases to be a partner in the firm, and
- (c) the departure results in the partner permanently ceasing to carry on the notional trade (see section 852).

(4) The partner is treated for the purposes of this Chapter as permanently ceasing to carry on the trade.

247 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 104(3) (distribution of assets of mutual concerns),

section 109(2) (receipt by donor or connected person of benefit attributable to certain gifts),

section 185(1) (election for valuation at cost),

section 248 (debts paid after cessation),

section 249 (debts released after cessation), as qualified, where appropriate, by section 48(4) (car or motor cycle hire),

section 250 (receipts relating to post-cessation expenditure),

section 251 (transfer of rights if transferee does not carry on trade), and

section 844 (income charged on withdrawal of relief after source ceases: unremittable income).

(2) Section 98 (acquisition of trade: receipts from transferor's trade) and section 251 (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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Sums treated as post-cessation receipts

248 Debts paid after cessation

(1) Subsection (2) applies if, in calculating the profits of a trade for income or corporation tax purposes, a deduction is made in respect of a debt under—
  (a) section 35 (bad and doubtful debts), or
  (b) section 74(1)(j) of ICTA (corresponding corporation tax provision),
  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.

(3) Subsection (4) applies if relief is given under section 109A(4) or (4A) of ICTA (relief for post-cessation expenditure) in respect of a debt owed to a person who has permanently ceased to carry on a trade.

(4) A sum received by the person in payment of the debt is treated as a post-cessation receipt so far as relief is given in respect of the sum.

249 Debts released after cessation

(1) This section applies if—
  (a) in calculating the profits of a trade for any period for income or corporation 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.

(3) For the purposes of this section the reference to a person permanently ceasing to carry on a trade includes the occurrence of an event which under section 337(1) of ICTA is treated as the discontinuance of a trade.

250 Receipts relating to post-cessation expenditure

(1) This section applies if a person who has permanently ceased to carry on a trade makes a payment in circumstances where relief is available under section 109A of ICTA (relief for post-cessation expenditure).

(2) The following sums are treated as post-cessation receipts—
  (a) in the case of a payment within section 109A(2)(a) or (b) of ICTA (payment to remedy defective work etc. or to defray expenses of a claim), the proceeds of insurance, or other sum received, for the purpose of enabling the payment to be made or by means of which it is reimbursed,
  (b) in the case of a payment within section 109A(2)(c) of ICTA (payment to insure against claims for defective work etc.), a refund of the premium, or other sum received, in connection with the insurance, and

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(c) in the case of a payment within section 109A(2)(d) of ICTA (payment for the purpose of collecting a debt), any sum received towards the cost of collecting the debt.

(3) If a sum mentioned in subsection (2) is received in a tax year earlier than the tax year in which the related payment is made, it is treated as having been received in the later tax year (and not the earlier tax year).

(4) Any adjustment required to give effect to subsection (3) is to be made by way of—
(a) amendment of an assessment, or
(b) discharge or repayment of tax.

251 Transfer of rights if transferee does not carry on trade

(1) This section applies if—
(a) a person ("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—
(a) section 252 (transfer of trading stock or work in progress), and
(b) section 253 (lump sums paid to personal representatives for copyright etc.).

Sums that are not post-cessation receipts

252 Transfer of trading stock or work in progress

(1) When a person permanently ceases to carry on a trade, a sum realised by—
(a) the transfer of trading stock, or
(b) the transfer of work in progress,

is not a post-cessation receipt if a valuation of the stock or work is brought into account in accordance with Chapter 12 (valuation of stock and work in progress).

(2) This does not prevent a sum from being treated as a post-cessation receipt as a result of an election under section 185 (election for valuation of work in progress at cost).

(3) In this section—
(a) "trading stock" has the meaning given by section 174, and
(b) "work in progress" and "transfer of work in progress" have the meaning given by section 183.

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253 Lump sums paid to personal representatives for copyright etc.

(1) A lump sum which is paid to the personal representatives of the author of a literary, dramatic, musical or artistic work as consideration for the assignment by them of—
  (a) the copyright in the work, or
  (b) the public lending right in the work,
is not a post-cessation receipt.

(2) A lump sum which is paid to the personal representatives of the designer of a design in which design right subsists as consideration for the assignment by them of that right is not a post-cessation receipt.

(3) For the purposes of this section it does not matter whether the whole or a part of the right is assigned.

Deductions

254 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 255,
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 income or corporation tax purposes, or
  (b) would have been deducted from or set off against the profits of the trade for income or corporation 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—
  (a) under any other provision of the Tax Acts, or
  (b) as a result of section 90(4) of FA 1995 (capital gains tax relief for post-cessation expenditure).

255 Further rules about allowable deductions

(1) An amount may not be deducted more than once under section 254.

(2) A deduction under that section of a loss must be made from post-cessation receipts charged for an earlier tax year in preference to those charged for a later tax year.

(3) But this does not authorise the deduction of a loss from post-cessation receipts charged for a tax year before the tax year in which the loss is made.

(4) No deduction may be made under section 254 from any amount that is treated as a post-cessation receipt under—

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(a) section 248(4) (debts paid after cessation), or
(b) section 250 (receipts relating to post-cessation expenditure).

Reliefs

256 Treatment of post-cessation receipts

(1) This section applies if—
(a) an individual has permanently ceased to carry on a trade, and
(b) the income arising to the individual from the trade was earned income within section 833(4)(c) of ICTA or relevant UK earnings within section 189(2)(b) of FA 2004.

(2) Any post-cessation receipts arising to the individual from the trade are similarly earned income or relevant UK earnings.

257 Election to carry back

(1) This section applies if a post-cessation receipt is received by a person (or a person's personal representatives) in a tax year beginning no later than 6 years after the person permanently ceased to carry on the trade.

(2) The person (or the person's personal representatives) 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.

(3) But this is subject to paragraph 5 of Schedule 1B to TMA 1970 (election given effect in the tax year in which the receipt is actually received).

(4) The election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year.

CHAPTER 19

SUPPLEMENTARY

258 Changes in trustees and personal representatives

(1) This section applies if there is a change—
(a) in the trustees of a trust, or
(b) in the personal representatives of a person,
at a time when they are carrying on a trade, profession or vocation.

(2) For income tax purposes, the change does not result in—
(a) any of the trustees or personal representatives before the change permanently ceasing to carry on the trade, profession or vocation, or
(b) any of the trustees or personal representatives after the change starting to carry on the trade, profession or vocation.

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259 Meaning of "statutory insolvency arrangement"

In this Part "statutory insolvency arrangement" means—

(a) a voluntary arrangement which has taken effect under or as a result of the Insolvency Act 1986 (c. 45), Schedule 4 or 5 to the Bankruptcy (Scotland) Act 1985 (c. 66) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or

(b) a compromise or arrangement which has taken effect under section 425 of the Companies Act 1985 (c. 6) or Article 418 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)).

PART 3

PROPERTY INCOME

CHAPTER 1

INTRODUCTION

260 Overview of Part 3

(1) This Part imposes charges to income tax under—

(a) Chapter 3 (the profits of a UK property business or an overseas property business),

(b) Chapter 7 (amounts treated as adjustment income under section 330),

(c) Chapter 8 (rent receivable in connection with a UK section 12(4) concern),

(d) Chapter 9 (rent receivable for UK electric-line wayleaves),

(e) Chapter 10 (post-cessation receipts arising from a UK property business), and

(f) Chapter 11 (overseas property income of a person to whom the remittance basis applies).

(2) Part 6 deals with exemptions from the charges under this Part.

(3) See, in particular, the exemptions under sections 769 (housing grants), 777 (VAT repayment supplements) and 778 (incentives to use electronic communications).

(4) The charges under Chapters 3, 7, 8, 9 and 10 apply to non-UK residents as well as UK residents but this is subject to section 269 (charges on non-UK residents only on UK source income).

(5) This section needs to be read with the relevant priority rules (see sections 2 and 261).

261 Provisions which must be given priority over Part 3

Any receipt or other credit item, so far as it falls within—

(a) Chapter 3 of this Part so far as it relates to an overseas property business or Chapter 8 or 9 of this Part (rent receivable in connection with a UK section 12(4) concern or for UK electric-line wayleaves), and

(b) Chapter 2 of Part 2 (receipts of a trade, profession or vocation),

is dealt with under Part 2.

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262 Priority between Chapters within Part 3

(1) Any receipt, so far as it falls within—
  (a) Chapter 3 so far as it relates to a UK property business, and
  (b) Chapter 8 (rent receivable in connection with a UK section 12(4) concern),
is dealt with under Chapter 8.

(2) Any receipt, so far as it falls within—
  (a) Chapter 3 so far as it relates to a UK property business, and
  (b) Chapter 9 (rent receivable for UK electric-line wayleaves),
is dealt with under Chapter 9.

(3) Any receipt, so far as it falls within Chapter 8 (rent receivable in connection with a UK section 12(4) concern) and Chapter 9 (rent receivable for UK electric-line wayleaves), is dealt with under Chapter 9.

CHAPTER 2

PROPERTY BUSINESSES

Introduction

263 Introduction

(1) This Chapter explains for the purposes of this Act what is meant by—
  (a) a person's UK property business (see section 264), and
  (b) a person's overseas property business (see section 265).

(2) Both those sections need to be read with—
  (a) section 266 (which explains what is meant by generating income from land), and
  (b) section 267 (which provides that certain activities do not count as activities for generating income from land).

(3) In the case of the property business of a firm, the basic rules in sections 264 and 265 are explained in section 859(2) and (3).

(4) References in this Act to an overseas property business are to an overseas property business so far as any profits of the business are chargeable to tax under Chapter 3 (as to which see, in particular, section 269).

(5) Accordingly, nothing in Chapter 4 or 5 is to be read as treating an amount as a receipt of an overseas property business if the profits concerned would not be chargeable to tax under Chapter 3.

(6) In this Act "property business" means a UK property business or an overseas property business.

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Basic meaning of UK and overseas property business

264 UK property business

A person's UK property business consists of—

(a) every business which the person carries on for generating income from land in the United Kingdom, and

(b) every transaction which the person enters into for that purpose otherwise than in the course of such a business.

265 Overseas property business

A person's overseas property business consists of—

(a) every business which the person carries on for generating income from land outside the United Kingdom, and

(b) every transaction which the person enters into for that purpose otherwise than in the course of such a business.

Generating income from land

266 Meaning of "generating income from land"

(1) In this Chapter "generating income from land" means exploiting an estate, interest or right in or over land as a source of rents or other receipts.

(2) "Rents" includes payments by a tenant for work to maintain or repair leased premises which the lease does not require the tenant to carry out.

(3) "Other receipts" includes—

(a) payments in respect of a licence to occupy or otherwise use land,

(b) payments in respect of the exercise of any other right over land, and

(c) rentcharges and other annual payments reserved in respect of, or charged on or issuing out of, land.

(4) For the purposes of this section a right to use a caravan or houseboat at only one location is treated as a right deriving from an estate or interest in land.

267 Activities not for generating income from land

For the purposes of this Chapter the following activities are not carried on for generating income from land—

(a) farming or market gardening in the United Kingdom (but see section 9 (UK farming or market gardening treated as trade)),

(b) any other occupation of land (but see section 10 (certain commercial occupation of UK land treated as trade)), and

(c) activities for the purposes of a concern to which section 12 applies (profits of mines, quarries etc.).

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CHAPTER 3

PROFITS OF PROPERTY BUSINESSES: BASIC RULES

Charge to tax on profits of a property business

268 Charge to tax on profits of a property business

Income tax is charged on the profits of a property business.

269 Territorial scope of charge to tax

(1) Profits of a UK property business are chargeable to tax under this Chapter whether the business is carried on by a UK resident or a non-UK resident.

(2) Profits of an overseas property business are chargeable to tax under this Chapter only if the business is carried on by a UK resident.

(3) But, in the case of an overseas property business carried on by a UK resident to whom the remittance basis applies, the only profits of the business chargeable to tax under this Chapter are those in respect of land in the Republic of Ireland.

(4) For a UK resident to whom the remittance basis applies, see also Chapter 11 (charge to tax on overseas property income other than income arising in Republic of Ireland).

270 Income charged

(1) Tax is charged under this Chapter on the full amount of the profits arising in the tax year.

(2) Subsection (1) is subject to Part 8 (foreign income: special rules).

271 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the profits.

Calculation of profits

272 Profits of a property business: application of trading income rules

(1) The profits of a property business are calculated in the same way as the profits of a trade.

(2) But the provisions of Part 2 (trading income) which apply as a result of subsection (1) are limited to the following—

In Chapter 3 (basic rules)—	
section 25	generally accepted accounting practice
section 26	losses calculated on same basis as profits

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section 27	receipts and expenses
section 28	items treated under CAA 2001 as receipts and expenses
section 29	interest
In Chapter 4 (rules restricting deductions)—	
section 33	capital expenditure
section 34	expenses not wholly and exclusively for trade and unconnected losses
section 35	bad and doubtful debts
sections 36 and 37	unpaid remuneration
sections 38 to 44	employee benefit contributions
sections 45 to 47	business entertainment and gifts
sections 48 to 50	car or motor cycle hire
section 51	patent royalties
section 52	exclusion of double relief for interest
section 53	social security contributions
section 54	penalties, interest and VAT surcharges
section 55	crime-related payments
In Chapter 5 (rules allowing deductions)—	
section 57	pre-trading expenses
sections 58 and 59	incidental costs of obtaining finance
section 68	replacement and alteration of trade tools
section 69	payments for restrictive undertakings
sections 70 and 71	seconded employees
section 72	payroll deduction schemes: contributions to agents' expenses
sections 73 to 75	counselling and retraining expenses
sections 76 to 80	redundancy payments etc.
section 81	personal security expenses
sections 82 to 86	contributions to local enterprise organisations or urban regeneration companies
sections 87 and 88	scientific research
sections 89 and 90	expenses connected with patents, designs and trade marks
section 91	payments to Export Credits Guarantee Department

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In Chapter 6 (receipts)—	
section 96	capital receipts
section 97	debts incurred and later released
section 104	distribution of assets of mutual concerns
section 105	industrial development grants
section 106	sums recovered under insurance policies etc.
In Chapter 7 (gifts to charities etc.)—	
section 109	receipt by donor or connected person of benefit attributable to certain gifts
In Chapter 11 (other specific trades)—	
section 155	levies and repayments under FISMA 2000
In Chapter 13 (deductions from profits)—	
sections 188 to 191	unremittable amounts

(3) In those provisions the expression "this Part" is to be read as a reference to those provisions as applied by subsection (2) and to the other provisions of Part 3.

273 Amounts not brought into account as part of a property business

(1) The rules for calculating the profits of a property business need to be read with the following provisions of Part 2 (trading income)—
  (a) section 19 (tied premises),
  (b) section 20 (caravan sites where trade carried on),
  (c) section 21 (surplus business accommodation), and
  (d) section 22(3) (payments for wayleaves).

(2) Those provisions secure that amounts which would otherwise be brought into account in calculating the profits of the business are, or may be, brought into account instead in calculating the profits of a trade.

274 Relationship between rules prohibiting and allowing deductions

(1) Any relevant permissive rule in this Part—
  (a) has priority over any relevant prohibitive rule in this Part, but
  (b) is subject to sections 48 (car or motor cycle hire) and 55 (crime-related payments), as applied by section 272.

(2) In this section "any relevant permissive rule in this Part" means any provision of this Part (apart from sections 291 to 294) which allows a deduction in calculating the profits of a property business.

(3) In this section "any relevant prohibitive rule in this Part", in relation to any deduction, means any provision of this Part (apart from sections 48 and 55, as applied by section 272) which might otherwise be read as—
  (a) prohibiting the deduction, or

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(b) restricting the amount of the deduction.

(4) In this section any reference to any provision of this Part includes any provision applied by section 272.

Apportionment of profits

275 Apportionment etc. of profits to tax year

(1) This section applies if a period of account of a property business does not coincide with a tax year.

(2) Any of the following steps may be taken if they are necessary in order to arrive at the profits or losses of the tax year—
(a) apportioning the profits or losses of a period of account to the parts of that period falling in different tax years, 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.

(4) But the person carrying on the business may use a different way of measuring the length of the periods concerned if—
(a) it is reasonable to do so, and
(b) the way of measuring the length of periods is used consistently for the purposes of the business.

CHAPTER 4

PROFITS OF PROPERTY BUSINESSES: LEASE PREMIUMS ETC.

Introduction

276 Introduction

(1) This Chapter provides for certain amounts (which would otherwise generally be amounts of a capital nature) to be brought into account as receipts in calculating the profits of a property business.

(2) The amounts relate to short-term leases in the case of—
section 277 (lease premiums),
section 278 (amount treated as lease premium where work required),
section 280 (sums payable for surrender of lease), and
section 282 (assignments for profit of lease granted at undervalue).

(3) The amounts relate to any lease in the case of—
section 279 (sums payable instead of rent), and
section 281 (sums payable for variation or waiver of term of lease).

(4) The amounts relate to the sale of any estate or interest in land in the case of—
section 284 (sales with right to reconveyance), and

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section 285 (sale and leaseback transactions).

(5) This Chapter also permits certain deductions in calculating the profits of property businesses carried on by tenants under certain leases (see sections 291 and 292).

(6) In this Chapter "short-term lease" means a lease whose effective duration is 50 years or less.

Amounts treated as receipts: leases

277 Lease premiums

(1) This section applies if a premium is required to be paid—
- (a) under a short-term lease, or
- (b) otherwise under the terms subject to which a short-term lease is granted.

(2) The person to whom the premium is due is treated as—
- (a) entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and
- (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.

(3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the lease is granted.

(4) The amount of the receipt is given by the formula—

$$P \times \left(\frac{50 - Y}{50} \right)$$

where—

P is the premium, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

(5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.

Modifications etc. (not altering text)

C10 Ss. 277-281 excluded (with effect as mentioned in Sch. 6 para. 6(2)-(7) of the amending Act) by 1981 c. 1, s. 774G(7) as inserted by Finance Act 2006 (c. 25), s. 76, **Sch. 6 para. 6(1)**

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278 Amount treated as lease premium where work required

(1) This section applies if the terms subject to which a lease is granted impose on the tenant an obligation to carry out work on the premises.

(2) The lease is treated for the purposes of section 277 (lease premiums) as requiring the payment of a premium to the landlord (in addition to any other premium).

(3) The amount of the premium is the amount by which the value of the landlord's estate or interest immediately after the commencement of the lease exceeds what its value would have been at that time if the terms of the lease did not impose the obligation on the tenant.

(4) An obligation, or part of an obligation, that requires the carrying out of excepted work is ignored for the purposes of this section.

(5) Work is "excepted work" if the payment for carrying it out would, if the landlord and not the tenant were obliged to carry it out, be deductible as an expense in calculating the profits of the landlord's property business.

Modifications etc. (not altering text)

C11 Ss. 277-281 excluded (with effect as mentioned in Sch. 6 para. 6(2)-(7) of the amending Act) by 1981 c. 1, s. 774G(7) as inserted by Finance Act 2006 (c. 25), s. 76, **Sch. 6 para. 6(1)**

279 Sums payable instead of rent

(1) This section applies if—

(a) under the terms subject to which a lease is granted a sum becomes payable by the tenant instead of the whole or a part of the rent for a period, and

(b) the period is 50 years or less.

(2) The person to whom the sum is due is treated as—

(a) entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and

(b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.

(3) That amount is brought into account as a receipt in calculating the profits of the property business which consists or of includes that transaction for the tax year in which the sum becomes payable.

(4) The amount of the receipt is given by the formula—

$$S \times \left(\frac{50 - Y}{50} \right)$$

where—

S is the sum payable instead of rent, and

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Y is the number of complete periods of 12 months (other than the first) comprised in the period in relation to which the sum is payable.

(5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.

(6) In determining for the purposes of this Chapter the duration of the period in relation to which the sum is payable, any part of the period that falls after the expiry of the effective duration of the lease is excluded.

Modifications etc. (not altering text)

C12 Ss. 277-281 excluded (with effect as mentioned in Sch. 6 para. 6(2)-(7) of the amending Act) by 1981 c. 1, s. 774G(7) as inserted by Finance Act 2006 (c. 25), s. 76, **Sch. 6 para. 6(1)**

280 Sums payable for surrender of lease

(1) This section applies if, under the terms subject to which a short-term lease is granted, a sum becomes payable by the tenant as consideration for the surrender of the lease.

(2) The person to whom the sum is due is treated as—

(a) entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and

(b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.

(3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the sum becomes payable.

(4) The amount of the receipt is given by the formula—

$$S \times \left(\frac{50 - Y}{50} \right)$$

where—

S is the sum payable as consideration for the surrender of the lease, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

(5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.

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Modifications etc. (not altering text)

C13 Ss. 277-281 excluded (with effect as mentioned in Sch. 6 para. 6(2)-(7) of the amending Act) by 1981 c. 1, s. 774G(7) as inserted by Finance Act 2006 (c. 25), s. 76, **Sch. 6 para. 6(1)**

281 Sums payable for variation or waiver of term of lease

(1) This section applies if—

(a) a sum becomes payable by the tenant (otherwise than by way of rent) as consideration for the variation or waiver of a term of a lease,

(b) the sum is due to the landlord or a person who is connected with the landlord, and

(c) the period for which the variation or waiver has effect is 50 years or less.

(2) The person to whom the sum is due is treated as—

(a) entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and

(b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.

(3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the contract providing for the variation or waiver is entered into.

(4) The amount of the receipt is given by the formula—

$$S \times \left(\frac{50 - Y}{50} \right)$$

where—

S is the sum payable as consideration for the variation or waiver, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period for which the variation or waiver has effect.

(5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.

(6) In determining for the purposes of this Chapter the duration of the period for which the variation or waiver has effect, any part of the period that falls after the expiry of the effective duration of the lease is excluded.

Modifications etc. (not altering text)

C14 Ss. 277-281 excluded (with effect as mentioned in Sch. 6 para. 6(2)-(7) of the amending Act) by 1981 c. 1, s. 774G(7) as inserted by Finance Act 2006 (c. 25), s. 76, **Sch. 6 para. 6(1)**

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282 Assignments for profit of lease granted at undervalue

(1) This section applies to an assignment of a short-term lease if—

(a) the lease was granted at an undervalue, and

(b) a profit is made on the assignment.

(2) The person who assigns the lease is treated as—

(a) entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and

(b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.

(3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the consideration for the assignment becomes payable.

(4) The amount of the receipt is given by the formula—

$$P \times \left(\frac{50 - Y}{50} \right)$$

where—

P is the lesser of—

(a) the profit on the assignment, and

(b) the amount by which the undervalue exceeds the total of the profits (if any) made on previous assignments of the lease, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

(5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.

(6) Section 283 explains references in this section to the grant of a lease at an undervalue and the making of a profit on an assignment of a lease.

283 Provisions supplementary to section 282

(1) This section operates for the purposes of section 282.

(2) A lease is granted at an undervalue if the terms subject to which it was granted are such that the landlord who granted it could have required the payment of an additional sum by way of premium, or additional premium, for its grant.

(3) The additional sum is the undervalue.

(4) The test in subsection (2) must be applied—

(a) having regard to values prevailing at the time the lease was granted, and

(b) on the assumption that the negotiations for the lease were at arm's length.

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(5) A profit is made on an assignment of a lease if the consideration for the assignment exceeds—
  (a) if the lease has not previously been assigned, any premium for which it was granted, or
  (b) in any other case, any consideration for which it was last assigned.

(6) The amount of the excess is the profit.

Other amounts treated as receipts

284 Sales with right to reconveyance

(1) This section applies if—
  (a) an estate or interest in land is sold subject to terms which provide that it is to be, or may be required to be, reconveyed on a future date to the seller or a person connected with the seller,
  (b) the period beginning with the sale and ending with the earliest date on which under the terms of the sale the estate or interest would fall to be reconveyed is 50 years or less, and
  (c) the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed.

(2) The seller is treated as—
  (a) entering into a transaction mentioned in section 264 (if the land is in the United Kingdom) or section 265 (if the land is outside the United Kingdom), and
  (b) receiving the amount calculated under subsection (4) as a result of that transaction.

(3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the estate or interest is sold.

(4) The amount of the receipt is given by the formula—

$$E \times \left(\frac{50 - Y}{50} \right)$$

where—

E is the amount by which the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period beginning with the sale and ending with the earliest date on which under the terms of the sale the estate or interest would fall to be reconveyed.

(5) See section 286 for some provisions which are supplementary to this section.

285 Sale and leaseback transactions

(1) This section applies if—

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(a) an estate or interest in land is sold subject to terms which provide for the grant of a lease directly or indirectly out of the estate or interest to the seller or a person connected with the seller,

(b) the period beginning with the sale and ending with the earliest date on which under the terms of the sale the lease would fall to be granted is 50 years or less, and

(c) the price at which the estate or interest is sold exceeds the total of—

(i) the amount of any premium for the lease, and

(ii) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run.

(2) This section does not apply if the lease is granted and begins to run within one month after the sale.

(3) The seller is treated as—

(a) entering into a transaction mentioned in section 264 (if the land is in the United Kingdom) or section 265 (if the land is outside the United Kingdom), and

(b) receiving the amount calculated under subsection (5) as a result of that transaction.

(4) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the estate or interest is sold.

(5) The amount of the receipt is given by the formula—

$$E \times \left(\frac{50 - Y}{50} \right)$$

where—

E is the amount by which the price at which the estate or interest is sold exceeds the total of—

(a) the amount of any premium for the lease, and

(b) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period beginning with the sale and ending with the earliest date on which under the terms of the sale the lease would fall to be granted.

(6) See section 286 for some provisions which are supplementary to this section.

286 Provisions supplementary to sections 284 and 285

(1) This section operates for the purposes of sections 284 (sales with right to reconveyance) and 285 (sale and leaseback transactions).

(2) Subsection (3) explains how to determine for the purposes of section 284 the price at which an estate or interest is to be reconveyed when—

(a) the date on which the estate or interest would fall to be reconveyed is not fixed under the terms of the sale, and

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(b) the price at which it is to be reconveyed varies with the date.

(3) The price is taken to be the lowest possible under the terms of the sale.

(4) Subsection (5) explains how to determine for the purposes of section 285 the total of—
(a) the amount of any premium for the lease, and
(b) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run,

when the date for the grant of the lease is not fixed under the terms of the sale and the total varies with the date.

(5) The total is taken to be the lowest possible under the terms of the sale.

(6) For the purposes of sections 284(3) and 285(4) (receipts of property business for tax year in which estate or interest sold) an estate or interest in land is sold when any of the following occurs—
(a) an unconditional contract for its sale is entered into,
(b) a conditional contract for its sale becomes unconditional, or
(c) an option or right of pre-emption is exercised requiring the seller to enter into an unconditional contract for its sale.

Additional calculation rule for reducing certain receipts

287 Circumstances in which additional calculation rule applies

(1) The rule in section 288 (the additional calculation rule) applies in relation to the calculation of receipts under—
section 277 (lease premiums),
section 279 (sums payable instead of rent),
section 280 (sums payable for surrender of lease),
section 281 (sums payable for variation or waiver of term of lease), or
section 282 (assignments for profit of lease granted at undervalue).

(2) It applies if conditions A and B are met.

(3) Condition A is that—
(a) in the case of a receipt under section 277, 279 or 280, the lease is granted out of a taxed lease,
(b) in the case of a receipt under section 281, the lease was granted out of a taxed lease, and
(c) in the case of a receipt under section 282, the assignment is of a taxed lease.

(4) A lease is a “taxed lease” for the purposes of this Chapter if—
(a) there is a receipt under any of sections 277 to 282 in respect of the lease, or
(b) there would be such a receipt, but for the operation of the additional calculation rule in the calculation of its amount.

In this Chapter such a receipt is referred to as a “taxed receipt”.

(5) Condition B is that the taxed receipt, or if there is more than one, at least one of them, has an unused amount.

(6) See section 290 for an explanation of when a taxed receipt has an “unused amount”.

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288 The additional calculation rule

(1) The rule in this section applies if the conditions mentioned in section 287 are met.

(2) The additional calculation rule is that the amount given by the formula in section 277, 279, 280, 281 or 282 must be reduced by the amount calculated in accordance with this section in order to give the amount of the receipt under calculation.

(3) The amount of the reduction is—
- (a) if there is one taxed receipt which has an unused amount, the basic relieving amount by reference to that receipt, and
- (b) if there is more than one taxed receipt which has an unused amount, the total of the basic relieving amounts by reference to each receipt,

adjusted, if necessary, in the light of section 289(5) (reduction not to exceed amount being reduced).

(4) The basic relieving amount by reference to a taxed receipt is given by the formula—

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

where—

A is the unreduced amount of the taxed receipt (which is, generally, the amount given by the formula in section 277, 279, 280, 281 or 282, but see section 290(2) to (4)),

LRP is the receipt period of the receipt under calculation, and

TRP is the receipt period of the taxed receipt.

(5) But the basic relieving amount is different if section 289(2) or (4) applies (certain special cases).

(6) For the purposes of this Chapter, the "receipt period" of a receipt is—
- (a) in the case of a receipt under section 277 or 280, the effective duration of the lease,
- (b) in the case of a receipt under section 279, the period in relation to which the sum payable instead of rent is payable,
- (c) in the case of a receipt under section 281, the period for which the variation or waiver has effect, and
- (d) in the case of a receipt under section 282, the effective duration of the lease remaining at the date of the assignment.

289 The additional calculation rule: special cases

(1) This section explains how section 288 operates in some special cases.

(2) If—
- (a) the receipt under calculation is under any of sections 277 to 281, and
- (b) the lease does not extend to the whole of the premises subject to the taxed lease,

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the basic relieving amount by reference to a taxed receipt is calculated by multiplying the amount given by the formula in subsection (4) of section 288 by the fraction of those premises which is subject to the lease.

(3) This fraction is calculated on a just and reasonable basis.

(4) If the basic relieving amount given by section 288(4) or subsection (2) above by reference to a taxed receipt would otherwise exceed the unused amount of the taxed receipt, the basic relieving amount is the unused amount.

(5) If the amount of the reduction under section 288 would otherwise exceed the amount given, in respect of the receipt under calculation, by the formula in section 277, 279, 280, 281 or 282, the amount of the reduction is equal to the amount given by the formula.

290 Meaning of "unused amount" and "unreduced amount"

(1) For the purposes of this Chapter, a taxed receipt has an "unused amount" if the unreduced amount exceeds the total of the reductions and deductions referred to in subsection (5).

(2) In this Chapter the "unreduced amount" of a taxed receipt is the amount given, in respect of the taxed receipt, by the formula in section 277, 279, 280, 281 or 282.

(3) Subsection (4) applies to a taxed receipt under section 277 (lease premiums) as a result of section 278 (amount treated as lease premium where work required).

(4) If the obligation to carry out work included the carrying out of work which gives, or will give, rise to qualifying expenditure under CAA 2001, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.

(5) The reductions and deductions mentioned in subsection (1) are—
- (a) the reductions under section 288 by reference to the taxed receipt,
- (b) the deductions allowed in calculating the profits of a trade, profession or vocation for expenses under section 61 (tenant under taxed lease who uses land in connection with trade treated as incurring expenses) by reference to the taxed receipt, and
- (c) the deductions allowed in calculating the profits of a property business for expenses under section 292 (tenant under taxed lease who uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt.

(6) For the purposes of this Chapter references to a reduction under section 288 by reference to a taxed receipt are to a reduction under that section so far as attributable to the taxed receipt.

Deductions in relation to certain receipts

291 Deductions for expenses under section 292

(1) Section 292 (tenants under taxed leases treated as incurring expenses) applies in calculating the profits of a property business carried on by the tenant under a taxed lease for the purpose of making deductions for the expenses of the property business.

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(2) A deduction is allowed for an expense under section 292 for a qualifying day on which the whole or part of the premises subject to the taxed lease is—
  (a) occupied by the tenant for the purpose of carrying on the property business, or
  (b) sublet.

(3) But any deduction for an expense under section 292 is subject to the application of any provision of Chapter 4 of Part 2 (as applied to property businesses by section 272).

(4) The amount of the deduction for an expense under section 292 for a qualifying day by reference to a taxed receipt may be reduced in order to comply with section 295 (limit on reductions and deductions).

(5) For the meaning of expressions used in this section, see in particular—
  section 287(4) ("taxed lease"), and
  section 287(4) ("taxed receipt").

292 Tenants under taxed leases treated as incurring expenses

(1) The tenant under a taxed lease is treated as incurring an expense of a revenue nature in respect of the premises 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 falls within the receipt period of the taxed receipt.

(4) The amount of the expense for the qualifying day by reference to 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.

(5) This section is subject to sections 293 and 294 (restrictions on expenses where the additional calculation rule is relevant).

(6) For the meaning of expressions used in this section, see in particular—
  section 288(6) ("receipt period"), and
  section 290(2) to (4) ("unreduced amount").

293 Restrictions on section 292 expenses: the additional calculation rule

(1) This section applies if, in calculating the amount of a receipt ("the lease premium receipt"), there is a reduction under section 288 (the additional calculation rule) by reference to the taxed receipt.

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(2) Subsections (3) to (5) provide for the application of section 292 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 292 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 the expense under section 292 for the qualifying day by reference to the taxed receipt is equal to that excess.

(5) If the qualifying day falls within the receipt periods 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.

(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 (see section 290(2) to (4)), 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 288 by reference to the taxed receipt (see section 290(6)), and

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

(7) Section 294 explains how this section operates if the lease premium receipt is in respect of a lease that has been granted out of the taxed lease and does not extend to the whole of the premises subject to the taxed lease.

294 Restrictions on section 292 expenses: lease of part of premises

(1) This section applies if—

(a) a lease has been granted out of the taxed lease,

(b) the lease does not extend to the whole of the premises subject to the taxed lease, and

(c) in calculating the amount of a receipt under any of sections 277 to 281 (receipts in respect of lease premiums or sums payable instead of rent, for surrender of lease or for variation or waiver of term of lease) in respect of the

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lease ("the lease premium receipt"), there is a reduction under section 288 by reference to the taxed receipt.

(2) Subsections (3) to (5) apply for a qualifying day that falls within the receipt period of the lease premium receipt.

(3) Sections 292 and 293 apply separately in relation to the part of the premises subject to the lease and to the remainder of the premises.

(4) If—

(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 292 and 293 apply separately in relation to each part of the premises subject to a lease to which such a receipt relates and to the remainder of the premises.

(5) Where sections 292 and 293 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.

Limit on effect of additional calculation rule and deductions

295 Limit on reductions and deductions

(1) The total of—

(a) the reductions under section 288 by reference to a taxed receipt, and

(b) the deductions allowed in calculating the profits of a property business for expenses under section 292 (tenant under taxed lease who uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt,

must not exceed the amount referred to in subsection (2).

(2) The amount mentioned in subsection (1) is the difference between—

(a) the unreduced amount of the taxed receipt, and

(b) the deductions allowed in calculating the profits of a trade, profession or vocation for expenses under section 61 (tenant under taxed lease who uses land in connection with trade treated as incurring expenses) by reference to the taxed receipt.

Relationship with ICTA

296 Corporation tax receipts treated as taxed receipts

(1) This section applies if in respect of a lease—

(a) there is a receipt of a Schedule A business or an overseas property business (within the meaning of section 70A(4) of ICTA) as a result of section 34 or 35 of ICTA (treatment of premiums etc. as rent and assignments for profit of lease granted at an undervalue) for an accounting period ending after 5th April 2005, or

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(b) there would be such a receipt, but for the operation of section 37(2) or (3) of ICTA (reductions in certain receipts under section 34 or 35 of ICTA).

In this Chapter such a receipt is referred to as a "corporation tax receipt".

(2) For the purposes of this Chapter—
(a) the lease is treated as a taxed lease, and
(b) the corporation tax receipt is treated as a taxed receipt.

(3) For the purposes of this Chapter, the "receipt period" of a taxed receipt which is a corporation tax receipt is—
(a) in the case of a corporation tax receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
(b) in the case of a corporation tax receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.

(4) For the purposes of this Chapter the "unreduced amount" of a taxed receipt which is a corporation tax receipt is the amount of the corporation tax receipt as a result of section 34 or 35 of ICTA, before the operation of section 37(2) or (3) of ICTA.

(5) Subsection (6) applies to a taxed receipt which is a corporation tax receipt arising as a result of section 34(2) of ICTA (obligation on tenant to carry out work under lease).

(6) If the obligation to carry out work includes the carrying out of work which gives, or will give, rise to qualifying expenditure under CAA 2001, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.

297 Taking account of reductions in corporation tax receipts

(1) This section applies if—
(a) in calculating the amount of a corporation tax receipt, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and
(b) the amount chargeable on the superior interest is the taxed receipt for the purposes of this Chapter.

(2) For the purposes of this Chapter references to a reduction under section 37(2) or (3) of ICTA in a corporation tax receipt by reference to the amount chargeable on the superior interest are to the difference between—
(a) the amount of the corporation tax receipt before the operation of section 37(2) or (3) of ICTA, and
(b) the amount of the receipt after the operation of that subsection,

so far as attributable to the amount chargeable on the superior interest for the purposes of section 37 of ICTA.

(3) In sections 290(5)(a) (meaning of "unused amount") and 295(1)(a) (limit on reductions and deductions) references to reductions under section 288 by reference to the taxed receipt include references to reductions under section 37(2) or (3) of ICTA in corporation tax receipts by reference to the amount chargeable on the superior interest.

(4) Sections 292 to 294 apply as follows—

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(a) the corporation tax receipt is treated as if it were a lease premium receipt for the purposes of sections 293 and 294,

(b) references in those sections to the reduction under section 288 by reference to the taxed receipt are, in relation to the corporation tax receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and

(c) for the purposes of those sections the receipt period of the corporation tax receipt is—

(i) in the case of a corporation tax receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and

(ii) in the case of a corporation tax receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.

298 Taking account of deductions for rent as a result of section 37(4) or 87(2) of ICTA

(1) Subsection (2) applies if—

(a) in calculating the profits of a trade, profession or vocation for an accounting period ending after 5th April 2005, a company is treated as paying rent under section 87(2) of ICTA by reference to the amount chargeable for the purposes of that section, and

(b) the amount chargeable is the taxed receipt for the purposes of this Chapter.

(2) References in sections 290(5)(b) and 295(2)(b) to the deductions allowed for expenses under section 61 by reference to the taxed receipt include references to the deductions allowed in calculating the profits of the trade, profession or vocation for the rent that the company is treated as paying under section 87(2) of ICTA by reference to the amount chargeable.

(3) Subsection (4) applies if—

(a) in calculating the profits of a Schedule A business or an overseas property business (within the meaning of section 70A(4) of ICTA) for an accounting period ending after 5th April 2005, a company is treated as paying rent as a result of section 37(4) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and

(b) the amount chargeable on the superior interest is the taxed receipt for the purposes of this Chapter.

(4) References in sections 290(5)(c) and 295(1)(b) to the deductions allowed for expenses under section 292 by reference to the taxed receipt include references to the deductions allowed in calculating the profits of the Schedule A business or overseas property business (within the meaning of section 70A(4) of ICTA) for the rent that the company is treated as paying as a result of section 37(4) of ICTA by reference to the amount chargeable on the superior interest.

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Certain administrative provisions

299 Payment of tax by instalments

(1) This section applies if—
- (a) there is a receipt under section 277 (lease premiums) in respect of a premium which is payable by instalments, or
- (b) there is a receipt under any of sections 279 to 281 (sums payable instead of rent, for surrender of lease or for variation or waiver of term of lease) in respect of a sum which is payable by instalments.

(2) The person who is liable to pay tax by reference to the receipt may choose to pay the tax by such instalments as the Inland Revenue may allow.

(3) The period over which the instalments of tax must be paid—
- (a) must be 8 years or less, and
- (b) must end before, or at the same time as, the time when the last of the instalments mentioned in subsection (1)(a) or (b) is payable.

300 Statement of accuracy for purposes of section 282

(1) This section applies if any of the persons mentioned in subsection (3) provides the Inland Revenue with a statement showing—
- (a) whether or not there is, or may be, a receipt under section 282 (assignments for profit of lease granted at undervalue), and
- (b) the amount of any receipt.

(2) The Inland Revenue must certify the accuracy of the statement, if satisfied as to its accuracy.

(3) The persons referred to in subsection (1) are—
- (a) the landlord who granted the lease,
- (b) a person who assigned it, or
- (c) a person to whom it was assigned.

301 Claim for repayment of tax payable by virtue of section 284

(1) This section applies if—
- (a) there is a receipt under section 284 (sales with right to reconveyance), and
- (b) the date on which the estate or interest would fall to be reconveyed was not fixed under the terms of the sale.

(2) If the seller makes a claim, the seller must be repaid the amount by which A exceeds B, where—

A is the amount of tax paid by the seller which was payable by virtue of section 284, and

B is the amount of tax that would have been so payable if the date on which the estate or interest was reconveyed had been taken as the date fixed by the terms of the sale.

(3) The claim must be made within 6 years after the day on which the estate or interest was reconveyed.

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302 Claim for repayment of tax payable by virtue of section 285

(1) This section applies if—

(a) there is a receipt under section 285 (sale and leaseback transactions), and

(b) the date for the grant of the lease was not fixed under the terms of the sale.

(2) If the seller makes a claim, the seller must be repaid the amount by which A exceeds B, where—

A is the amount of tax paid by the seller which was payable by virtue of section 285, and

B is the amount of tax that would have been so payable if the date on which the lease was granted had been taken as the date fixed by the terms of the sale.

(3) The claim must be made within 6 years after the day on which the lease was granted.

Effective duration of lease

303 Rules for determining effective duration of lease

(1) The following rules apply for determining the effective duration of a lease for the purposes of this Chapter.

Rule 1: A lease is not to be treated as having been granted for a term longer than one ending on a date before the end of the term for which the lease was granted if—

(a) —the terms of the lease or any other circumstances make it unlikely that the lease will continue beyond that date, and

(b) —the premium was not substantially greater than it would have been had the term been one ending on that date.

Rule 2: If the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant, account may be taken of any circumstances making it likely that the lease will be so extended.

Rule 3: If the tenant or a person connected with the tenant is, or may become, entitled to a further lease or the grant of a further lease (whenever commencing)—

(a) of the same premises, or

(b) of premises including the whole or part of the same premises,

the term of the lease may be treated as continuing until the end of the term of the further lease.

(2) The rules are to be applied in accordance with section 304.

(3) In this section and section 304, in relation to Scotland, “term”, where referring to the duration of a lease, means period.

Modifications etc. (not altering text)

C15 S. 303 applied by 2001 c. 2, s. 360I(3)(a) (as inserted (7.4.2005 with effect in relation to expenditure incurred on or after 11.4.2007) by Finance Act 2005 (c. 7). s. 92, {Sch. 6 para. 1}; S.I. 2007/949, **art. 2**

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304 Applying the rules in section 303

(1) The rules in section 303 apply by reference to the facts known or ascertainable—
- (a) at the time of the grant of the lease, or
- (b) if the determination is for the purposes of section 281 (sums payable for variation or waiver of term of lease), at the time when the contract for the variation or waiver is entered into.

(2) In applying those rules, it is assumed that all parties concerned, whatever their relationship, act as if they were at arm's length.

(3) Subsection (5) applies if—
- (a) special benefits were conferred by the lease or in connection with its grant, or
- (b) payments were made which one would not expect to be made by parties acting at arm's length unless such benefits had been conferred.

(4) But subsection (5) does not apply if it can be shown that the special benefits were not conferred nor the payments made for the purpose of securing a tax advantage in the application of this Chapter or sections 34 to 39 of ICTA (premiums, leases at undervalue etc.).

(5) In applying rule 1 in section 303, it is assumed that the special benefits would not have been conferred nor the payments made if the lease had been granted for a term ending on the date mentioned in that rule.

(6) In this section "special benefits" means benefits other than—
- (a) vacant possession and beneficial occupation of the premises, or
- (b) the right to receive rent at a reasonable commercial rate in respect of the premises.

305 Information about effective duration of lease

(1) This section applies if the Inland Revenue have reason to believe that a person has information relevant to the determination of the effective duration of a lease.

(2) The Inland Revenue may by notice require the person to provide such information on the matters specified in the notice as is in the person's possession.

(3) The information must be provided within a time specified in the notice.

(4) In relation to anything done by a solicitor on behalf of a client, the solicitor is required only to—
- (a) state that the solicitor was acting on behalf of a client, and
- (b) provide the name and address of the client.

Other interpretative provisions

306 Provisions about premiums

(1) For the purposes of this Chapter, the presumption is that a sum paid on or in connection with the granting of a tenancy has been paid by way of premium.

(2) This does not apply if the sum is rent.

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(3) This also does not apply so far as other sufficient consideration for the payment can be shown to have been given.

(4) In this section "sum" includes the value of any consideration.

(5) Where rule 3 in section 303 (rules for determining effective duration of lease) applies, the premium, or an appropriate part of it, payable for or in connection with either lease mentioned in that rule may be treated for the purposes of this Chapter as having been required under the other.

307 Interpretation

(1) In this Chapter "premium" includes any similar sum payable to the immediate or a superior landlord or to a person connected with such a person.

(2) In subsection (1) "sum" includes the value of any consideration.

(3) In the application of this Chapter to Scotland—

"premium" includes, in particular, a grassum payable to the landlord under the lease in respect of which the grassum is payable or the landlord under any other lease of the property, and

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

(4) In the application of this Chapter 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.

CHAPTER 5

PROFITS OF PROPERTY BUSINESSES: OTHER RULES ABOUT RECEIPTS AND DEDUCTIONS

Furnished accommodation: receipts and deductions

308 Furnished lettings

(1) In calculating the profits of a property business which consists of or includes a furnished letting—

(a) any sum payable for the use of furniture is brought into account as a receipt, and

(b) a deduction is allowed for expenses incurred in connection with the provision of furniture.

(2) But subsection (1) does not apply to receipts or expenses brought into account in calculating the profits of a trade which consists of, or involves, making furniture available for use in premises.

(3) A furnished letting is a lease or other arrangement under which—

(a) a sum is payable in respect of the use of premises, and

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(b) the person entitled to the use of the premises is also entitled, in connection with that use, to the use of furniture.

(4) In this section—

(a) "premises" includes a caravan and a houseboat, and

(b) "sum" includes the value of any consideration.

309 Rent-a-room relief

(1) The rules for calculating the profits of an individual's UK property business are subject to Chapter 1 of Part 7 (rent-a-room relief).

(2) That Chapter provides relief on income from the use of furnished accommodation in the individual's only or main residence (see, in particular, sections 793 and 797).

Treatment of receipts on acquisition of business

310 Acquisition of business: receipts from transferor's UK property business

(1) This section applies if—

(a) a person ("the transferor") permanently ceased to carry on a UK property business at any time,

(b) at that time the transferor transferred to another ("the transferee") the right to receive sums arising from the carrying on of any business ("the transferred business") comprised in the transferor's UK property business, and

(c) the transferee subsequently carries on the transferred business.

(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 UK property business for any period before the cessation,

are brought into account in calculating the profits of the transferee's UK property business in the period of account in which they are received.

(3) Any sums mentioned in subsection (1)(b) which are received after the cessation of the transferor's property business are not post-cessation receipts (see Chapter 10).

(4) This section has effect as if it were contained in Chapter 10.

Reverse premiums as receipts

311 Reverse premiums

(1) This section applies if—

(a) a person receives a reverse premium, and

(b) the reverse premium is not brought into account under section 101(2) in calculating the profits of any trade carried on by the person.

(2) The person is treated as—

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(a) entering into a transaction mentioned in section 264 (if the land to which the property transaction relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and
(b) receiving the reverse premium as a result of that transaction.

(3) Accordingly, the reverse premium is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction.

(4) Subsection (5) 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.

(5) The whole amount or value of the reverse premium is brought into account in the period of account in which the property transaction is entered into.

(6) Expressions used in this section and sections 99 to 103 have the same meaning in this section as they do in those sections.

Deductions for expenditure on energy-saving items

312 Deduction for expenditure on energy-saving items

(1) This section applies if—
(a) a person carries on a property business in relation to land which consists of or includes a dwelling-house,
(b) the person incurs expenditure in acquiring and installing in the dwelling-house an energy-saving item (see subsections (5) to (7)),
(c) the expenditure is incurred before 6th April 2009,
(d) a deduction for the expenditure is not prohibited by the wholly and exclusively rule but would otherwise be prohibited by the capital prohibition rule (see subsection (8)), and
(e) no allowance under CAA 2001 may be claimed in respect of the expenditure.

(2) In calculating the profits of the business, a deduction for the expenditure is allowed.

(3) But any deduction is subject to—
(a) section 313 (restrictions on the relief), and
(b) any provision made by regulations under section 314.

(4) If, on a just and reasonable apportionment of any expenditure, part of the expenditure would qualify for the relief (but the remainder would not), a deduction is allowed for that part.

(5) "Energy-saving item" means—
(a) cavity wall insulation,
(b) loft insulation, or
(c) such other descriptions of items of an energy-saving nature as are for the time being specified in regulations made by the Treasury.

(6) The Treasury may by regulations provide for an item to be treated as an energy-saving item only if it satisfies such conditions as may be—

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(a) specified in, or
(b) determined in accordance with,

the regulations.

(7) The conditions may include conditions imposed by reference to information or documents issued by any body, person or organisation.

(8) In this section—

"the capital prohibition rule" means the rule in section 33 (capital expenditure), as applied by section 272, and

"the wholly and exclusively rule" means the rule in section 34 (expenses not wholly and exclusively for trade and unconnected losses), as applied by section 272.

313 Restrictions on relief

(1) This section restricts deductions that would otherwise be allowable under section 312.

(2) No deduction is allowed if, when the energy-saving item is installed, the dwelling-house—
(a) is in the course of construction, or
(b) is comprised in land in which the person does not have an interest or is in the course of acquiring an interest or further interest.

(3) No deduction is allowed in respect of expenditure in a tax year if—
(a) the business consists of or includes the commercial letting of furnished holiday accommodation (see Chapter 6), and
(b) the dwelling-house constitutes some or all of that accommodation for the tax year.

(4) No deduction is allowed if—
(a) the person derives rent-a-room receipts from the dwelling-house, and
(b) those receipts are brought into account in calculating the profits of the business in accordance with section 793 or 797 (rent-a-room relief).

(5) No deduction is allowed in respect of expenditure treated by section 57 (as applied by section 272) as incurred on the date on which the person starts to carry on the business unless the expenditure was incurred not more than 6 months before that date.

314 Regulations

(1) In relation to any deduction under section 312, the Treasury may make regulations for—
(a) restricting or reducing the amount of expenditure for which the deduction is allowable,
(b) excluding entitlement to the deduction in such cases as may be specified in, or determined in accordance with, the regulations,
(c) determining who is (and is not) entitled to the deduction if different persons have different interests in land that consists of or includes the whole or part of a building containing one or more dwelling-houses,

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(d) making apportionments if the property business is carried on by persons in partnership or an interest in land is beneficially owned by persons jointly or in common.

(2) The apportionments that may be made include apportionments to companies within the charge to corporation tax.

[[F26](3) Regulations under this section may—

(a) make different provision for different cases, and

(b) contain incidental, supplemental, consequential and transitional provision and savings (including provision as to appeals in relation to apportionments mentioned in subsection (1)(d)).**]**

Textual Amendments

F26 S. 314(3) inserted (retrospectively with effect as stated in s. 18(7)(8) of the amending Act) by Finance Act 2007 (c. 11), **s. 18(5)**

Deductions for expenditure on sea walls

315 Deduction for expenditure on sea walls

(1) This section applies if in a tax year a person —

(a) is the owner or tenant of any premises, and

(b) incurs expenditure in making a sea wall or other embankment necessary for the preservation or protection of the premises against the encroachment or overflowing of the sea or any tidal river.

(2) In calculating the profits of any property business carried on by the person in relation to the premises, a deduction is allowed for the expenditure in each tax year in the deduction period.

(3) The deduction period comprises—

(a) the tax year in which the expenditure is incurred, and

(b) the next 20 tax years.

(4) The amount of the deduction is 1/21 of the expenditure.

(5) No deduction is allowed for any expenditure in respect of which a capital allowance has been made.

(6) Section 316 deals with the case of an interest in the premises being transferred (and this section applies in that case as if the reference to the person in subsection (2) above included the transferor and the transferee).

316 Transfer of interest in premises

(1) This section applies if, during the deduction period, the whole of the person's interest in the premises or in any part of them is transferred, whether by operation of law or otherwise.

(2) For the tax year in which the transfer takes place—

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(a) the transferor and the transferee are entitled to a part of any deduction under section 315, and
(b) the amount of the deduction is determined by what is just and reasonable.

(3) For subsequent tax years in the deduction period, the entitlement to any deduction under section 315 depends on whether the interest transferred is in the whole of the premises or in part of them.

(4) If the interest transferred is in the whole of the premises, the transferee (but not the transferor) is entitled to any deduction under section 315.

(5) If the interest transferred is in part of the premises—
(a) the transferor and the transferee are entitled to a part of any deduction under section 315, and
(b) the amount of the deduction is determined by reference to what is properly referable to the part of the premises.

(6) This section is supplemented by sections 317 (ending of lease of premises) and 318 (transfer involving company within the charge to corporation tax).

317 Ending of lease of premises

(1) If a person's interest in the premises is a lease that comes to an end before the end of the deduction period, the interest is treated as if transferred to the following persons.

(2) If a new lease of the premises is granted and the new tenant makes a payment in respect of the embankment in question to the old tenant, the transferee is the new tenant.

(3) Otherwise the transferee is the owner of the interest in immediate reversion on the lease (or, in Scotland, the landlord).

318 Transfer involving company within the charge to corporation tax

(1) This section explains how section 316 works if—
(a) the transferor is a person within the charge to income tax and the transferee is a company within the charge to corporation tax, or
(b) the transferor is a company within the charge to corporation tax and the transferee is a person within the charge to income tax.

(2) Section 316 applies only for the purpose of determining—
(a) whether the person within the charge to income tax is entitled to a deduction (or part of a deduction) under section 315, and
(b) the amount of any such deduction.

(3) Accordingly, any reference to—
(a) whether a person is entitled to a deduction (or part of a deduction) under section 315, or
(b) the amount of any such deduction,
is ignored if the person is a company within the charge to corporation tax.

(4) For any entitlement of a company within the charge to corporation tax to a deduction for any of the expenditure, see section 30 of ICTA (corresponding corporation tax provision).

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Mineral royalties

319 Relief in respect of mineral royalties

(1) This section applies if in a tax year a person who is UK resident, or ordinarily UK resident, carries on a UK property business the receipts of which consist of or include mineral royalties—

(a) which the person is entitled to receive under a mineral lease or agreement, and

(b) which are not chargeable to tax under Chapter 8 (rent receivable in connection with a UK section 12(4) concern).

(2) In calculating the profits of the business, the person is treated as—

(a) entitled to receive only half of the total of the mineral royalties arising under the lease or agreement in the tax year, and

(b) making in the tax year only half of the total of the payments made in respect of the management of the property concerned.

(3) Sections 341 to 343 (meaning of "mineral lease or agreement" and "mineral royalties") apply for the purposes of this section as they apply for the purposes of Chapter 8.

Apportionments on sale of land

320 Nature of item apportioned on sale of estate or interest in land

(1) This section applies if—

(a) a person sells an estate or interest in land,

(b) on the sale a part of a receipt or outgoing in respect of the estate or interest is apportioned to the seller, and

(c) the receipt or outgoing is receivable or to be paid by the buyer after the apportionment is made.

(2) In calculating the profits of the seller's property business, the part apportioned is treated as being of the same nature as the receipt or outgoing.

Mutual business

321 Mutual business

(1) Nothing in this Part is to be read as applying the rules relating to mutual business to property businesses.

(2) Accordingly, receipts and expenses are to be brought into account in calculating the profits of a person's property business even if a relationship of mutuality exists between that person and another.

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CHAPTER 6

COMMERCIAL LETTING OF FURNISHED HOLIDAY ACCOMMODATION

Introduction

322 Introduction

(1) This Chapter explains for the purposes of this Part what is meant by the commercial letting of furnished holiday accommodation (see sections 323 to 326).

(2) It matters whether a UK property business consists of or includes the commercial letting of furnished holiday accommodation for the purposes of—
- (a) section 312 (deduction for expenditure on energy-saving items: see section 313(3)),
- (b) Chapter 1 of Part 10 of ICTA (loss relief: see section 504A of that Act),
- (c) section 833(4)(c) of ICTA (income regarded as earned income: see section 504A of that Act),
- (d) certain provisions of TCGA 1992 (see section 241 of that Act),
- (e) CAA 2001 (see, for example, sections 248 and 249 of that Act), and
- (f) section 189(2)(b) of FA 2004 (income regarded as relevant UK earnings for pension purposes: see section 504A of that Act).

(3) This Chapter also supplements the above provisions by providing in certain circumstances for the profits of the furnished holiday lettings part of a UK property business to be calculated separately (see sections 327 and 328).

Definition

323 Meaning of "commercial letting of furnished holiday accommodation"

(1) A letting is a lease or other arrangement under which a person is entitled to the use of accommodation.

(2) A letting of accommodation is commercial if the accommodation is let—
- (a) on a commercial basis, and
- (b) with a view to the realisation of profits.

(3) A letting is of furnished holiday accommodation if—
- (a) the person entitled to the use of the accommodation is also entitled, in connection with that use, to the use of furniture, and
- (b) the accommodation is qualifying holiday accommodation (see sections 325 and 326).

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

324 Meaning of "relevant period" in sections 325 and 326

(1) For the purposes of sections 325 and 326 "the relevant period" for accommodation let by a person in a tax year is determined as follows.

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(2) If the accommodation was not let by the person as furnished accommodation in the previous tax year, "the relevant period" is 12 months beginning with the first day in the tax year on which it is let by the person as furnished accommodation.

(3) If the accommodation—
  (a) was let by the person as furnished accommodation in the previous tax year, but
  (b) is not let by the person as furnished accommodation in the following tax year,

  "the relevant period" is 12 months ending with the last day in the tax year on which it is let by the person as furnished accommodation.

(4) Otherwise "the relevant period" is the tax year.

325 Meaning of "qualifying holiday accommodation"

(1) Accommodation which is let by a person during a tax year is "qualifying holiday accommodation" for the tax year if the availability, letting and pattern of occupation conditions are met.

(2) The availability condition is that, during the relevant period, the accommodation is available for commercial letting as holiday accommodation to the public generally for at least 140 days.

(3) The letting condition is that, during the relevant period, the accommodation is commercially let as holiday accommodation to members of the public for at least 70 days.

(4) For the purposes of the letting condition, a letting of accommodation for a period of longer-term occupation (see subsection (6)) is not a letting of it as holiday accommodation.

(5) The pattern of occupation condition is that, during the relevant period, not more than 155 days fall during periods of longer-term occupation.

(6) For the purposes of this section a "period of longer-term occupation" is a continuous period of more than 31 days during which the accommodation is in the same occupation otherwise than because of circumstances that are not normal.

326 Under-used holiday accommodation: averaging elections

(1) This section applies if during a tax year a person lets both—
  (a) qualifying holiday accommodation, and
  (b) accommodation that would be qualifying holiday accommodation if the letting condition (see section 325(3)) were met in relation to it ("under-used accommodation").

(2) The person may make an election for the tax year specifying—
  (a) the qualifying holiday accommodation, and
  (b) any or all of the under-used accommodation.

(3) The under-used accommodation so specified is treated as qualifying holiday accommodation for the tax year if the average of the number of let days for the tax year of all the accommodation specified in the election is at least 70.

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(4) "The number of let days" for a tax year of any accommodation is the number of days during the relevant period for which it is commercially let by the person as holiday accommodation to members of the public.

(5) Qualifying holiday accommodation may not be specified in more than one election for a tax year.

(6) An election for a tax year must be made on or before the first anniversary of the normal self-assessment filing date for the tax year.

Separate profit calculations

327 Capital allowances and loss relief

(1) If a UK property business consists of both—
  (a) the commercial letting of furnished holiday accommodation ("the furnished holiday lettings part"), and
  (b) other businesses or transactions ("the other part"),

this section requires separate calculations to be made of the profits of the furnished holiday lettings part and the other part.

(2) The calculations must be made if—
  (a) section 248 or 249 of CAA 2001 (giving effect to allowances and charges) applies to the furnished holiday lettings part or the other part, or
  (b) any provision of Chapter 1 of Part 10 of ICTA (loss relief) applies in relation to a loss made in either of those parts.

(3) If there is a letting of accommodation only part of which is holiday accommodation, such apportionments are to be made for the purposes of this section as are just and reasonable.

328 Earned income and relevant UK earnings for pension purposes

(1) If a UK property business consists of both—
  (a) the commercial letting of furnished holiday accommodation ("the furnished holiday lettings part"), and
  (b) other businesses or transactions,

this section requires a separate calculation to be made of the profits of the furnished holiday lettings part.

(2) The calculation must be made if the profits of the furnished holiday lettings part are treated as—
  (a) earned income under section 833(4)(c) of ICTA, or
  (b) income regarded as relevant UK earnings for pension purposes under section 189(2)(b) of FA 2004.

(3) If there is a letting of accommodation only part of which is holiday accommodation, such apportionments are to be made for the purposes of this section as are just and reasonable.

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CHAPTER 7

ADJUSTMENT INCOME

Adjustment on change of basis

329 Application of Chapter

(1) This Chapter applies if—

(a) a person carrying on a UK property business changes, from one period of account to the next, the basis on which profits of the business are calculated for income 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 UK property business should be calculated for income tax purposes.

(3) Subsections (3) to (6) of section 227 (what is meant by a person changing the basis on which profits are calculated) apply for the purposes of this section as they apply for the purposes of that section (but as if any reference to a trade were to a UK property business).

330 Adjustment income and adjustment expense

(1) An amount by way of adjustment must be calculated in accordance with section 231, which applies in relation to a UK property business as it applies in relation to a trade.

(2) If the amount produced by the calculation is positive, it is treated as income and charged to income tax under this Chapter.

It is referred to in this Chapter as "adjustment income".

(3) If the amount produced by the calculation is negative, a deduction is allowed for it in calculating the profits of the business.

It is referred to in this Chapter as an "adjustment expense".

(4) This section is subject to section 234 (no adjustment for certain expenses previously brought into account), which applies in relation to a UK property business as it applies in relation to a trade.

331 Income charged

Tax is charged under this Chapter on the full amount of any adjustment income arising in the tax year.

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332 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the adjustment income.

Treatment of adjustment income and adjustment expense

333 Treatment of adjustment income

(1) Adjustment income is treated as arising on the last day of the first period of account for which the new basis is adopted.

(2) But if there is a change of basis resulting from a tax adjustment affecting the calculation of any amount brought into account in respect of depreciation, adjustment income is treated as arising only when the asset to which it relates is realised or written off.

(3) Adjustment income is treated for the purposes of Chapter 1 of Part 10 of ICTA (loss relief) as profits of the UK property business for the tax year in which tax is charged on it.

334 Treatment of adjustment expense

(1) An adjustment expense is treated as an expense of the business arising on the last day of the first period of account for which the new basis is adopted.

(2) But if there is a change of basis resulting from a tax adjustment affecting the calculation of any amount brought into account in respect of depreciation, an adjustment expense is treated as arising only when the asset to which it relates is realised or written off.

CHAPTER 8

RENT RECEIVABLE IN CONNECTION WITH A UK SECTION 12(4) CONCERN

Charge to tax on rent receivable in connection with a UK section 12(4) concern

335 Charge to tax on rent receivable in connection with a UK section 12(4) concern

Income tax is charged on rent receivable in connection with a UK section 12(4) concern.

336 Meaning of "rent receivable in connection with a UK section 12(4) concern"

(1) For the purposes of this Chapter rent is receivable in connection with a UK section 12(4) concern if—
  (a) it is receivable in respect of an estate, interest or right in or over land in the United Kingdom, and
  (b) the estate, interest or right is used, occupied or enjoyed in connection with a concern listed in section 12(4).

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(2) For the purposes of this Chapter rent is also receivable in connection with a UK section 12(4) concern if—
  (a) it is receivable in respect of an estate, interest or right in or over land in the United Kingdom,
  (b) the lease or other agreement under which it is receivable provides for its recoupment by reducing royalties or payments of a similar nature, and
  (c) the reduction applies if the estate, interest or right is used, occupied or enjoyed in connection with a concern listed in section 12(4).

(3) In this Chapter "rent" includes—
  (a) a receipt mentioned in section 266(3), and
  (b) any other receipt in the nature of rent.

337 Income charged

(1) Tax is charged under this Chapter on the full amount of the profits arising in the tax year.

(2) This is subject to—
  section 339 (deduction for management expenses of owner of mineral rights), and
  section 340 (relief in respect of mineral royalties).

338 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the rent.

Management expenses of owner of mineral rights

339 Deduction for management expenses of owner of mineral rights

(1) This section applies if in a tax year—
  (a) a person lets a right to work minerals in the United Kingdom, and
  (b) the person pays a sum wholly and exclusively as an expense of management or supervision of the minerals in the tax year.

(2) In calculating the amount of rent receivable in connection with a UK section 12(4) concern, a deduction is allowed for the sum for the tax year.

(3) This is subject to section 340 (relief in respect of mineral royalties).

Mineral royalties

340 Relief in respect of mineral royalties

(1) This section applies if in a tax year—
  (a) a person who is UK resident, or ordinarily UK resident, is entitled to receive mineral royalties under a mineral lease or agreement, and
  (b) the royalties are chargeable to tax under this Chapter.

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(2) In calculating the amount of the royalties so chargeable, the person is treated as—
  (a) entitled to receive only half of the total of the royalties arising under the lease or agreement in the tax year, and
  (b) paying in the tax year only half of the total of the expenses mentioned in section 339(1)(b) (deduction for management expenses of owner of mineral rights).

(3) As to the meaning of "mineral lease or agreement" and "mineral royalties", see sections 341 to 343.

341 Meaning of "mineral lease or agreement" and "mineral royalties"

(1) In this Chapter "mineral lease or agreement" means—
  (a) a lease, profit à prendre, licence or other agreement conferring a right to win and work minerals in the United Kingdom,
  (b) a contract for the sale, or a conveyance, of minerals in or under land in the United Kingdom, and
  (c) a grant of a right under section 1 of the Mines (Working Facilities and Support) Act 1966 (c. 4) other than an ancillary right (within the meaning of that Act).

(2) In this Chapter "mineral royalties" means so much of any rent receivable under a mineral lease or agreement as relates to the winning and working of minerals.

(3) For the purposes of this section and section 343 "minerals" means all minerals and substances in or under land which are ordinarily worked for removal—
  (a) by underground working, or
  (b) by surface working,

  but excluding water, peat, top-soil and vegetation.

342 Extended meaning of "mineral royalties" etc. in Northern Ireland

(1) In the application of this Chapter to Northern Ireland references to mineral royalties include the following periodical payments.

(2) The payments are—
  (a) payments of compensation under section 29 or 35 of the Mineral Development Act (Northern Ireland) 1969 (c. 35 (N.I.)) ("the 1969 Act"),
  (b) payments of compensation under section 4 of the Petroleum (Production) Act (Northern Ireland) 1964 (c. 28 (N.I.)) ("the 1964 Act"),
  (c) payments made as mentioned in section 37 of the 1969 Act,
  (d) payments made under section 55(4)(b) of the 1969 Act, and
  (e) payments made under section 11 of the 1964 Act (payments in respect of minerals to persons entitled to a share of royalties under section 13(3) of the Irish Land Act 1903 (c. 37)).

(3) In the application of this Chapter to Northern Ireland references to the mineral lease or agreement under which mineral royalties are receivable include the enactment under which those payments are made.

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343 Power of Board to determine what counts as "mineral royalties"

The Board of Inland Revenue may by regulations—

(a) provide whether, and to what extent, rents receivable under a mineral lease or agreement which relate both to the winning and working of minerals and to other matters are treated as mineral royalties, and

(b) provide for treating the whole of such rents as mineral royalties if the extent to which they relate to matters other than the winning and working of minerals is small.

CHAPTER 9

RENT RECEIVABLE FOR UK ELECTRIC-LINE WAYLEAVES

Charge to tax on rent receivable for UK electric-line wayleaves

344 Charge to tax on rent receivable for a UK electric-line wayleave

Income tax is charged on rent receivable for a UK electric-line wayleave.

345 Meaning of "rent receivable for a UK electric-line wayleave"

(1) For the purposes of this Chapter rent is receivable for a UK electric-line wayleave if—

(a) it is receivable in respect of an easement, servitude or right in or over land in the United Kingdom, and

(b) the easement, servitude or right is enjoyed in connection with an electric, telegraph or telephone wire or cable.

(2) 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.

(3) In this Chapter "rent" includes—

(a) a receipt mentioned in section 266(3), and

(b) any other receipt in the nature of rent.

346 Extent of charge to tax

(1) Rent receivable for a UK electric-line wayleave is not chargeable to tax under this Chapter for a tax year if—

(a) a person carries on a UK property business in relation to some or all of the land to which the wayleave relates, and

(b) receipts (other than rents receivable for UK electric-line wayleaves) in respect of some or all of that land are brought into account in calculating the profits of the business for the tax year.

(2) In such a case, the rent receivable for the UK electric-line wayleave is brought into account in calculating the profits of the person's UK property business.

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(3) The rules for determining whether an amount is chargeable to tax under this Chapter also need to be read with section 22(2) (payments for wayleaves if person carries on a trade).

(4) That subsection secures that an amount which would otherwise be chargeable to tax under this Chapter may be brought into account instead in calculating the profits of a trade.

347 Income charged

Tax is charged under this Chapter on the full amount of the profits arising in the tax year.

348 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the rent.

CHAPTER 10

POST-CESSATION RECEIPTS

Charge to tax on post-cessation receipts

349 Charge to tax on post-cessation receipts

Income tax is charged on post-cessation receipts arising from a UK property business.

350 Extent of charge to tax

(1) A post-cessation receipt is chargeable to tax under this Chapter only so far as the receipt is not otherwise chargeable to income or corporation tax.

(2) Accordingly, a post-cessation receipt arising from a UK property business is not chargeable to tax under this Chapter so far as it is brought into account in calculating the profits of the business for any period.

351 Income charged

(1) Tax is charged under this Chapter on the full amount of the receipts received in the tax year.

(2) This is subject to—
   (a) sections 254 and 255 (allowable deductions), and
   (b) section 257 (election to carry back),

   which apply for the purposes of this Chapter as they apply for the purposes of Chapter 18 of Part 2 (but as if any reference to a trade were to a UK property business).

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352 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the receipts.

Meaning of "post-cessation receipts"

353 Basic meaning of "post-cessation receipt"

(1) In this Chapter "post-cessation receipt" means a sum—
- (a) which is received after a person permanently ceases to carry on a UK property business, and
- (b) which arises from the carrying on of the business before the cessation.

(2) Subsection (3) applies if—
- (a) a firm carries on a UK property business,
- (b) a person ceases to be a partner in the firm, and
- (c) at least one of the persons with whom the partner carried on the business before ceasing to be a partner continues to carry it on afterwards.

(3) The partner is treated for the purposes of this Chapter as permanently ceasing to carry on the business.

Modifications etc. (not altering text)
C16 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

354 Other rules about what counts as a "post-cessation receipt"

(1) Section 355 (transfer of rights if transferee does not carry on UK property business) treats certain amounts as being, or not being, post-cessation receipts for the purposes of this Chapter.

(2) The following provisions (which treat certain amounts as post-cessation receipts) apply for the purposes of this Chapter as they apply for the purposes of Chapter 18 of Part 2 (but as if any reference to a trade were to a UK property business)—

section 82(6) (contributions to local enterprise organisations or urban regeneration companies),

section 104(3) (distribution of assets of mutual concerns),

section 109(2) (receipt by donor or connected person of benefit attributable to certain gifts),

section 248 (debts paid after cessation),

section 249 (debts released after cessation), as qualified, where appropriate, by section 48(4) (car or motor cycle hire), and

section 250 (receipts relating to post-cessation expenditure).

(3) This Chapter also needs to be read with—
- (a) section 310(3) (which treats certain amounts as not being post-cessation receipts), and
- (b) section 844 (which treats certain income as a post-cessation receipt: unremittable income).

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Modifications etc. (not altering text)
C17 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

355 Transfer of rights if transferee does not carry on UK property business

(1) This section applies if—

(a) a person ("the transferor") permanently ceases to carry on a UK property business,

(b) the transferor transfers to another person ("the transferee") for value the right to receive sums arising from the carrying on of any business ("the transferred business") comprised in the transferor's UK property business, and

(c) the transferee does not subsequently carry on the transferred business.

(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 property business are not post-cessation receipts.

Modifications etc. (not altering text)
C18 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

Supplementary

356 Application to Schedule A businesses

(1) In this Chapter (except in section 355) any reference to a UK property business includes a Schedule A business.

(2) In this Chapter (except in section 355) any reference to a person permanently ceasing to carry on a UK property business includes the occurrence of an event which under section 337 of ICTA is treated as the discontinuance of a Schedule A business.

(3) In applying any provision of Chapter 18 of Part 2 for the purposes of this Chapter references to the calculation of the profits of a trade for corporation tax purposes are to be read as references to the calculation of the profits of a Schedule A business for corporation tax purposes.

Modifications etc. (not altering text)
C19 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

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CHAPTER 11

OVERSEAS PROPERTY INCOME

357 Charge to tax on overseas property income

Income tax is charged on the overseas property income of a person to whom the remittance basis applies.

Modifications etc. (not altering text)
C20 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

358 Meaning of "overseas property income"

In this Chapter "overseas property income", in relation to a person to whom the remittance basis applies, means amounts which—

(a) are not brought into account in calculating the profits of any overseas property business of the person, but

(b) would be if section 269(3) (charge to tax on profits of an overseas property business of a person to whom the remittance basis applies only in respect of land in the Republic of Ireland) were omitted.

Modifications etc. (not altering text)
C21 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

359 Income charged

Tax is charged under this Chapter on the amount specified by section 832 (relevant foreign income charged on the remittance basis).

Modifications etc. (not altering text)
C22 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

360 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

Modifications etc. (not altering text)
C23 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

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CHAPTER 12

SUPPLEMENTARY

361 Changes in trustees and personal representatives

(1) This section applies if there is a change—

(a) in the trustees of a trust, or

(b) in the personal representatives of a person,

at a time when they are carrying on a property business.

(2) For income tax purposes, the change does not result in—

(a) any of the trustees or personal representatives before the change permanently ceasing to carry on the business, or

(b) any of the trustees or personal representatives after the change starting to carry on the business.

Modifications etc. (not altering text)

C24 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

362 Effect of company starting or ceasing to be within charge to income tax

(1) This section applies if a company starts or ceases to be within the charge to income tax under Chapter 3 of this Part in respect of a UK property business.

(2) The company is treated for the purposes of this Part—

(a) as starting to carry on the business when it starts to be within the charge, or

(b) as permanently ceasing to carry on the business when it ceases to be within the charge.

Modifications etc. (not altering text)

C25 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

363 Overseas property businesses and overseas land: adaptation of rules

(1) This section applies if a provision of this Part—

(a) applies to an overseas property business or land outside the United Kingdom, but

(b) is expressed by reference to a domestic concept of law.

(2) In relation to that business or land, the provision is to be read so as to produce the result most closely corresponding with that produced by the provision in relation to a UK property business or land in the United Kingdom.

Modifications etc. (not altering text)

C26 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

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364 Meaning of "lease" and "premises"

(1) In this Part "lease" includes—

(a) an agreement for a lease (so far as the context permits), and

(b) any tenancy,

but does not include a mortgage.

(2) In this Part "premises" includes land.

Modifications etc. (not altering text)

C27 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

PART 4

SAVINGS AND INVESTMENT INCOME

CHAPTER 1

INTRODUCTION

365 Overview of Part 4

(1) This Part imposes charges to income tax under—

(a) Chapter 2 (interest),

(b) Chapter 3 (dividends etc. from UK resident companies etc.),

(c) Chapter 4 (dividends from non-UK resident companies),

(d) Chapter 5 (stock dividends from UK resident companies),

(e) Chapter 6 (release of loan to participator in close company),

(f) Chapter 7 (purchased life annuity payments),

(g) Chapter 8 (profits from deeply discounted securities),

(h) Chapter 9 (gains from contracts for life insurance etc.),

(i) Chapter 10 (distributions from unauthorised unit trusts),

(j) Chapter 11 (transactions in deposits),

(k) Chapter 12 (disposals of futures and options involving guaranteed returns), and

(l) Chapter 13 (sales of foreign dividend coupons).

(2) Part 6 deals with exemptions from the charges under this Part.

(3) See, in particular, any exemptions mentioned in the particular Chapters.

(4) The charges under this Part apply to non-UK residents as well as UK residents but this is subject to section 368(2) (charges on non-UK residents only on UK source income).

(5) This section needs to be read with the relevant priority rules (see sections 2 and 366).

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Modifications etc. (not altering text)
C28 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

366 Provisions which must be given priority over Part 4

(1) Any income, so far as it falls within—
- (a) any Chapter of this Part, and
- (b) Chapter 2 of Part 2 (receipts of a trade, profession or vocation),

is dealt with under Part 2.

(2) Any income, so far as it falls within—
- (a) any Chapter of this Part, and
- (b) Chapter 3 of Part 3 so far as the Chapter relates to a UK property business,

is dealt with under Part 3.

(3) Any income, so far as it falls within—
- (a) any Chapter of this Part other than Chapter 3 or 6, and
- (b) Part 2, 9 or 10 of ITEPA 2003 (employment income, pension income or social security income),

is dealt with under the relevant Part of ITEPA 2003.

(4) Nothing in this section prevents amounts both—
- (a) being counted as income for the purposes of Chapter 9 of this Part (gains from contracts for life insurance etc.), and
- (b) being taken into account in calculating income, or counting as income, for the purposes of other Parts of this Act,

but see section 527 (reduction for sums taken into account otherwise than under Chapter 9).

Modifications etc. (not altering text)
C29 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

367 Priority between Chapters within Part 4

(1) Any income, so far as it falls within Chapter 2 (interest) and Chapter 8 (profits from deeply discounted securities), is dealt with under Chapter 8.

(2) Any income, so far as it falls within Chapter 3 (dividends etc. from UK resident companies etc.) and another Chapter, is dealt with under Chapter 3 (but this is subject to subsection (3)).

(3) Any income, so far as it falls within—
- (a) Chapter 2 (interest) as a result of section 372 (building society dividends) or 379 (industrial and provident society payments), and
- (b) Chapter 3,

is dealt with under Chapter 2.

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Modifications etc. (not altering text)
C30 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

368 Territorial scope of Part 4 charges

(1) Income arising to a UK resident is chargeable to tax under this Part whether or not it is from a source in the United Kingdom.

(2) Income arising to a non-UK resident is chargeable to tax under this Part only if it is from a source in the United Kingdom.

(3) References in this section to income which is from a source in the United Kingdom include, in the case of any income which does not have a source, references to income which has a comparable connection to the United Kingdom.

(4) This section is subject to any express or implied provision to the contrary in this Part (or elsewhere in the Income Tax Acts).

Modifications etc. (not altering text)
C31 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

CHAPTER 2

INTEREST

Charge to tax on interest

369 Charge to tax on interest

(1) Income tax is charged on interest.

(2) The following sections extend what is treated as interest for certain purposes—
section 372 (building society dividends),
section 373 (open-ended investment company interest distributions),
section 376 (authorised unit trust interest distributions),
section 379 (industrial and provident society payments),
section 380 (funding bonds), and
section 381 (discounts).

(3) For exemptions, see in particular—
(a) Chapter 2 of Part 6 (national savings income),
(b) Chapter 3 of Part 6 (income from individual investment plans),
(c) Chapter 4 of Part 6 (SAYE interest),
(d) Chapter 6 of Part 6 (income from FOTRA securities),
(e) sections 749 to 756 (interest arising from repayment supplements, tax reserve certificates, damages for personal injury, employees' share schemes,

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repayments of student loans, the redemption of funding bonds and interest on certain foreign currency securities), and

(f) sections 757 to 767 (interest and royalty payments).

(4) Subsection (1) is also subject to sections 714(5), 716(4) and 720(7) of ICTA (exemptions for interest on securities within the accrued income scheme).

370 Income charged

(1) Tax is charged under this Chapter on the full amount of the interest arising in the tax year.

(2) Subsection (1) is subject to Part 8 (foreign income: special rules).

371 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the interest.

Other income taxed as interest

372 Building society dividends

(1) Any dividend paid by a building society is treated as interest for the purposes of this Act.

(2) In this section "dividend" has the meaning given by regulations made under section 477A(1) of ICTA (building societies: regulations for the deduction of tax).

373 Open-ended investment company interest distributions

(1) This section applies if the distribution accounts of an open-ended investment company show the total amount available for distribution to owners of shares in the company as available for distribution as yearly interest.

(2) Subsection (1) is subject to subsections (6) and (7).

(3) For income tax purposes payments of yearly interest are treated as made to the owners of the shares by the company.

(4) Subsection (3) is subject to the qualifications in section 468L(4) of ICTA (which modifies the obligation for a person by or through whom a payment of interest is made to deduct tax under section 349(2) of ICTA in the case of interest distributions within that subsection).

(5) The amount of the payment treated as made to each owner is so much of the total amount mentioned in subsection (1) as is proportionate to the owner's shares.

(6) This section only applies if the condition in section 468L(1A) of ICTA (the qualifying investments test) is met throughout the distribution period.

(7) This section does not apply if the open-ended investment company is an approved personal pension scheme.

(8) See section 375 for the interpretation of this section and section 374.

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374 Date when interest payments under section 373 made

(1) This section applies for determining the date on which payments of interest under section 373 are treated as made.

(2) The date on which the payments are treated as made depends on whether a date is specified for any distribution for the distribution period in question by or in accordance with—

(a) the company's instrument of incorporation and its prospectus in issue for the time being (including any supplements), or

(b) in the case of an open-ended investment company which is part of an umbrella company, such parts of those documents of the umbrella company as apply to the open-ended investment company.

(3) If such a date is so specified, the payments are treated as made on that date.

(4) If no such date is so specified, the payments are treated as made on the last day of that period.

375 Interpretation of sections 373 and 374

(1) In sections 373 and 374 and this section—

"approved personal pension scheme" has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

"distribution" includes investment on behalf of an owner of shares in respect of the owner's accumulation shares,

"distribution accounts" means the accounts showing how the total amount available for distribution to owners of shares is calculated,

"distribution period" means the period by reference to which that amount is ascertained,

"the OEIC Regulations" means the Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154),

"open-ended investment company" has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (11) of ICTA, as inserted by regulation 10 of the OEIC Regulations),

"owner of shares" has the same meaning as in that Chapter (see section 468(10) and (15) of that Act, as so inserted), and

"umbrella company" has the same meaning as in section 468 of that Act (see section 468(18), as so inserted).

(2) In subsection (1) "accumulation share" means a share in respect of which income is credited periodically to the capital part of the company's scheme property.

(3) In subsection (2) "scheme property" has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (13) of ICTA, as inserted by regulation 10 of the OEIC Regulations).

376 Authorised unit trust interest distributions

(1) This section applies if the distribution accounts of an authorised unit trust show the total amount available for distribution to unit holders as available for distribution as yearly interest.

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(2) Subsection (1) is subject to subsections (6) and (7).

(3) For income tax purposes payments of yearly interest are treated as made to the unit holders.

(4) Subsection (3) is subject to the qualifications in section 468L(4) of ICTA (which modifies the obligation for a person by or through whom a payment of interest is made to deduct tax under section 349(2) of ICTA in the case of interest distributions within that subsection).

(5) The amount of the payment treated as made to each unit holder is so much of the total amount mentioned in subsection (1) as is proportionate to the unit holder's rights.

(6) This section only applies if the condition in section 468L(1A) of ICTA (the qualifying investments test) is met throughout the distribution period.

(7) This section does not apply if the authorised unit trust is an approved personal pension scheme.

(8) See section 378 for the interpretation of this section and section 377.

377 Date when interest payments under section 376 made

(1) This section applies for determining the date on which payments of interest under section 376 are treated as made.

(2) The date on which the payments are treated as made depends on whether a date is specified by or in accordance with the trust's terms for any distribution for the distribution period in question.

(3) If such a date is so specified, the payments are treated as made on that date.

(4) If no such date is so specified, the payments are treated as made on the last day of that period.

378 Interpretation of sections 376 and 377

In sections 376 and 377—

"approved personal pension scheme" has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

"distribution" includes investment on behalf of a unit holder in respect of the holder's accumulation units,

"distribution accounts" means the accounts showing how the total amount available for distribution to unit holders is ascertained, and

"distribution period" means the period by reference to which that amount is ascertained.

379 Industrial and provident society payments

(1) Any dividend, bonus or other sum payable to a shareholder in—

(a) a registered industrial and provident society, or

(b) a UK agricultural or fishing co-operative,

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is treated as interest for income tax purposes if it is payable by reference to the amount of the shareholder's holding in its share capital.

(2) In subsection (1)—

"registered industrial and provident society" means a society registered or treated as registered under the Industrial and Provident Societies Act 1965 (c. 12) or the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)), and

"UK agricultural or fishing co-operative" means a co-operative association—

(a) which is established in the United Kingdom and UK resident, and

(b) whose primary object is assisting its members in—

(i) carrying on agricultural or horticultural businesses on land occupied by them in the United Kingdom, or

(ii) carrying on businesses consisting in the catching or taking of fish or shellfish.

(3) In subsection (2) "co-operative association" means a body with a written constitution from which the Secretary of State considers that it is in substance a co-operative association.

(4) For the purposes of subsection (3), the Secretary of State must have regard to the way in which the body's constitution provides for its income to be applied for its members' benefit and all other relevant provisions.

(5) In Northern Ireland subsections (3) and (4) apply with the substitution for "the Secretary of State" of " the Department of Agriculture and Rural Development" ".

380 Funding bonds

(1) This section applies to the issue of funding bonds to a creditor in respect of a liability to pay interest on a debt incurred by a government, public institution, other public authority or body corporate.

(2) The issue is treated for income tax purposes as if it were the payment of so much of that interest as equals the market value of the bonds at their issue.

(3) In this section "funding bonds" includes any bonds, stocks, shares, securities or certificates of indebtedness.

Modifications etc. (not altering text)

C32 S. 380 modified (7.4.2005) by Finance Act 2005 (c. 7), s. 55, **Sch. 2 para. 10**

381 Discounts

(1) All discounts, other than discounts in deeply discounted securities, are treated as interest for the purposes of this Act.

(2) In this section "deeply discounted securities" means securities to which Chapter 8 of this Part applies (profits from deeply discounted securities).

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

CHAPTER 3

DIVIDENDS ETC. FROM UK RESIDENT COMPANIES ETC.

Introduction

382 Contents of Chapter

(1) This Chapter—

(a) imposes a charge to income tax on dividends and other distributions of UK resident companies (see section 383),

(b) treats dividends as paid in some circumstances (see sections 386 to 391), and

(c) makes special provision where the charge is in respect of shares awarded under an approved share incentive plan (see sections 392 to 396).

(2) This Chapter also makes provision about tax credits, tax being treated as paid and reliefs available in respect of certain distributions which applies whether or not the distributions are otherwise dealt with under this Chapter (see sections 397 to 401).

(3) For exemptions from the charge under this Chapter, see in particular—

Chapter 3 of Part 6 (income from individual investment plans),

Chapter 5 of that Part (venture capital trust dividends),

section 770 (amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment), and

section 498 of ITEPA 2003 (no charge on shares ceasing to be subject to SIP in certain circumstances).

(4) In this Chapter "dividends" does not include income treated as arising under section 410 (stock dividends).

Charge to tax on dividends and other distributions

383 Charge to tax on dividends and other distributions

(1) Income tax is charged on dividends and other distributions of a UK resident company.

(2) For income tax purposes such dividends and other distributions are to be treated as income.

(3) For the purposes of subsection (2), it does not matter that those dividends and other distributions are capital apart from that subsection.

384 Income charged

(1) Tax is charged under this Chapter on the amount or value of the dividends paid and other distributions made in the tax year.

(2) Subsection (1) is subject to—

section 393(2) and (3) (later charge where cash dividends retained in SIPs are paid over), and

section 394(3) (distribution when dividend shares cease to be subject to SIP).

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) See also section 398 (under which the amount or value of the dividends or other distributions is treated as increased if any person is entitled to a tax credit in respect of them).

385 Person liable

(1) The person liable for any tax charged under this Chapter is—
  (a) the person to whom the distribution is made or is treated as made (see Part 6 of ICTA and sections 386(3) and 389(3)), or
  (b) the person receiving or entitled to the distribution.

(2) Subsection (1) is subject to—
  section 393(4) (later charge where cash dividends retained in SIPs are paid over), and
  section 394(4) (distribution when dividend shares cease to be subject to SIP).

Amounts treated as dividends

386 Open-ended investment company dividend distributions

(1) This section applies if the distribution accounts of an open-ended investment company show the total amount available for distribution to owners of shares in the company as available for distribution as dividends.

(2) Subsection (1) is subject to subsection (5).

(3) For income tax purposes dividends are treated as paid to the owners of the shares by the company.

(4) The amount of the dividends treated as paid to each owner is so much of the total amount mentioned in subsection (1) as is proportionate to the owner's shares.

(5) This section does not apply if the open-ended investment company is an approved personal pension scheme.

(6) See section 388 for the interpretation of this section and section 387.

387 Date when dividends paid under section 386

(1) This section applies for determining the date on which dividends are treated as paid under section 386.

(2) The date on which the dividends are treated as paid depends on whether a date is specified for the distribution period in question by or in accordance with—
  (a) the company's instrument of incorporation and its prospectus in issue for the time being (including any supplements), or
  (b) in the case of an open-ended investment company which is part of an umbrella company, such parts of those documents of the umbrella company as apply to the open-ended investment company.

(3) If such a date is so specified, the dividends are treated as paid on that date.

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(4) If no such date is so specified, the dividends are treated as paid on the last day of that period.

388 Interpretation of sections 386 and 387

(1) In sections 386 and 387 and this section—

"approved personal pension scheme" has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

"distribution" includes investment on behalf of an owner of shares in respect of the owner's accumulation shares,

"distribution accounts" means the accounts showing how the total amount available for distribution to owners of shares is calculated,

"distribution period" means the period by reference to which that amount is ascertained,

"the OEIC Regulations" means the Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154),

"open-ended investment company" has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (11) of ICTA, as inserted by regulation 10 of the OEIC Regulations),

"owner of shares" has the same meaning as in that Chapter (see section 468(10) and (15) of that Act, as so inserted), and

"umbrella company" has the same meaning as in section 468 of that Act (see section 468(18), as so inserted).

(2) In subsection (1) "accumulation share" means a share in respect of which income is credited periodically to the capital part of the company's scheme property.

(3) In subsection (2) "scheme property" has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (13) of ICTA, as inserted by regulation 10 of the OEIC Regulations).

389 Authorised unit trust dividend distributions

(1) This section applies if the distribution accounts of an authorised unit trust show the total amount available for distribution to unit holders as available for distribution as dividends.

(2) Subsection (1) is subject to subsection (6).

(3) For income tax purposes dividends are treated as paid to the unit holders.

(4) The amount of the dividends treated as paid to each unit holder is so much of the total amount mentioned in subsection (1) as is proportionate to the unit holder's rights.

(5) The dividends are treated as paid on the shares and by the company referred to in section 468(1) of ICTA (which relates to the trustees of an authorised unit trust being treated as a UK resident company in which the unit holders' rights are shares).

(6) This section does not apply if the authorised unit trust is an approved personal pension scheme.

(7) See section 391 for the interpretation of this section and section 390.

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

390 Date when dividends paid under section 389

(1) This section applies for determining the date on which dividends are treated as paid under section 389.

(2) The date on which the dividends are treated as paid depends on whether a date is specified by or in accordance with the trust's terms for any distribution for the distribution period in question.

(3) If such a date is so specified, the dividends are treated as paid on that date.

(4) If no such date is so specified, the dividends are treated as paid on the last day of that period.

391 Interpretation of sections 389 and 390

In sections 389 and 390—

"approved personal pension scheme" has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

"distribution" includes investment on behalf of a unit holder in respect of the holder's accumulation units,

"distribution accounts" means the accounts showing how the total amount available for distribution to unit holders is ascertained, and

"distribution period" means the period by reference to which that amount is ascertained.

Shares in approved share incentive plans ("SIPs")

392 SIP shares: introduction

(1) Sections 393 to 395 contain special rules about the charge under this Chapter in respect of shares awarded to an individual under an approved share incentive plan.

(2) Those sections only apply if condition A or B was met at the time the shares in question were so awarded.

(3) Condition A is that—

(a) the earnings from the eligible employment were general earnings (see section 7(3) of ITEPA 2003) to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 applied, or

(b) if there had been any earnings from it, they would have been such earnings.

(4) In subsection (3)—

(a) "the eligible employment" means the employment resulting in the individual meeting the employment requirement in relation to the plan, and

(b) the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 has the same meaning as it has in the employment income Parts of that Act (see sections 14(3) and 20(3) of that Act).

(5) Condition B is that—

(a) the shares were awarded before 6th April 2003, and

(b) the individual was liable for tax under Schedule E in respect of the relevant employment.

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(6) In subsection (5) "the relevant employment" means the employment by reference to which the individual met the requirements in paragraph 14 of Schedule 8 to FA 2000 (employee share ownership plans: the employment requirement) in relation to the plan.

(7) See section 396 for the general interpretation of this section and sections 393 to 395.

393 Later charge where cash dividends retained in SIPs are paid over

(1) This section applies if a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested etc.).

(2) Tax charged under this Chapter is charged for the tax year in which the cash dividend is paid over instead of the tax year in which it was originally paid.

(3) Tax so charged is charged on the amount of the cash dividend paid over.

(4) The person liable for any tax so charged is the participant.

(5) For the purposes of determining—
   (a) whether the participant is entitled to a tax credit under section 397 in respect of a cash dividend so charged, and
   (b) the amount of that tax credit,

   that section applies as it has effect for the tax year in which the cash dividend is paid over.

(6) For the purposes of this Chapter, the question whether a cash dividend paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 is a dividend paid by a company that is UK resident is determined by reference to the tax year in which the dividend was originally paid.

394 Distribution when dividend shares cease to be subject to SIP

(1) This section applies if dividend shares cease to be subject to an approved share incentive plan before the end of the period of 3 years beginning with the date on which the shares were acquired on the participant's behalf.

(2) For income tax purposes a distribution is treated as made to the participant in the tax year in which the shares cease to be subject to the plan.

(3) The amount of the distribution treated as made is the amount of the cash dividend applied to acquire the shares on the participant's behalf, so far as it represents a cash dividend paid in respect of plan shares in a UK resident company.

(4) The person liable for any tax charged on the distribution as a result of this section is the participant.

(5) For the purposes of determining—
   (a) whether the participant is entitled to a tax credit under section 397 in respect of a distribution so charged, and
   (b) if so, the amount of that tax credit,

   that section applies as it has effect for the tax year in which the shares cease to be subject to the plan.

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) But for the purposes of this Chapter, the question whether the distribution under subsection (2) is a distribution by a company that is UK resident is determined by reference to the year in which the company paid the dividend applied to acquire the shares on the participant's behalf.

(7) For rules identifying shares ceasing to be subject to approved share incentive plans, see section 508 of ITEPA 2003.

395 Reduction in tax due in cases within section 394

(1) This section applies if—
  (a) a person is liable to tax as a result of section 394, and
  (b) any tax is paid on any capital receipts under section 501 of ITEPA 2003 (charge on capital receipts in respect of plan shares) in respect of the shares that cease to be subject to the approved share incentive plan.

(2) The tax due is to be reduced by an amount equal to the total tax so paid.

(3) In subsection (2) "the tax due" means the amount of tax due as a result of section 394 after deduction of the tax credit determined in accordance with section 394(5).

(4) For rules identifying shares ceasing to be subject to approved share incentive plans, see section 508 of ITEPA 2003.

396 Interpretation of sections 392 to 395

(1) This section and sections 392 to 395 form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).

(2) Accordingly, expressions used in this section or those sections and contained in the index in paragraph 100 of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.

(3) In particular—
  (a) for the meaning of "award of shares" see paragraph 5(1) of that Schedule,
  (b) for the meaning of "ceasing to be subject to plan" see paragraph 97 of that Schedule,
  (c) for the meaning of "dividend shares" see paragraph 62(3)(b) of that Schedule,
  (d) for the meaning of "employment requirement" see paragraph 15(3) of that Schedule,
  (e) for the meaning of "participant" see paragraph 5(4) of that Schedule,
  (f) for the meaning of "plan shares" see paragraphs 86 to 88 and 99(1) of that Schedule, and
  (g) for the meaning of "shares" see paragraphs 87(6) and 99(2) of that Schedule.

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Tax credits and payment and deduction of tax

397 Tax credits for qualifying distributions: UK residents and eligible non-UK residents

(1) A UK resident or eligible non-UK resident receiving a qualifying distribution made by a UK resident company is entitled to a tax credit equal to one-ninth of the amount or value of the distribution (but see subsections (3) and (6)).

(2) Such a person may claim to deduct the tax credit from—

(a) the income tax charged on the person's total income for the tax year in which the distribution is made, or

(b) the income tax charged on the person's income under section 3 of ICTA (certain income charged at basic rate) for that year.

(3) Subsection (1) only applies so far as the distribution is brought into charge to tax, and accordingly if the person's total income is reduced by any deductions which fall to be made from the distribution, the tax credit for the distribution is reduced in the same proportion as the distribution.

(4) For the purposes of this section "eligible non-UK resident", in relation to a qualifying distribution, means an individual who at any time in the tax year in which it is received is a non-UK resident within section 278(2) of ICTA (Commonwealth citizens, EEA nationals etc.).

(5) If a distribution is, or is treated under any provision of the Tax Acts as, the income of a person ("P") other than the recipient ("R"), P (not R) is treated as receiving it for the purposes of this section (and so P (not R) is entitled to a tax credit if P falls within subsection (1)).

(6) This section is subject to the following provisions—

section 231AA of ICTA (no tax credit for borrower under stock lending arrangement or interim holder under repurchase agreement),

section 231AB of ICTA (no tax credit for original owner under repurchase agreement in respect of certain manufactured dividends),

section 469(2A) of ICTA (no tax credit for trustees of a unit trust scheme that is neither an authorised unit trust nor an umbrella scheme), and

section 171(2B) of FA 1993 (no tax credit for distributions in respect of assets in Lloyd's member's premium trust fund).

Modifications etc. (not altering text)

C33 S. 397 excluded (19.7.2006) by Finance Act 2006 (c. 25), **s. 121(5)** (with Sch. 17 para. 18(2))
S. 397(1) excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **s. 504(4)(b)** (with transitional provisions and savings in Sch. 2)

398 Increase in amount or value of dividends where tax credit available

(1) If a person is entitled to a tax credit in respect of a dividend or other distribution, the amount or value of the dividend or other distribution is treated as increased by the amount of the tax credit for all income tax purposes (except section 397(1)).

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Subsection (1) does not apply if the distribution is dealt with under Chapter 2 of Part 2 unless the trade consists of the underwriting business of a member of Lloyd's.

399 Qualifying distributions received by persons not entitled to tax credits

(1) This section applies if a person is not entitled to a tax credit for a qualifying distribution included in the person's income for a tax year.

(2) The person is treated as having paid income tax at the dividend ordinary rate on the amount or value of the distribution (but see subsection (7)).

(3) For the purposes of subsection (2), if the person is non-UK resident the amount or value of the distribution is treated as the grossed up amount, unless the person is a company which is beneficially entitled to the income.

(4) If the person is non-UK resident and the distribution is income to which section 686 of ICTA applies (accumulation and discretionary trusts: special rates of tax), for the purposes of that section the amount or value of the distribution is treated as the grossed up amount.

(5) In this section "the grossed up amount" means the actual amount or value of the distribution, grossed up by reference to the dividend ordinary rate for the tax year.

(6) The income tax treated as paid under subsection (2) is not repayable.

(7) Subsection (2) is subject to the following provisions—

section 231AA(1A) of ICTA (which disapplies subsection (2) for borrower under stock lending arrangement or interim holder under repurchase agreement),

section 231AB(1A) of ICTA (which disapplies subsection (2) for original owner under a repurchase agreement in respect of certain manufactured dividends), and

section 469(2B) of ICTA (which disapplies subsection (2) for trustees of a unit trust scheme that is neither an authorised unit trust nor an umbrella scheme).

400 Non-qualifying distributions

(1) This section applies if a person's income in a tax year includes a non-qualifying distribution.

(2) The person is treated as having paid income tax at the dividend ordinary rate on the amount or value of the distribution.

(3) The income tax treated as paid under subsection (2) is not repayable.

(4) If the distribution is income to which section 686 of ICTA applies (accumulation and discretionary trusts: special rates of tax), the trustees' liability for income tax at the dividend trust rate on the amount or value of the whole or any part of the distribution is reduced.

(5) The amount of the reduction is equal to income tax at the dividend ordinary rate on so much of the distribution as is assessed at the dividend trust rate.

(6) In this section and section 401 "non-qualifying distribution" means a distribution which is not a qualifying distribution.

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

401 Relief: qualifying distribution after linked non-qualifying distribution

(1) Where a person pays an amount in respect of extra liability for a non-qualifying distribution, the person's extra liability for a subsequent qualifying distribution is reduced by that amount if conditions A and B are met.

(2) Condition A is that the non-qualifying distribution consists of the issue of share capital or security.

(3) Condition B is that the qualifying distribution consists of a repayment of the share capital or the principal of the security.

(4) A person's extra liability for a distribution charged to tax for the tax year 1999-2000 or a later tax year is the amount by which the person's liability to income tax on the distribution exceeds the amount it would be if it were charged only at the dividend ordinary rate.

(5) A person's extra liability for a distribution charged to tax for a tax year after the tax year 1992-93 and before the tax year 1999-2000 is the amount by which the person's liability to income tax on the distribution exceeds the amount it would be if it were charged only at the lower rate.

(6) A person's extra liability for a distribution charged to tax for a tax year before the tax year 1993-94 is the amount by which the person's liability to income tax on the distribution exceeds the amount it would be if it were charged only at the basic rate.

(7) In this section "security" has the meaning given in section 254(1) of ICTA.

CHAPTER 4

DIVIDENDS FROM NON-UK RESIDENT COMPANIES

Charge to tax on dividends from non-UK resident companies

402 Charge to tax on dividends from non-UK resident companies

(1) Income tax is charged on dividends of a non-UK resident company.

(2) For exemptions, see in particular section 770 (amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment).

(3) Subsection (1) is also subject to section 498 of ITEPA 2003 (no charge on shares ceasing to be subject to SIP in certain circumstances).

(4) In this Chapter "dividends" does not include dividends of a capital nature.

403 Income charged

(1) Tax is charged under this Chapter on the full amount of the dividends arising in the tax year.

(2) Subsection (1) is subject to—

section 406(2) and (3) (later charge where cash dividends retained in SIPs are paid over),

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section 407(3) (dividend payment when dividend shares cease to be subject to SIP), and

Part 8 (foreign income: special rules).

404 Person liable

(1) The person liable for any tax charged under this Chapter is the person receiving or entitled to the dividends.

(2) Subsection (1) is subject to—

section 406(4) (later charge where cash dividends retained in SIPs are paid over), and

section 407(4) (dividend payment when dividend shares cease to be subject to SIP).

Shares in approved share incentive plans ("SIPs")

405 SIP shares: introduction

(1) Sections 406 to 408 contain special rules about the charge under this Chapter in respect of shares awarded to an individual under an approved share incentive plan.

(2) Those sections only apply if the condition in section 392(3) or (5) was met at the time the shares in question were so awarded (earnings within ITEPA 2003).

(3) This section and sections 406 to 408 form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).

(4) Accordingly, expressions used in this section or those sections and contained in the index in paragraph 100 of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.

(5) In particular—

(a) for the meaning of "award of shares" see paragraph 5(1) of that Schedule,

(b) for the meaning of "ceasing to be subject to plan" see paragraph 97 of that Schedule,

(c) for the meaning of "dividend shares" see paragraph 62(3)(b) of that Schedule,

(d) for the meaning of "participant" see paragraph 5(4) of that Schedule,

(e) for the meaning of "plan shares" see paragraphs 86 to 88 and 99(1) of that Schedule, and

(f) for the meaning of "shares" see paragraphs 87(6) and 99(2) of that Schedule.

406 Later charge where cash dividends retained in SIPs are paid over

(1) This section applies if a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested etc.).

(2) Tax charged under this Chapter is charged for the tax year in which the cash dividend is paid over instead of the tax year in which in which it was originally paid.

(3) Tax so charged is charged on the amount of the cash dividend paid over.

(4) The person liable for any tax so charged is the participant.

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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(5) For the purposes of this Chapter, the question whether a cash dividend so paid over is a dividend paid by a company that is non-UK resident is determined by reference to the tax year in which the dividend was originally paid.

407 Dividend payment when dividend shares cease to be subject to SIP

(1) This section applies if dividend shares cease to be subject to an approved share incentive plan before the end of the period of 3 years beginning with the date on which the shares were acquired on the participant's behalf.

(2) For income tax purposes a dividend is treated as paid to the participant in the tax year in which the shares cease to be subject to the plan.

(3) The amount of the dividend treated as paid is the amount of the cash dividend applied to acquire the shares on the participant's behalf, so far as it represents a cash dividend paid in respect of plan shares in a non-UK resident company.

(4) The person liable for any tax charged as a result of this section is the participant.

(5) For rules identifying shares ceasing to be subject to approved share incentive plans, see section 508 of ITEPA 2003.

408 Reduction in tax due in cases within section 407

(1) This section applies if—
  (a) a person is liable for tax as a result of section 407, and
  (b) any tax is paid on any capital receipts under section 501 of ITEPA 2003 (charge on capital receipts in respect of plan shares) in respect of the shares that cease to be subject to the approved share incentive plan.

(2) The tax due as a result of section 407 is to be reduced by an amount equal to the total tax so paid.

(3) For rules identifying shares ceasing to be subject to approved share incentive plans, see section 508 of ITEPA 2003.

CHAPTER 5

STOCK DIVIDENDS FROM UK RESIDENT COMPANIES

409 Charge to tax on stock dividend income

(1) Income tax is charged on stock dividend income.

(2) In this Chapter “stock dividend income” means the income that is treated as arising under section 410.

410 When stock dividend income arises

(1) This section applies if share capital is issued as mentioned in section 249(1)(a) or (b) of ICTA (certain share capital issued by UK resident companies in lieu of dividends or as bonus share capital).

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) If an individual is beneficially entitled to that share capital, income is treated as arising to the individual.

(3) If—

(a) the share capital is issued to trustees in respect of shares they hold in the company (alone or with others), and

(b) a cash dividend paid to them in respect of the shares would have been to any extent income to which section 686 of ICTA applies (accumulation and discretionary trusts: special rates of tax),

income is treated as arising to the trustees.

(4) If the share capital is issued to personal representatives during the administration period, income is treated as arising (but see section 413(4)).

(5) In subsection (4) "administration period" has the meaning given by section 653.

(6) Income within this section is treated as arising on the earliest date on which the company is required to issue the share capital in question.

(7) See section 413(5) (apportionment) if two or more persons are entitled to the share capital.

411 Income charged

(1) Tax is charged under this Chapter on the amount of stock dividend income treated for income tax purposes as arising in the tax year.

(2) That amount is the cash equivalent of the share capital on the issue of which the stock dividend income arises (see section 412), grossed up by reference to the dividend ordinary rate for the tax year.

412 Cash equivalent of share capital

(1) The cash equivalent of share capital within section 249(1)(a) of ICTA (an issue in lieu of cash dividend) is the amount of the cash dividend alternative.

(2) But if the difference between the cash dividend alternative and the share capital's market value equals or exceeds 15% of that market value—

(a) subsection (1) does not apply, and

(b) the cash equivalent of the share capital is its market value.

(3) The cash equivalent of share capital within section 249(1)(b) of ICTA (bonus share capital) is its market value.

(4) For the purposes of this section, market value is determined—

(a) in the case of listed share capital, on the date of first dealing, and

(b) in the case of other share capital, on the earliest date on which the company is required to issue it.

(5) In this section—

"listed" means listed in the Stock Exchange Daily Official List, and

"market value" has the same meaning as in sections 272(1) and (3) and 273(3) of TCGA 1992.

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413 Person liable

(1) The person liable for any tax charged under this Chapter is the person indicated by this section.

(2) If section 410(2) applies, the individual is liable for the tax.

(3) If section 410(3) applies, the trustees are liable for the tax.

(4) If section 410(4) applies, tax is not charged under this Chapter, but see—

(a) section 664 (under which the income treated as arising to the personal representatives under section 410 is treated as part of the aggregate income of the estate for the purposes of Chapter 6 of Part 5), and

(b) section 701(8) of ICTA (under which similar provision is made for the purposes of Part 16 of ICTA).

(5) If two or more persons are entitled to the share capital on the issue of which the stock dividend income arises, this Chapter applies as if the company issuing it had issued to each of those persons a proportionate part of the share capital.

(6) In subsection (5) "proportionate part" means a part proportionate to the person's interest on the earliest date on which the company is required to issue the share capital.

414 Income tax treated as paid

(1) A person liable to tax under this Chapter is treated as having paid income tax at the dividend ordinary rate on the income charged, and where trustees are so liable (because a cash dividend paid to them in respect of the shares would have been to any extent income to which section 686 of ICTA applies) the income is treated as if it had been chargeable to tax at that rate.

(2) The income tax treated as paid under subsection (1) is not repayable.

(3) The amount on which an individual is treated under subsection (1) as having paid income tax is reduced if subsection (4) applies.

(4) This subsection applies if the individual's total income is reduced by any deductions which fall to be made from the part of the income charged to tax under this Chapter.

(5) The reduction under subsection (3) is equal to the amount of those deductions.

CHAPTER 6

RELEASE OF LOAN TO PARTICIPATOR IN CLOSE COMPANY

415 Charge to tax under Chapter 6

(1) Income tax is charged if—

(a) a company is or has been assessed or is liable to be assessed under section 419 of ICTA (loans to participators in close companies etc.) in respect of a loan or advance, and

(b) the company releases or writes off the whole or part of the debt in respect of the loan or advance.

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(2) Subsection (1) is subject to section 418 (relief where borrowers liable as settlors).

(3) Subsection (4) applies if section 419 of ICTA has effect under section 422 of that Act (extension of section 419 to loans by companies controlled by close companies) as if a loan or advance had been made by a company ("A"), rather than the company ("B") which—
  (a) actually made it,
  (b) is regarded as having made it under section 419(2) of that Act (deemed loans where debt incurred or assigned to close company), or
  (c) would be so regarded if it were a close company.

(4) If the whole or part of the debt is released or written off by B, for the purposes of subsection (1), A rather than B is treated as releasing it or writing it off.

(5) Expressions used in this Chapter have the same meanings as if they were in section 419 of ICTA.

416 Income charged

(1) Tax is charged under this Chapter on the gross amount of the debt released or written off in the tax year.

(2) The "gross amount" is the amount released or written off, grossed up by reference to the dividend ordinary rate for that year.

(3) For the purposes of calculating the total income of the person liable for the tax, the amount charged is treated as income.

(4) This section is subject to section 418 (relief where borrowers liable as settlors).

417 Person liable

(1) The person liable for any tax charged under this Chapter is the person to whom the loan or advance was made.

(2) This is subject to—
  section 419 (loans and advances to persons who die), and
  section 420 (loans and advances to trustees of trusts that have ended).

418 Relief where borrowers liable as settlors

(1) Relief is given under this section if the person to whom the loan or advance was made—
  (a) is liable for the tax year for income tax on a sum in respect of it under Chapter 5 of Part 5 as a result of section 633 (capital sums paid to settlor by trustees of settlement), or
  (b) has been so liable for any previous tax year.

(2) If the total amount previously charged (see subsection (4)) equals or exceeds the total amount released (see subsection (6)), tax is not charged under this Chapter.

(3) If the total amount released exceeds the total amount previously charged, tax is charged under this Chapter on the excess, grossed up by reference to the dividend ordinary rate.

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(4) In this section "the total amount previously charged" means the total of—
- (a) the sums included in the person's income under section 633 in respect of the loan or advance for the tax year or for previous tax years, and
- (b) the amounts charged under this Chapter in respect of the loan or advance for previous tax years.

(5) For the purposes of subsection (4)(a), section 640(1) (which requires the grossing up of the sums treated as paid to the settlor by reference to the rate applicable to trusts) is ignored.

(6) In this section "the total amount released" means the total amount released or written off in respect of the loan or advance in the tax year and previous tax years.

419 Loans and advances to persons who die

(1) This section applies if—
- (a) a loan or advance is made to a person who dies,
- (b) a company is or has been assessed or is liable to be assessed under section 419 of ICTA (loans to participators in close companies etc.) in respect of the loan or advance, and
- (c) after the death the company releases or writes off the whole or part of the debt in respect of the loan or advance.

(2) Tax is not charged under this Chapter if at the time of the release or writing off the debt is due from the person's personal representatives in that capacity, but see—
- (a) section 664 (under which the amount that would be so charged is treated as part of the aggregate income of the estate for the purposes of Chapter 6 of Part 5), and
- (b) section 701(8) of ICTA (under which similar provision is made for the purposes of Part 16 of ICTA).

(3) If subsection (2) does not apply, tax is charged under this Chapter on the person from whom the debt is due at the time of release or writing off.

420 Loans and advances to trustees of trusts that have ended

(1) This section applies if—
- (a) a loan or advance is made to trustees of a trust,
- (b) a company is or has been assessed or is liable to be assessed under section 419 of ICTA (loans to participators in close companies etc.) in respect of the loan or advance, and
- (c) after the trust has ended the company releases or writes off the whole or part of the debt in respect of the loan or advance.

(2) Tax is charged under this Chapter on the person from whom the debt is due at the time of release or writing off.

421 Income tax treated as paid

(1) A person liable to income tax under this Chapter is treated as having paid income tax at the dividend ordinary rate on the amount charged under this Chapter.

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(2) The income tax treated as paid under subsection (1) is not repayable.

(3) The amount on which an individual is treated under subsection (1) as having paid income tax is reduced if subsection (4) applies.

(4) This subsection applies if the individual's total income is reduced by any deductions which fall to be made from the part of the income charged under this Chapter.

(5) The reduction is equal to the total amount of those deductions.

CHAPTER 7

PURCHASED LIFE ANNUITY PAYMENTS

422 Charge to tax on purchased life annuity payments

(1) Income tax is charged on annuity payments made under a purchased life annuity.

(2) For exemptions, see in particular—
- (a) section 717 (exemption for part of purchased life annuity payments),
- (b) section 725 (annual payments under immediate needs annuities),
- (c) section 731 (periodical payments of personal injury damages), and
- (d) section 732 (compensation awards).

423 Meaning of "purchased life annuity"

(1) In this Chapter "purchased life annuity" means an annuity—
- (a) granted for consideration in money or money's worth in the ordinary course of a business of granting annuities on human life, and
- (b) payable for a term ending at a time ascertainable only by reference to the end of a human life.

(2) For this purpose it does not matter that the annuity may in some circumstances end before or after the life.

424 Income charged

(1) Tax is charged under this Chapter on the full amount of the annuity payments arising in the tax year.

(2) Subsection (1) is subject to Part 8 (foreign income: special rules).

425 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the annuity payments.

426 Annuity payments received after deduction of tax

Income tax deducted under either of the following sections from an annuity payment within this Chapter is treated as income tax paid by the recipient—

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section 348(1)(b) of ICTA (under which income tax may be deducted from some payments by the payer), and

section 349(1)(a) of that Act (under which income tax must be deducted from some payments by the payer).

CHAPTER 8

PROFITS FROM DEEPLY DISCOUNTED SECURITIES

Charge to tax under Chapter 8

427 Charge to tax on profits from deeply discounted securities

(1) Income tax is charged on profits on the disposal of deeply discounted securities.

(2) The profits are treated as income for income tax purposes if they would not otherwise be income.

428 Income charged

(1) Tax is charged under this Chapter on the full amount of profits arising in the tax year.

(2) The profits on a disposal are to be taken to arise when the disposal occurs.

(3) If the profits arise on a disposal of securities that are outside the United Kingdom—

(a) they are treated for the purposes of section 830 (meaning of "relevant foreign income") as arising from a source outside the United Kingdom, and

(b) subsection (1) is subject to Part 8 (foreign income: special rules).

(4) Subsection (2) needs to be read with section 438 (timing of transfers and acquisitions).

429 Person liable

(1) The person liable for any tax charged under this Chapter is the person making the disposal.

(2) See section 437 for who that person is.

Deeply discounted securities

430 Meaning of "deeply discounted security"

(1) The general rule is that a security is a "deeply discounted security" for the purposes of this Chapter if, as at the time it is issued, the amount payable on maturity or any other possible occasion of redemption ("A") exceeds or may exceed the issue price by more than—

$$A \times 0.5\,\% \times Y.$$

where Y is the number of years in the redemption period or 30, whichever is the lower.

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(2) If the redemption period is not a number of complete years, for the purposes of subsection (1) the incomplete year is expressed as twelfths, treating each complete month and any remaining part of a month as one-twelfth.

(3) In this section "redemption period" means the period between the date of issue and the date of the occasion of redemption in question.

(4) Interest payable on an occasion of redemption is ignored in determining for the purposes of this section the amount payable on that occasion.

(5) For the purposes of this section, in the case of an issue to which section 442 applies (securities issued in accordance with qualifying earn-out right), the issue price of the security is to be taken as the amount paid to acquire it (see section 442(2)).

(6) The general rule in subsection (1) is subject to—

section 431 (excluded occasions of redemption),
section 432 (securities which are not deeply discounted securities),
sections 434 to 436 (securities issued in separate tranches),[F27]. . .
section 443(1) (strips of government securities) **[**[F28], and
section 452A(1) (corporate strips).**]**

Textual Amendments

F27 Word in s. 430(6) repealed (retrospectively) by Finance (No. 2) Act 2005 (c. 22), ss. 39, 70, Sch. 7 para. 25(2)(10), **Sch. 11 Pt. 2(8)**

F28 Words in s. 430(6) added (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(2)(10)**

431 Excluded occasions of redemption

(1) An occasion of redemption of a security other than maturity is ignored for the purposes of section 430(1) if the third-party option conditions or the commercial protection conditions are met.

(2) The third-party option conditions are that—

(a) the security may be redeemed on the occasion at the option of a person other than its holder,

(b) the security is issued to a person who is not connected with the issuer, and

(c) the obtaining of a tax advantage by any person is not the main benefit, or one of the main benefits, that might have been expected to accrue from the provision in accordance with which the security may be redeemed on the occasion.

(3) The commercial protection conditions are that—

(a) the security may be redeemed on the occasion as the result of an exercise of an option that is exercisable only on the occurrence of—

(i) an event adversely affecting the holder (see subsection (8)), or

(ii) a default by any person, and

(b) as at the time of the security's issue it appears unlikely that the option will be exercisable on the occasion.

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(4) Subsection (1) does not apply to an occasion just because the occasion coincides or may coincide with an occasion meeting the third-party option conditions or the commercial protection conditions.

(5) If—

(a) the only reason that a security is not a deeply discounted security is that an occasion on which it may be redeemed is ignored because the third-party option conditions are met, and

(b) at some time after its issue the security is acquired by, or its holder becomes, a person connected with the issuer,

in relation to that time and later this Chapter applies as if the security were a deeply discounted security.

(6) If a person ("P") who is not connected with the issuer acquires—

(a) a security which is only a deeply discounted security because it was issued to a person connected with the issuer and so fails to meet the condition specified in subsection (2)(b), or

(b) a security within subsection (5),

this Chapter applies in relation to P as if the security ceased to be a deeply discounted security on the acquisition.

(7) For the purposes of the application of this section to a security, the question whether persons are connected is determined without regard to the security or any other security issued under the same prospectus.

(8) In this section "event adversely affecting the holder", in relation to a security, means an event the occurrence of which appears, as at the time of the security's issue, likely to have an adverse effect on the interests of its holder at the time of the event if there were no provision for redemption on its occurrence.

432 Securities which are not deeply discounted securities

(1) The following are not deeply discounted securities—

(a) shares in a company,

(b) gilt-edged securities that are not strips,

(c) life assurance policies, and

(d) capital redemption policies.

(2) An excluded indexed security (see section 433) is only a deeply discounted security if treated as such under section 431(5) (acquisition by a person connected with the issuer or holder becoming such a person).

(3) In this section "capital redemption policies" has the same meaning as in Chapter 9 of this Part (see section 473(2)).

(4) See also sections 434 to 436 (rules under which securities issued under the same prospectus on separate occasions may be treated as being, or as not being, deeply discounted securities).

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433 Meaning of "excluded indexed security"

(1) In this Chapter "excluded indexed security" means a security under the terms of which the amount payable on redemption is determined by applying to the amount for which the security was issued the percentage change (if any) over the security's redemption period in—
  (a) the value of chargeable assets of a particular description, or
  (b) an index of the value of such assets.

(2) The fact that the terms under which the security is issued include a provision to the effect that the amount payable on its redemption must be at least a specified percentage of the amount for which it was issued only prevents it from falling within the definition in subsection (1) if that percentage exceeds 10%.

(3) Interest payable on redemption is ignored in determining for the purposes of this section the amount payable on redemption.

(4) In subsection (1) "redemption period" means—
  (a) the period beginning with the date of issue and ending with the date of redemption, or
  (b) a period which is or includes almost all that period and only differs from it for purposes connected with giving effect to a valuation in relation to rights or liabilities under the security.

(5) An asset is a chargeable asset for the purposes of subsection (1) if a gain accruing to a person on its disposal would be a chargeable gain for the purposes of TCGA 1992 on the assumptions specified in subsection (6).

(6) The assumptions are that—
  (a) the asset is an asset of the person,
  (b) the person is not entitled to the exemption conferred by section 100 of TCGA 1992 (exemption for authorised unit trusts etc.),
  (c) disposal of the asset by the person would not be treated for income tax purposes as a disposal in the course of a trade, profession or vocation, and
  (d) section 116(10) of TCGA 1992 is ignored (chargeable gains on subsequent disposals of qualifying corporate bonds acquired in reorganisations, conversions and reconstructions).

(7) For the purposes of this section—
  (a) neither the retail prices index nor any similar general index of prices published by the government of a territory or by an agent of such a government is an index of the value of chargeable assets, and
  (b) "redemption", in relation to a security, does not include its redemption on an occasion which is to be ignored under section 431(1) (excluded occasions of redemption).

434 Securities issued in separate tranches: preliminary

(1) Sections 435 and 436 set out rules under which securities issued under the same prospectus on separate occasions may be treated as being, or as not being, deeply discounted securities.

(2) If any of the securities in the original issue under the prospectus is a deeply discounted security—

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(a) the rule in section 435 applies to securities in later issues under it, and
(b) the rule in section 436 does not apply to any securities issued under it.

(3) If none of the securities in the original issue under the prospectus is a deeply discounted security, the rule in section 435 applies to securities in a later issue except where the rule in section 436 applies.

435 Securities issued in separate tranches: basic rule

(1) The rule in this section is that if securities in any of the issues made on separate occasions under the same prospectus are not deeply discounted securities, securities in any later issue under it are not deeply discounted securities, unless they are treated as such for one of the reasons specified in subsection (2).

(2) The reasons are—
(a) that the securities were issued to a person connected with the issuer and so fail to meet the condition specified in section 431(2)(b), and
(b) that such a person has acquired or become the holder of the securities and so section 431(5) applies to them.

436 Deeply discounted securities issued in separate tranches: nominal value rule

(1) This section only applies if some of the securities in one or more later issues under the same prospectus are deeply discounted securities (or are such securities if the rule in section 435 is ignored).

(2) The rule in this section applies for any disposal or acquisition after the time when the condition specified in subsection (3) is first met.

(3) The condition is that the aggregate nominal value as at a particular time of the securities within subsection (1) exceeds the aggregate nominal value as at that time of all the other securities issued under the prospectus at any time.

(4) The rule is that all securities issued under the prospectus (including those issued after the time when the condition specified in subsection (3) is first met) are to be treated as deeply discounted securities and as having been acquired as such (whenever actually issued or acquired).

(5) Subsection (6) applies where the question is whether a security held by a person who is not connected with the issuer is a deeply discounted security as a result of the rule in this section.

(6) For the purpose of determining whether the rule in this section applies, securities that are only within subsection (1) for one of the reasons specified in section 435(2) are treated as not being within it.

Disposals

437 Transactions which are disposals

(1) References in this Chapter to the disposal of a deeply discounted security are—
(a) to its redemption,

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(b) to its transfer by sale, exchange, gift or otherwise, including a transfer treated as made by subsection (3), and

(c) so far as not covered by paragraph (a) or (b), to its conversion under its terms into shares in a company or other securities (including other deeply discounted securities).

(2) The person treated as making a disposal is—

(a) in the case of a disposal within subsection (1)(a), the person entitled as the security's holder to any payment on the disposal,

(b) in the case of a disposal within subsection (1)(b), the transferor, and

(c) in the case of a disposal within subsection (1)(c), the person who would be entitled as the security's holder to any payment on the disposal, if such a payment were made.

(3) A person who dies while entitled to a deeply discounted security is treated as transferring it immediately before death to the personal representatives.

(4) In the case of strips, further provision about occasions counting as disposals is made by section 445(2) and (6)(a).

[[F29](5) In the case of interest-bearing corporate securities, further provision about occasions counting as disposals is made by section 452F(2)(a).

(6) In the case of corporate strips, further provision about occasions counting as disposals is made by section 452F(2)(a) and (3)(a).**]**

Textual Amendments

F29 S. 437(5)(6) inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(3)(10)**

438 Timing of transfers and acquisitions

(1) This section applies if—

(a) a transfer or acquisition of a deeply discounted security is made under an agreement, and

(b) the transferee or the person making the acquisition becomes entitled to the security at the time the agreement is made.

(2) The transfer or acquisition is treated as occurring at that time.

(3) For this purpose a conditional agreement is taken to be made when the condition is met.

[[F30](4) This section is subject to—

section 445(7) (exchanges for and consolidations of strips);

section 452F(4) (conversion into and consolidations of corporate strips).**]**

Textual Amendments

F30 S. 438(4) substituted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(4)(10)**

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Calculating profits

439 Calculating the profit from disposals

(1) A person's profit on a disposal is the amount by which the amount payable on the disposal exceeds the amount paid by the person to acquire the security.

(2) No account is to be taken of any incidental expenses incurred in connection with the disposal or acquisition.

(3) Subsection (2) is subject to subsection (4) and section 455 (listed securities held since 26th March 2003: calculating the profit or loss on disposals).

(4) Incidental expenses incurred before 27th March 2003 by the person making the disposal in connection with the acquisition or disposal of the security are deducted from the person's profit.

(5) Where a person re-acquires a security, any previous acquisition of it is ignored in determining on a subsequent disposal—
   (a) the amount the person paid to acquire the security, and
   (b) incidental expenses within subsection (4).

440 Market value disposals

(1) On the disposal of a deeply discounted security by a transfer of a kind specified in subsection (2), for the purposes of this Chapter an amount equal to the market value at the time of the disposal is treated as payable.

(2) The transfers are—
   (a) a transfer made otherwise than by a bargain at arm's length,
   (b) a transfer between connected persons,
   (c) a transfer for a consideration which is not wholly in money or money's worth,
   (d) a transfer treated as made by section 437(3) (death), and
   (e) a transfer by personal representatives to a legatee.

(3) Subsection (1) is subject to subsection (4).

(4) On a conversion of a deeply discounted security into shares or other securities which counts as its disposal under section 437(1), an amount equal to the market value of the shares or other securities at the time of the conversion is treated as the amount payable.

[[F31](5) Subsection (4) is subject to—
   section 445(8) (exchanges for and consolidations of strips);
   section 452F(5) (conversion into and consolidations of corporate strips).**]**

(6) In this section "legatee" includes any person taking (whether beneficially or as trustee)—
   (a) on a testamentary disposition, or
   (b) on an intestacy or partial intestacy.

(7) Such a person includes a person taking as a result of an appropriation by personal representatives in or towards the satisfaction of a legacy or other interest or share in the deceased's property.

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Textual Amendments

F31 S. 440(5) substituted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(5)(10)**

441 Market value acquisitions

(1) A person who acquires a deeply discounted security on a disposal of a kind specified in subsection (2) is treated for the purposes of this Chapter as acquiring it by the payment of an amount equal to its market value at the time of the disposal.

(2) The disposals are—

(a) a transfer within section 440(2), and

(b) a conversion of a deeply discounted security into other deeply discounted securities which counts as its disposal under section 437(1).

[[F32](3) Subsection (2) is subject to—

section 445(8) (exchanges for and consolidations of strips);

section 452F(5) (conversion into and consolidations of corporate strips).**]**

Textual Amendments

F32 S. 441(3) substituted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(6)(10)**

442 Securities issued in accordance with qualifying earn-out right

(1) This section applies if a security is issued to a person in accordance with the terms of a qualifying earn-out right.

(2) The amount paid by the person to acquire the security is to be taken for the purposes of this Chapter to be the total of—

(a) the market value, immediately before the issue, of the right to be issued with the security in accordance with the terms of the qualifying earn-out right, and

(b) any amount payable for the issue in accordance with those terms.

(3) In this section "qualifying earn-out right" means a right that meets conditions A to C, or so much of a right as does so.

(4) Condition A is that the right constitutes the whole or part of the consideration for—

(a) the transfer by the person on whom the right is conferred of shares in or debentures of a company, or

(b) the transfer of the whole or part of—

(i) a business carried on by that person, or by that person and others in partnership, or

(ii) an interest in such a business.

(5) Condition B is that the right is either—

(a) a right to be issued with securities of another company, or

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Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) a right which is capable of being discharged in accordance with its terms by the issue of such securities.

(6) Condition C is that the right is such that the value of the consideration mentioned in condition A is unascertainable at the time when the right is conferred.

Special rules for strips of government securities

443 Application of this Chapter to strips of government securities

(1) All strips are treated as deeply discounted securities for the purposes of this Chapter, whether or not they would otherwise be so.

(2) This Chapter applies to strips subject to the rules in—
- (a) section 445 (strips of government securities: acquisitions and disposals),
- (b) section 446 (strips of government securities: relief for losses),
- (c) section 447 (restriction of profits on strips by reference to original acquisition cost),
- (d) section 448 (restriction of losses on strips by reference to original acquisition cost),
- (e) section 449 (strips of government securities: manipulation of acquisition, transfer or redemption payments),
- (f) section 450 (market value of strips etc.), and
- (g) section 451 (market value of strips etc. quoted in foreign stock exchange lists).

444 Meaning of "strip" in Chapter 8

(1) In this Chapter "strip", in relation to any stock or bond ("the underlying security"), means a security which—
- (a) meets conditions A to C,
- (b) if it was acquired after 26th March 2003, was issued by or on behalf of the government of any territory, and
- (c) if it was acquired on or before that date, was issued under the National Loans Act 1968 (c. 13) in a case where the underlying security was itself a gilt-edged security.

(2) Condition A is that the security is issued for the purpose of representing the right to or of securing—
- (a) a payment corresponding to a payment of interest or principal remaining to be made under the underlying security, or
- (b) two or more payments each corresponding to a payment to be so made.

(3) Condition B is that the security is issued in conjunction with the issue of one or more other securities which, together with that security—
- (a) represent the right to, or
- (b) secure,

payments corresponding to every payment remaining to be made under the underlying security.

(4) Condition C is that the security is not itself a security which—
- (a) represents the right to, or

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(b) secures,

payments corresponding to a part of every payment remaining to be made under the underlying security.

(5) After the balance has been struck for a dividend on any underlying security, a payment to be made in respect of that dividend is treated for the purposes of conditions A to C as not being a payment remaining to be made under the underlying security.

[[F33](6) Nothing in this section affects the meaning of the expression "corporate strip" in this Chapter (see section 452E).**]**

Textual Amendments

F33 S. 444(6) inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(7)(10)**

445 Strips of government securities: acquisitions and disposals

(1) A person who receives strips of a security ("the underlying security") in exchange for the underlying security is treated as having acquired each strip by the payment of an amount equal to—

$$A \times \frac{B}{C}$$

where—

A is the market value of the underlying security at the time of the exchange,

B is the market value of the strip at that time, and

C is the total of the market values at that time of all the strips received in the exchange.

(2) For the purposes of this Chapter—

(a) a person who holds a strip of a security on 5th April in any tax year is treated as having transferred the strip on that day, and

(b) an amount equal to its market value on that day is treated as payable on the transfer.

(3) For the purposes of this Chapter that person is also treated as having immediately re-acquired the strip for the same amount.

(4) Subsections (2) and (3) do not apply if there is any other disposal of the strip on that day.

(5) Section 439(4) (deduction of incidental expenses incurred before 27th March 2003) does not apply to transfers and reacquisitions within subsections (2) and (3).

(6) For the purposes of this Chapter—

(a) the consolidation of a strip of a security with other such strips into a single security is a disposal of the strip by the person consolidating it (whether or not it would be apart from this subsection), and

(b) an amount equal to the market value of the strip at the consolidation is treated as payable on the disposal.

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(7) Section 438 (timing of transfers and acquisitions) does not apply to an exchange within subsection (1) or a consolidation within subsection (6).

(8) Subsections (1) and (6) apply instead of sections 440(4) (market value on general conversions of deeply discounted securities) and 441 (market value acquisitions).

446 Strips of government securities: relief for losses

(1) Relief from income tax may be claimed under this section for any loss made on the disposal of a strip of a security.

(2) If such a claim is made, an amount of income for the tax year in which the disposal occurs which is equal to that loss is not charged to income tax.

(3) For this purpose a person makes a loss on the disposal of a strip if—
  (a) the person disposes of the strip, and
  (b) the amount the person paid for the strip, ignoring any incidental expenses incurred in connection with the acquisition, exceeds the amount payable on the disposal, ignoring any incidental expenses incurred in connection with the disposal.

(4) The loss is an amount equal to the excess.

(5) A claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the disposal occurs.

(6) The relief may be claimed by the person making the disposal.

(7) Relief for a loss on a disposal may not be claimed under this section if section 454 (listed securities held since 26th March 2003: relief for losses) applies in respect of the disposal.

(8) This section is subject to—
  (a) section 448 (restriction of losses on strips by reference to original acquisition cost),
  (b) section 449 (strips of government securities: manipulation of acquisition, sale or redemption payments), and
  (c) section 458(2) (strips held by non-UK resident trustees).

447 Restriction of profits on strips by reference to original acquisition cost

(1) This section applies if—
  (a) a person makes a profit on the disposal of a strip (apart from this section), and
  (b) the person's original acquisition cost for the strip (see subsection (4)) exceeds the amount that falls to be brought into account as the amount paid by the person to acquire the strip in determining the amount of the profit.

(2) If the amount that falls to be brought into account as the amount payable on the disposal in determining the amount of the profit exceeds the person's original acquisition cost for the strip, the amount of the profit is restricted to that excess.

(3) Otherwise the person is treated as not making a profit on the disposal.

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(4) For the purposes of this section and section 448, a person's original acquisition cost for a strip is the amount that falls to be taken into account as the amount paid by the person to acquire the strip in determining whether the person makes a profit or loss on its disposal if 5th April disposals and acquisitions are ignored.

(5) In subsection (4) "5th April disposals and acquisitions" means—
- (a) disposals under section 445(2) (other than the disposal in question), and
- (b) acquisitions under section 445(3).

448 Restriction of losses on strips by reference to original acquisition cost

(1) This section applies if—
- (a) a person makes a loss on the disposal of a strip (apart from this section), and
- (b) the person's original acquisition cost for the strip exceeds the amount that falls to be brought into account as the amount payable on the disposal of the strip in determining the amount of the loss.

(2) If the amount that falls to be brought into account as the amount paid by the person to acquire the strip in determining the amount of the loss exceeds the person's original acquisition cost for the strip, the amount of the loss is reduced.

(3) The amount of the reduction is A – B where—

A is the person's original acquisition cost for the strip, and

B is the amount that falls to be brought into account as the amount payable on the disposal of the strip in determining the amount of the loss.

(4) If subsection (2) does not apply, the person is treated as not making a loss on the disposal.

(5) In this section any reference to making a loss on the disposal of a strip has the meaning given in section 446(3) and (4).

449 Strips of government securities: manipulation of acquisition, transfer or redemption payments

(1) This section applies if—
- (a) as a result of a scheme or arrangement an amount referred to in subsection (2)(a), (b) or (c) differs from the market value of a strip in a way specified in that subsection, and
- (b) the obtaining of a tax advantage by any person is the main benefit, or one of the main benefits, that might have been expected to accrue from, or from any provision of, the scheme or arrangement.

(2) The ways are that—
- (a) the amount paid by a person in respect of the acquisition of the strip is or was more than the market value at the time of the acquisition,
- (b) the amount payable to a person on transferring the strip is less than the market value at the time of the transfer, or
- (c) on redemption of the strip the amount payable to a person, as the person holding the strip, is less than the market value on the day before redemption.

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(3) In a case within subsection (2)(a), for the purposes of sections 439(1) and 446(3) on transferring the strip the person is treated as if the person had paid to acquire the strip an amount equal to the market value of the strip at the time of the acquisition.

(4) In a case within subsection (2)(b), for those purposes the person is treated as if the amount payable to the person on the transfer were an amount equal to the market value of the strip at the time of the transfer.

(5) In a case within subsection (2)(c), for those purposes the person is treated as if the amount payable to the person on redemption were an amount equal to the market value of the strip on the day before redemption.

(6) For the purposes of this section, no account is to be taken of any incidental expenses incurred in connection with any disposal or acquisition of a strip.

450 Market value of strips etc.

(1) This section and section 451 (market value of strips etc. quoted in foreign stock exchange lists) deal with—
  (a) determining the market value at any time of a strip for the purposes of this Chapter, and
  (b) determining the market value at any time of a security exchanged for strips of that security for the purposes of section 445(1).

(2) The market value on any day on which the Stock Exchange is open of any strip or security quoted in The Stock Exchange Daily Official List is—
  (a) the lower of the two figures shown in that List for the strip or security for that day, plus
  (b) one-quarter of the difference between those two figures.

(3) The market value on any day on which the Stock Exchange is closed of any such strip or security is the lower of—
  (a) its market value on the latest previous day on which the Stock Exchange is open, and
  (b) its market value on the earliest subsequent day on which the Stock Exchange is open.

(4) The Treasury may by regulations make provision as to the manner of determining, for any of the purposes mentioned in subsection (1), the market value at any time of—
  (a) any strip, or
  (b) any security exchanged for strips of that security.

(5) The regulations may amend or modify—
  (a) subsection (2) or (3), or
  (b) any provision of section 451.

(6) The regulations may—
  (a) make different provision for different cases, and
  (b) contain such incidental, supplemental, consequential and transitional provision and savings as the Treasury consider appropriate.

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[F34]451 Market value of strips etc. quoted in foreign stock exchange lists

(1) This section applies if the strip or security referred to in section 450(1)—

(a) is a security, or a strip of a security, issued by or on behalf of the government of a territory outside the United Kingdom, and

(b) is not quoted in The Stock Exchange Daily Official List, but

(c) is quoted in a foreign stock exchange list.

(2) The market value on any day on which the foreign stock exchange to which that list relates is open is—

(a) the lower of the two figures shown in that list for the strip or security for that day, plus

(b) one-quarter of the difference between those two figures.

(3) The market value on any day on which the foreign stock exchange to which that list relates is closed is the lower of—

(a) its market value on the latest previous day on which that exchange is open, and

(b) its market value on the earliest subsequent day on which that exchange is open.

(4) But subsections (2) and (3) have effect subject to any modifications that are necessary because of the form of quotation adopted in the exchange in question.

(5) In particular, if a single figure only is published, that figure is to be taken as the market value.

(6) If a strip or security is quoted in more than one foreign stock exchange list—

(a) any such list published for a foreign stock exchange in the territory of the issuing government is to be used for the purposes of this section in preference to any other such list, and

(b) any such list published for a foreign stock exchange which is regarded as the major exchange in that territory for strips or securities is to be used for those purposes in preference to any other such list.

(7) In this section—

"foreign stock exchange" means a recognised stock exchange in a territory outside the United Kingdom on which strips are traded,

"foreign stock exchange list" means any publication which performs in the case of a foreign stock exchange a function equivalent, or broadly similar, to that performed by The Stock Exchange Daily Official List in relation to strips, and

"issuing government" means the government which issued the security mentioned in subsection (1)(a).

Textual Amendments

F34 S. 450 substituted for ss. 450, 451 (19.7.2007 with effect as stated in Sch. 26 para. 5(2) of the amending Act) by Finance Act 2007 (c. 11), s. 109, **Sch. 26 para. 5(1)**

452 Power to modify this Chapter for strips

(1) The Treasury may by regulations provide that this Chapter is to apply to a strip with such modifications as they consider appropriate.

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(2) This section is without prejudice to the general power to make regulations under section 202 of FA 1996 (gilt stripping).

[F35 Special rules for corporate strips

Textual Amendments

F35 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F36 452A Application of this Chapter to corporate strips

(1) All corporate strips are treated as deeply discounted securities for the purposes of this Chapter, whether or not they would otherwise be so.

(2) This Chapter applies to corporate strips subject to the rules in—

(a) section 452F (corporate strips: acquisitions and disposals), and

(b) section 452G (corporate strips: manipulation of acquisition, transfer or redemption payments).**]**

Textual Amendments

F36 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F37 452B Meaning of "interest-bearing corporate security" in Chapter 8

(1) In this Chapter "interest-bearing corporate security" means any interest-bearing security other than—

(a) a security issued by the government of a territory, or

(b) a share in a company.

(2) In this section "interest-bearing security" includes any loan stock or similar security.

(3) Section 452D(4)(a) gives an extended meaning to references to converting an interest-bearing corporate security into corporate strips (and related expressions).**]**

Textual Amendments

F37 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F38 452C Conversion of interest-bearing corporate securities into corporate strips

(1) For the purposes of this Chapter a person converts an interest-bearing corporate security into corporate strips of the security if he has an interest-bearing corporate security ("the converted corporate security") but—

(a) as a result of any scheme or arrangements, he acquires two or more separate assets in place of the converted corporate security,

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(b) each of those separate assets satisfies condition A,
(c) those separate assets, taken together, satisfy condition B, and
(d) at least one of those separate assets is not prevented from being a corporate strip by section 452E(2) or (3),

and related expressions shall be construed accordingly.

(2) Condition A is that the asset—
(a) represents the right to, or
(b) secures,

one or more stripped payments.

(3) For the purposes of this section, a "stripped payment" is—
(a) the payment of, or
(b) a payment corresponding to,

the whole or a part of one or more payments (whether of interest or principal) remaining to be made under the converted corporate security.

(4) Condition B is that the assets, taken together,—
(a) represent the right to, or
(b) secure,

every payment (whether of interest or principal) remaining to be made under the converted corporate security (or payments corresponding to every such payment).

(5) Where a person—
(a) has an interest-bearing corporate security, but
(b) sells or transfers the right to one or more payments remaining to be made under it (so that, as a result, there are two or more separate assets which, taken together, satisfy condition B),

this Chapter has effect as if, as a result of a scheme or arrangements, the person had acquired the separate assets in place of the security immediately before the sale or transfer.

(6) After a balance has been struck for a dividend on an interest-bearing corporate security, any payment to be made in respect of that dividend shall, at times falling after that balance has been struck, be treated for the purposes of this paragraph as not being a payment remaining to be made under the security.**]**

Textual Amendments

F38 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F39 452D Conversion into corporate strips: lower level conversions

(1) For the purposes of this Chapter, section 452C also has effect in relation to each of the separate assets mentioned in subsection (1) of that section as if that separate asset were itself an interest-bearing corporate security (if that is not in fact the case).

(2) In subsection (1), the reference to section 452C includes a reference to that section as it has effect by virtue of this section.

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(3) In the application of section 452C by virtue of this section, references to payments the right to which a separate asset represents or secures shall be construed in accordance with subsection (6) of that section.

(4) Where section 452C has effect by virtue of subsection (1)—

(a) any reference in this Chapter to converting an interest-bearing corporate security into corporate strips of the security shall be construed accordingly, and

(b) section 452E (meaning of "corporate strip") has effect accordingly.**]**

Textual Amendments

F39 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F40 452E Meaning of "corporate strip" in Chapter 8

(1) In this Chapter "corporate strip" means any asset—

(a) which is, or has at any time been, one of the separate assets mentioned in section 452C(1), and

(b) which is not prevented from being a corporate strip by subsection (2) or (3).

(2) An asset is not a corporate strip if it—

(a) represents the right to, or

(b) secures,

payments of, or corresponding to, a part of every payment remaining to be made under an interest-bearing corporate security or a corporate strip.

(3) An asset is a corporate strip in the case of any person only if he acquired it—

(a) on or after 2nd December 2004, and

(b) otherwise than in pursuance of an agreement entered into before that date.**]**

Textual Amendments

F40 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F41 452F Corporate strips: acquisitions and disposals

(1) A person who converts an interest-bearing corporate security into corporate strips of the security is treated as having acquired each corporate strip by the payment of an amount equal to—

$$A \times \frac{B}{C}$$

where—

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A is the acquisition cost of the converted corporate security;

B is the market value of the corporate strip;

C is the total of the market values of all the separate assets resulting from the conversion.

(2) If the converted corporate security is a deeply discounted security—

(a) its conversion into corporate strips is to be treated for the purposes of this Chapter as a transfer of the security, but

(b) the amount payable on the transfer is taken to be an amount equal to the acquisition cost of the converted corporate security.

(3) For the purposes of this Chapter—

(a) the consolidation of a corporate strip with other corporate strips into a single security is a disposal of the corporate strip by the person consolidating it (whether or not it would be apart from this subsection), and

(b) an amount equal to the market value of the corporate strip at the consolidation is treated as payable on the disposal.

(4) Section 438 (timing of transfers and acquisitions) does not apply to a conversion within subsection (1) or a consolidation within subsection (3).

(5) Subsections (1) to (3) apply instead of sections 440(4) (market value on general conversions of deeply discounted securities) and 441 (market value acquisitions).

(6) For the purposes of this section, the acquisition cost of the converted corporate security is the amount paid in respect of his acquisition of the security by the person who has it immediately before the conversion (no account being taken of any costs incurred in connection with that acquisition).

(7) References in this section to the market value of a security given or received in exchange for, or otherwise converted into, another are references to its market value at the time of the exchange or conversion.**]**

Textual Amendments

F41 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F42 452G Corporate strips: manipulation of acquisition, transfer or redemption payments

(1) This section applies if—

(a) as a result of any scheme or arrangement, an amount referred to in subsection (2)(a), (b) or (c) differs from the market value of the corporate strip in a way specified in that subsection, and

(b) the obtaining of a tax advantage by any person is the main benefit, or one of the main benefits, that might have been expected to accrue from, or from any provision of, the scheme or arrangement.

(2) The ways are that—

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(a) the amount paid by a person in respect of the acquisition of the corporate strip is or was more than the market value of the corporate strip at the time of that acquisition,

(b) the amount payable to a person on transferring the corporate strip is less than the market value at the time of the transfer, or

(c) on redemption of the corporate strip the amount payable to a person, as the person holding the corporate strip, is less than the market value on the day before redemption.

(3) In a case within subsection (2)(a), for the purposes of section 439(1) on transferring the corporate strip the person is treated as if the person had paid to acquire the corporate strip an amount equal to the market value of the corporate strip at the time of the acquisition.

(4) In a case falling within subsection (2)(b), for those purposes the person is treated as if the amount payable to the person on the transfer were an amount equal to the market value of the corporate strip at the time of the transfer.

(5) In a case falling within subsection (2)(c), for those purposes the person is treated as if the amount payable to the person on redemption were an amount equal to the market value of the corporate strip on the day before redemption.

(6) The market value of a corporate strip at any time is to be determined for the purposes of this section without regard to any increase or diminution in the value of the corporate strip as a result of the scheme or arrangement mentioned in subsection (1).

(7) For the purposes of this section, no account is to be taken of any incidental expenses incurred in connection with any disposal or acquisition of a corporate strip.**]]**

Textual Amendments

F42 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

Special rules for listed securities held since 26th March 2003

453 Application of sections 454 to 456

(1) In the case of a disposal of a deeply discounted security that meets conditions A and B, the rules in sections 454 to 456 apply for—

(a) providing for relief for losses on the disposal, and

(b) calculating the amount of profits chargeable under this Chapter on the disposal or the losses for which such relief may be given.

(2) Condition A is that the person making the disposal has held the security continuously since a time before 27th March 2003.

(3) Condition B is that the security was listed on a recognised stock exchange at any time before 27th March 2003.

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454 Listed securities held since 26th March 2003: relief for losses

(1) A person may claim relief from income tax under this section for a loss the person has made on disposing of deeply discounted securities.

(2) For this purpose a person makes such a loss only if A exceeds B, where—

A is the amount the person paid for the securities, excluding any incidental expenses incurred in connection with the acquisition, and

B is the amount payable on the disposal, excluding any incidental expenses incurred in connection with the disposal.

(3) For the calculation of the amount of the loss, see section 455(2) to (4) (under which those expenses are taken into account).

(4) If a claim under this section is made by a person other than a trustee, an amount of income for the tax year in which the disposal occurs which is equal to that loss is not charged to income tax.

(5) If such a claim is made by a trustee, the amount of profits arising in the tax year in which the disposal occurs that is charged under this Chapter is reduced by the amount of the loss.

(6) A claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the disposal occurs.

(7) This section is subject to section 458(2) (securities held by non-UK resident trustees).

455 Listed securities held since 26th March 2003: calculating the profit or loss on disposals

(1) A person's profit on a disposal, as calculated under section 439, is reduced by any incidental expenses incurred by that person in connection with the disposal or the acquisition of the security that have not been deducted under section 439(4).

(2) A person's loss on a disposal for the purposes of section 454 (relief for losses) is the amount by which the deductible costs exceed the amount payable on the disposal.

(3) In this section the “deductible costs” means—

(a) the amount paid by the person to acquire the security, and

(b) the incidental expenses incurred by that person in connection with the disposal or the acquisition.

(4) Where a person re-acquires a security, any previous acquisition of it is ignored in determining the person's incidental expenses within subsection (1) or deductible costs on a subsequent disposal.

(5) For the purposes of this section, no incidental expenses are treated as incurred in connection with transfers and reacquisitions within section 445(2) and (3) (transfer and immediate reacquisition of strips on 5th April).

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456 Securities issued to connected persons etc. at excessive price: subsequent transfers to connected persons

(1) No loss is taken to occur for the purposes of section 454 on a transfer of a deeply discounted security to a person connected with the transferor if conditions A and B and either condition C or conditions D and E are met.

(2) Condition A is that the transferor acquired the security on its issue.

(3) Condition B is that the amount paid by the transferor to acquire the security exceeded the market value of the security at the time of its issue.

(4) Condition C is that at that time the transferor was connected with the issuer.

(5) Condition D is that at that time the issuer was a close company.

(6) Condition E is that at that time the transferor controlled that company with other persons to whom securities of the same kind were also issued.

(7) Section 414 of ICTA (close companies) has effect for the purposes of this section with the omission of subsection (1)(a) (which excludes non-UK resident companies).

(8) In this section "control" has the meaning given by section 416 of ICTA.

Trustees

457 Trustees

(1) This section applies if profits are taken to arise on a disposal of a deeply discounted security by trustees.

(2) For the purposes of Chapter 5 of Part 5 (settlements: amounts treated as income of settlor), the profits are to be taken to be income arising under the settlement from the security.

(3) For the purposes of Chapter 1C of Part 15 of ICTA (settlements: liability of trustees), the profits are to be taken to be income arising to the trustees.

(4) Income tax that is charged on the trustees is to be charged at the rate applicable to trusts for the tax year in which the disposal occurs.

(5) If the trustees are trustees of a scheme to which section 469 of ICTA applies (unauthorised unit trusts), subsections (2) to (4) do not apply to any profits treated as income in the scheme's accounts.

458 Non-UK resident trustees

(1) Tax is not charged under this Chapter if the disposal is made by the trustees of a settlement and they are non-UK resident.

(2) The following provisions do not apply if the disposal falls within subsection (1)—

section 446 (strips of government securities: relief for losses), and

section 454 (listed securities held since 26th March 2003: relief for losses).

(3) In this section "settlement" has the same meaning as in Chapter 5 of Part 5 (see section 620).

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Miscellaneous and supplementary

459 Transfer of assets abroad

(1) This section applies if profits are taken to arise on the disposal of a deeply discounted security by a person resident or domiciled outside the United Kingdom ("A").

(2) For the purpose of determining whether an individual ordinarily UK resident is liable for income tax in respect of the profits, sections 739 and 740 of ICTA (transfer of assets abroad) have effect as if the profits, when arising, constituted income becoming payable to A.

(3) For this purpose it does not matter if A is not liable to income tax under this Chapter because of section 458 (non-UK resident trustees).

460 Minor definitions

(1) In this Chapter "share", in the case of a share in a company, means any share under which an entitlement to receive distributions may arise, but does not include a share in a building society.

(2) In this Chapter "tax advantage" has the meaning given by section 709(1) of ICTA.

(3) In this Chapter "market value" has the same meaning as in TCGA 1992 (see sections 272 to 274 of that Act), except as provided in section 450 or 451 (market value of strips etc.).

CHAPTER 9

GAINS FROM CONTRACTS FOR LIFE INSURANCE ETC.

Charge to tax under Chapter 9

461 Charge to tax under Chapter 9

(1) Income tax is charged on gains treated as arising from policies and contracts to which this Chapter applies.

(2) For the policies and contracts to which this Chapter applies, see sections 473 to 483.

(3) See also sections 530 to 538 (provisions relating to tax treated as paid on gains and to reliefs).

(4) For exemptions, see in particular Chapter 3 of Part 6 (income from individual investment plans).

(5) For the application of this Chapter where corresponding provision for corporation tax purposes is also relevant, see section 544 (application of Chapter to policies and contracts in which companies interested).

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462 When gains arise from policies and contracts

(1) For the purposes of this Chapter, a gain from a policy or contract arises when a chargeable event occurs in relation to the policy or contract (see section 484).

(2) But certain chargeable events are only treated as occurring because a calculation required to be made as at a particular time shows that the gain has arisen.

(3) See, in particular—

(a) section 509(1) (under which a chargeable event is treated as occurring where a periodic calculation following a part surrender or assignment shows a gain),

(b) section 514(1) (under which a part surrender or assignment is treated as a chargeable event where a calculation related to it shows a gain), and

(c) section 525(2) (under which a chargeable event is treated as occurring where an annual personal portfolio bond calculation shows a gain).

463 Income charged

(1) Tax is charged under this Chapter on the amount of the gains arising in the tax year.

(2) Subsection (1) is subject to section 514(4) (under which certain gains are charged for a later tax year).

(3) See section 469(3) for the apportionment of gains where two or more persons are interested in a policy or contract.

(4) See sections 491 to 497, 507, 508, 511 to 513, 522 to 524 and 527 to 529 for the rules as to how the gains are calculated.

Person liable etc.

464 Person liable for tax: introduction

(1) The person liable for any tax charged under this Chapter is the person indicated by—

section 465 (person liable: individuals),

section 466 (person liable: personal representatives), and

section 467 (person liable: UK resident trustees),

according to how the rights under the policy or contract are owned or held immediately before the chargeable event in question occurs.

(2) References in those sections to the ownership or holding of those rights are references to their ownership or holding at that time.

(3) If there has been a surrender or assignment of only a part of or share in rights under the policy or contract, the references in this section and those sections to the rights are references to that part or share.

(4) For cases where such surrenders or assignments are taken to occur, see—

section 500 (events treated as part surrenders), and

section 505 (assignments etc. involving co-ownership).

(5) This section and sections 470 to 472 are subject to section 469(4) (application of this section and those sections where two or more persons are interested in the policy or contract in question).

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(6) See also—

section 468 (non-UK resident trustees and foreign institutions),
section 471 (determination of shares etc.), and
section 472 (trusts created by two or more persons).

465 Person liable: individuals

(1) An individual is liable for tax under this Chapter if the individual is UK resident in the tax year in which the gain arises and condition A, B or C is met.

(2) Condition A is that the individual beneficially owns the rights under the policy or contract in question.

(3) Condition B is that those rights are held on non-charitable trusts which the individual created.

(4) Condition C is that those rights are held as security for the individual's debt.

(5) For the purposes of calculating the total income of an individual liable for tax under this Chapter, the amount charged is treated as income.

(6) References in this Chapter to trusts which an individual created include references to trusts arising under any of the following provisions (and references to a settlor or to a person creating trusts are to be read accordingly)—

(a) section 11 of the Married Women's Property Act 1882 (c. 75),
(b) section 2 of the Married Women's Policies of Assurance (Scotland) Act 1880 (c. 26), and
(c) section 4 of the Law Reform (Husband and Wife) Act (Northern Ireland) 1964 (c. 23 (N.I.)).

(7) For the right of an individual to recover certain amounts from the trustees of non-charitable trusts, see section 538 (recovery of tax from trustees).

VALID FROM 06/04/2007

[F43 465A Amounts for which individuals liable to be treated as highest part of total income

(1) This section applies if—

(a) an individual is liable for tax under this Chapter in respect of an amount, and
(b) the individual is treated by section 530 as having paid income tax at the savings rate on the amount.

(2) The amount is treated as the highest part of the individual's total income.

(3) Subsection (2) has effect for all income tax purposes except the purposes of sections 535 to 537 (gains from contracts for life insurance etc: top slicing relief).

(4) See section 1012 of ITA 2007 (relationship between highest part rules) for the relationship between—

(a) the rule in subsection (2), and

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(b) other rules requiring particular income to be treated as the highest part of a person's total income.**]**

Textual Amendments

F43 S. 465A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 529** (with transitional provisions and savings in Sch. 2)

466 Person liable: personal representatives

(1) Personal representatives are liable for tax under this Chapter if the rights under the policy or contract are held by them and the condition in subsection (2) is met (and accordingly the gain is treated for income tax purposes as income of the personal representatives in that capacity).

(2) The condition is that if an individual were liable for tax on a gain in respect of the policy or contract, section 530(1) (individual treated as having paid tax at the lower rate) would be disapplied as a result of—

(a) section 531(1) (exceptions from section 530 for policies and contracts specified in section 531(3)), or

(b) paragraph 109(2) of Schedule 2 (contracts in accounting periods beginning before 1st January 1992).

(3) For cases where the condition in subsection (2) is not met, see section 664 of this Act and section 701(8) of ICTA (under which the gain is treated as part of the aggregate income of the estate for the purposes of Chapter 6 of Part 5 of this Act and Part 16 of ICTA respectively).

467 Person liable: UK resident trustees

(1) Trustees are liable for tax under this Chapter if immediately before the chargeable event in question occurs they are UK resident and condition A, B, C or D is met.

(2) Condition A is that the rights under the policy or contract are held by the trustees on charitable trusts.

(3) Condition B is that—

(a) those rights are held by the trustees on non-charitable trusts, and

(b) one or more of the absent settlor conditions is met.

(4) The absent settlor conditions are that the person who created the trusts—

(a) is non-UK resident,

(b) has died, or

(c) in the case of a company or foreign institution (see section 468(5)), has been dissolved or wound up or has otherwise come to an end.

(5) Condition C is that—

(a) the rights under the policy or contract are held by the trustees on non-charitable trusts,

(b) condition B does not apply, and

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(c) neither section 465 or 466 above nor section 547(1)(b) of ICTA (circumstances in which a company is liable for tax under Chapter 2 of Part 13 of ICTA) applies.

(6) Condition D is that the rights under the policy or contract are held as security for a debt owed by the trustees.

(7) If trustees are liable for tax under this Chapter, it is charged—
(a) at the lower rate if—
(i) condition A is met, or
(ii) condition D is met and the trustees are trustees of a charitable trust, and
(b) at the rate applicable under section 686(1A) of ICTA (rate applicable to trusts) in any other case.

468 Non-UK resident trustees and foreign institutions

(1) This section applies if a gain is treated as arising under this Chapter and either—
(a) trustees who are non-UK resident would be liable for tax in respect of the gain as a result of section 467 if the trustees were UK resident immediately before the chargeable event in question occurs, or
(b) immediately before that event occurs—
(i) a foreign institution beneficially owns a share in the rights,
(ii) the rights are held for the purposes of a foreign institution, or
(iii) a share in them is held as security for a foreign institution's debt.

(2) Section 740 of ICTA (which prevents avoidance of tax where an individual who is ordinarily UK resident benefits from a transfer of assets) applies with the modifications specified in subsection (3) or (4).

(3) In a case within subsection (1)(a), section 740 applies as if—
(a) the gain were income becoming payable to the trustees, and
(b) that income arose to the trustees in the tax year in which the gain arises.

(4) In a case within subsection (1)(b), section 740 applies as if—
(a) the gain were income becoming payable to the institution, and
(b) that income arose to the institution in the tax year in which the gain arises.

(5) In this Chapter "foreign institution" means a company or other institution resident or domiciled outside the United Kingdom.

(6) If there has been a surrender or assignment of only a part of or share in rights under the policy or contract, the references in this section to those rights are references to that part or share.

469 Two or more persons interested in policy or contract

(1) This section applies if immediately before a chargeable event two or more persons have material interests in the rights under the policy or contract.

(2) Section 470 sets out the circumstances in which persons have such interests for the purposes of this section (which correspond to the circumstances referred to in sections 465 to 468 above and section 547(1) of ICTA (persons liable for tax etc.)).

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(3) Section 463 (income charged) applies in the case of any of the persons with such interests as if the amount of the gain arising when the event occurs were such part of it as is proportionate to the share of the rights to which the person's interest relates.

(4) Sections 464 to 468 (persons liable for tax etc.) apply in relation to each of those persons as if that person were the only person with such an interest at that time.

(5) Section 539(1) (relief for deficiencies) applies in relation to each of those persons as if the amount of deficiency arising when that event occurs were such part of it as is proportionate to the share of the rights to which that person's interest relates.

(6) If a person ("A") has two or more material interests in the rights under a policy or contract, this section applies in the same way as where two or more persons have separate such interests, unless A—
  (a) is the only person with such interests, and
  (b) has all those interests in the same capacity.

(7) If there has been a surrender or assignment of only a part of or share in rights under the policy or contract, the references to those rights in this section and sections 470 to 472 are references to that part or share.

470 Interests in rights under a policy or contract for section 469

(1) This section sets out the circumstances in which a person has a material interest in the rights under a policy or contract for the purposes of section 469.

(2) An individual has such an interest if—
  (a) the individual beneficially owns a share in the rights,
  (b) a share in them is held on non-charitable trusts which the individual created, or
  (c) a share in them is held as security for the individual's debt.

(3) A company has such an interest if—
  (a) the company beneficially owns a share in the rights,
  (b) a share in them is held on non-charitable trusts which the company created, or
  (c) a share in them is held as security for the company's debt.

(4) Personal representatives have such an interest if they hold a share in the rights.

(5) Trustees of a charitable trust have such an interest if a share in the rights—
  (a) is held by them, or
  (b) is held as security for a debt owed by them.

(6) Trustees of a non-charitable trust have such an interest if—
  (a) a share in the rights is held by the trustees and one of the absent settlor conditions specified in section 467(4) is met,
  (b) a share in the rights is held by them, none of those conditions is met and no individual, company or personal representatives have an interest in the share, or
  (c) a share in them is held as security for a debt owed by the trustees.

(7) A foreign institution has such an interest if—
  (a) the institution beneficially owns a share in the rights,
  (b) the rights are held for the institution's purposes, or

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(c) a share in them is held as security for the institution's debt.

471 Determination of shares etc.

(1) For the purposes of this Chapter—
- (a) rights under a policy or contract which are beneficially owned by two or more persons jointly, and
- (b) an interest in such rights which is so owned,

are treated as if they were beneficially owned by those persons in equal shares.

(2) Subsections (3) and (4) apply if immediately before a chargeable event the rights under the policy or contract are, or a share in those rights is, held as security for one or more debts owed by two or more persons.

(3) Each of those persons is treated for the purposes of this Chapter as the sole debtor for a separate debt.

(4) The appropriate share of the security for the actual debt or debts, so far as it consists of the rights under the policy or contract or a share in them, is treated for the purposes of this Chapter as the security for each separate debt.

(5) In subsection (4) "the appropriate share" means—
- (a) if there is only one actual debt for which the person is liable as between the debtors, a share proportionate to the share of that debt for which the person is so liable, and
- (b) if there are two or more such actual debts, a share proportionate to the share of the total such debts for which the person is so liable.

(6) For the purposes of this section, property held for the purposes of a foreign institution is treated as being beneficially owned by the institution.

(7) An interest in some or all of the rights under a policy or contract which is not a share in all those rights is treated for the purposes of this Chapter as such a share in those rights as may, on a just and reasonable apportionment, be regarded as representing the interest.

472 Trusts created by two or more persons

(1) For the purposes of this Chapter, if immediately before a chargeable event—
- (a) the rights under a policy or contract are held on non-charitable trusts created by two or more persons, or
- (b) a share in those rights is so held,

each of the persons is treated as the sole settlor of a separate share of the rights or share held on trusts.

(2) Each settlor's separate share is proportionate to the share originating from that settlor of the whole of the property subject to the trusts immediately before the event.

(3) If immediately before a chargeable event non-charitable trusts apply to property originating from different persons (for example, where property is added by different persons to an existing settlement)—
- (a) as respects that event the trusts are taken to have been created by them all, and
- (b) accordingly, each of them is treated as a sole settlor under subsection (1).

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(4) Property originates from a person for the purposes of subsections (2) and (3) if—
- (a) it is property provided by the person for the purposes of the trusts,
- (b) it is property representing such property, or
- (c) in a case where property represents both property within paragraph (a) and other property, it is so much of that property as, on a just and reasonable apportionment, is to be taken to represent the property within paragraph (a).

(5) References in subsection (4) to property representing other property include property representing accumulated income from other property.

(6) For the purposes of this section, property is treated as provided by a person ("A") if—
- (a) it is provided by A directly or indirectly, or
- (b) it is provided directly or indirectly by another person under reciprocal arrangements with A.

(7) Property is not treated as provided by A if it is provided by A directly or indirectly under reciprocal arrangements with another person.

Policies and contracts to which Chapter 9 applies

473 Policies and contracts to which Chapter 9 applies: general

(1) This Chapter applies to—
- (a) policies of life insurance,
- (b) contracts for life annuities, and
- (c) capital redemption policies.

(2) In this Chapter—

"capital redemption policy" means a contract made in the course of a capital redemption business, as defined in section 458(3) of ICTA, and

"life annuity" means—
- (a) an annuity that—
  - (i) is a purchased life annuity for the purposes of Chapter 7 of this Part (see section 423), and
  - (ii) is not specified in section 718 (annuities excluded from the exemption for part of purchased life annuity payments under section 717), or
- (b) an annuity to which section 656 of ICTA (as read with section 657 of that Act) applies.

(3) Subsection (1) is subject to—

section 478 (exclusion of mortgage repayment policies),
section 479 (exclusion of pension policies),
section 480 (exclusion of excepted group life policies), and
section 483 (exclusion of credit union group life policies).

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474 Special rules: qualifying policies

(1) In the application of this Chapter to policies of insurance that are qualifying policies for the purposes of Chapter 1 of Part 7 of ICTA (policies within the conditions in Schedule 15 to that Act that qualify for special tax treatment) special rules apply.

(2) See, in particular—

section 485 (disregard of certain events in relation to qualifying policies),

section 503 (exception from section 501 for certain loans under qualifying policies),

section 542 (replacement of qualifying policies), and

section 543 (issue time of qualifying policy replacing foreign policy).

(3) Policies within the definition of "foreign policy of life insurance" in section 476(3) that would otherwise be qualifying policies are treated for the purposes of this Chapter as not being qualifying policies in the cases specified in subsections (4) and (5).

(4) Policies within paragraph (a) of that definition are so treated once the conditions in paragraph 24(3) of Schedule 15 to ICTA have ceased to be met with respect to them (conditions that are required to be met for certain policies issued by non-UK resident companies to be qualifying policies).

(5) Policies within paragraph (b) of that definition immediately before an event do not count as qualifying policies in relation to that event.

475 Special rules: personal portfolio bonds

(1) In the application of this Chapter to personal portfolio bonds, certain special rules apply.

(2) See, in particular—

section 515 (requirement for annual calculations in relation to personal portfolio bonds), and

sections 522 to 525 (method for making calculations and chargeable events where calculations show gains).

(3) For the meaning of "personal portfolio bond" see section 516.

476 Special rules: foreign policies

(1) In the application of this Chapter to foreign policies of life insurance and foreign capital redemption policies, certain special rules apply.

(2) See, in particular—

section 474(3) to (5) (certain foreign policies treated as not being qualifying policies),

section 528 (reduction in amount charged: non-UK resident policy holders),

sections 531 to 534 (under which foreign policies are excepted from section 530 (income tax treated as paid etc.) subject to certain reliefs), and

section 536(6) (method of calculating top slicing relief).

(3) In this Chapter—

"foreign policy of life insurance" means—

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(a) a policy of life insurance issued by a non-UK resident company, and
(b) a policy of life insurance which forms part of the overseas life assurance business of an insurance company or friendly society as a result of section 431D(1)(a) of ICTA (business with a non-UK resident policy holder),

"foreign capital redemption policy" means—
(a) a capital redemption policy issued by a non-UK resident company, and
(b) a capital redemption policy which forms part of the overseas life assurance business of an insurance company as a result of section 431D(1)(a) of ICTA, and

"overseas life assurance business" has the same meaning as in Part 12 of ICTA (see section 431D of that Act).

477 Special rules: certain older policies and contracts

(1) In the case of—
(a) certain contracts made before particular dates, and
(b) certain policies issued, or issued in respect of insurances made, before particular dates,

this Chapter applies subject to Parts 6 and 7 of Schedule 2 (special provisions for older policies and contracts).

(2) See the table in section 546 for the provisions affected.

478 Exclusion of mortgage repayment policies

(1) This Chapter does not apply to a mortgage repayment policy.

(2) In this section "mortgage repayment policy" means a policy of life insurance with the sole object of providing, on an individual's death or disability, a sum substantially the same as any amount then outstanding under a repayment mortgage—
(a) of the individual's residence, or
(b) of any premises occupied by the individual for the purposes of a business.

(3) In this section "repayment mortgage" means a mortgage securing a principal amount which is repayable by instalments payable annually or at shorter regular intervals.

479 Exclusion of pension policies

This Chapter does not apply to a policy of insurance which—
(a) constitutes a registered pension scheme, or
(b) is issued or held in connection with such a scheme.

480 Exclusion of excepted group life policies

(1) This Chapter does not apply to an excepted group life policy.

(2) In this Chapter "group life policy" means a policy of life insurance whose terms provide—
(a) for the payment of benefits on the death of more than one individual, and
(b) for those benefits to be paid on the death of each of those individuals.

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(3) In this section "excepted group life policy" means a group life policy with respect to which the conditions specified in the following sections are met—
  (a) section 481 (conditions about benefits), and
  (b) section 482 (conditions about persons intended to benefit).

481 Excepted group life policies: conditions about benefits

(1) Conditions A to D are the conditions referred to in section 480(3)(a) (definition of "excepted group life policy").

(2) Condition A is that under the terms of the policy a sum or other benefit of a capital nature is payable or arises—
  (a) on the death in any circumstances of each of the individuals insured under the policy who dies under an age specified in the policy that does not exceed 75, or
  (b) on the death, except in the same specified circumstances, of each of those individuals who dies under such an age.

(3) Condition B is that under the terms of the policy—
  (a) the same method is to be used for calculating the sums or other benefits of a capital nature payable or arising on each death, and
  (b) any limitation on those sums or other benefits is the same in the case of any death.

(4) Condition C is that the policy does not have, and is not capable of having, on any day—
  (a) a surrender value that exceeds the proportion of the amount of premiums paid which, on a time apportionment, is referable to the unexpired paid-up period beginning with the day, or
  (b) if there is no such period, any surrender value.

(5) In subsection (4) "the unexpired paid-up period", in relation to a period beginning with a day, means the period beginning then and ending with the earliest subsequent day on which a payment of premium falls due under the policy or the term of the policy ends.

(6) Condition D is that no sums or other benefits may be paid or conferred under the policy, except as mentioned in condition A or C.

482 Excepted group life policies: conditions about persons intended to benefit

(1) Conditions A to C are the conditions referred to in section 480(3)(b) (definition of "excepted group life policy").

(2) Condition A is that any sums payable or other benefits arising under the policy must (whether directly or indirectly) be paid to or for, or conferred on, or applied at the direction of—
  (a) an individual or charity beneficially entitled to them, or
  (b) a trustee or other person acting in a fiduciary capacity who will secure that the sums or other benefits are paid to or for, or conferred on, or applied in favour of, an individual or charity beneficially.

(3) Condition B is that no person who is, or is connected with, an individual whose life is insured under the policy may, as a result of a group membership right relating to

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that individual, receive (directly or indirectly) any death benefit in respect of another individual whose life is so insured.

(4) In subsection (3)—

"death benefit in respect of an individual" means any sums or other benefits payable or arising under the policy on the individual's death or anything representing any such sums or benefits, and

"group membership right", in relation to an individual insured by a group life policy, means any right (including the right of any person to be considered by trustees in their exercise of a discretion) that is referable to that individual being one of the individuals whose lives are insured by the policy.

(5) Condition C is that a tax avoidance purpose is not the main purpose, or one of the main purposes, for which a person is at any time—

(a) the holder, or one of the holders, of the policy, or

(b) the person, or one of the persons, beneficially entitled under the policy.

(6) In subsection (5)—

"tax advantage" has the same meaning as in Chapter 1 of Part 17 of ICTA (tax avoidance) (see section 709(1) of that Act), and

"tax avoidance purpose" means any purpose that consists in securing a tax advantage (whether for the holder of the policy or any other person).

483 Exclusion of credit union group life policies

(1) This Chapter does not apply to a credit union group life policy.

(2) In this section "credit union group life policy" means a group life policy with the sole object of providing, on the death or disability of any of the individuals insured under it, a sum substantially the same as any amount then outstanding under a loan made to that individual by a credit union.

(3) In this section "credit union" means a society registered as a credit union under—

(a) the Industrial and Provident Societies Act 1965 (c. 12), or

(b) the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)).

When chargeable events occur: general

484 When chargeable events occur

(1) The following are chargeable events—

(a) in the case of any kind of policy or contract—

(i) the surrender of all rights under the policy or contract,

(ii) the assignment of all those rights for money or money's worth,

(iii) the falling due of a sum payable as a result of a right under a policy or contract to participate in profits, if there are no remaining rights under it,

(iv) a chargeable event treated as occurring under section 509(1) (chargeable events in certain cases where periodic calculations show gains),

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(v) a surrender or assignment treated as a chargeable event under section 514(1) (chargeable events where transaction-related calculations show gains), and

(vi) a chargeable event treated as occurring under section 525(2) (chargeable events where annual personal portfolio bond calculations show gains),

(b) in the case of a policy of life insurance, a death giving rise to benefits under it,

(c) in the case of a policy of life insurance or a capital redemption policy, its maturity,

(d) in the case of a contract for a life annuity which provides for the payment of a capital sum on death, the death, and

(e) in the case of a contract for a life annuity which provides for a capital sum to be taken as a complete alternative to the annuity payments (or any further annuity payments), taking the capital sum.

(2) Subsection (1) is subject to—

section 485 (disregard of certain events in relation to qualifying policies),

section 486 (exclusion of maturity of capital redemption policies in certain circumstances),

section 487 (disregard of certain assignments), and

section 488 (disregard of certain events following alterations of life insurance policy terms).

(3) See also section 490 (last payment under guaranteed income bonds etc. treated as total surrender).

485 Disregard of certain events in relation to qualifying policies

(1) In relation to a qualifying policy, the events that count as chargeable events are restricted as follows.

(2) Death or the maturity of the policy is only a chargeable event if—

(a) the policy has been converted into a paid-up policy before the end of whichever of the following periods ends sooner—

(i) 10 years from the making of the insurance, and

(ii) three-quarters of the term for which the policy is to run (assuming it is not ended by death or disability), or

(b) there is a company interest in the rights under the policy immediately before the event occurs.

(3) An event specified in section 484(1)(a)(i) to (iv) (surrender or assignment of all rights, final participation in profits and chargeable event where periodic calculation shows gain) is only a chargeable event if—

(a) the event occurs or the policy has been converted into a paid-up policy before the end of whichever of the periods specified in subsection (2)(a)(i) and (ii) ends sooner, or

(b) there is a company interest in the rights under the policy immediately before the event occurs.

(4) For the purposes of subsections (2)(b) and (3)(b) there is a company interest in the rights under a policy if—

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(a) a company beneficially owns them,
(b) they are held on trusts created by a company, or
(c) they are held as security for a company's debt.

(5) An event specified in section 484(1)(a)(v) (part surrenders and assignments: chargeable events where transaction-related calculations show gains) is only a chargeable event if—
(a) the time as at which the calculation showing the gain is required to be made under section 498(2) is before the end of whichever of the periods specified in subsection (2)(a)(i) and (ii) ends sooner, or
(b) the policy has been converted into a paid-up policy before that time.

(6) If the policy has been varied so as to increase the premiums payable under it, subsections (2), (3) and (5) apply as if they referred instead to the following periods—
(a) 10 years from the variation taking effect, and
(b) three-quarters of the term for which the policy is to run from the variation (assuming it is not ended by death or disability).

(7) If a qualifying policy is substituted for another policy in circumstances where paragraph 25(1) or (3) of Schedule 15 to ICTA applies (replacement of a policy issued by a non-UK resident company by a policy which is not so issued), the surrender of the rights conferred by the other policy is not a chargeable event.

486 Exclusion of maturity of capital redemption policies in certain circumstances

The maturity of a capital redemption policy is not a chargeable event if the sums payable on maturity—
(a) are chargeable to income tax because they fall within—
(i) Chapter 7 (purchased life annuities),
(ii) Chapter 7 of Part 5 (annual payments not otherwise charged),
(iii) section 609 of ITEPA 2003 (annuities for the benefit of dependants),
(iv) section 610 of that Act (annuities under non-registered occupational pension schemes), or
(v) section 611 of that Act (annuities in recognition of another's services), or
(b) are chargeable to corporation tax under Schedule D.

487 Disregard of certain assignments

For the purposes of this Chapter, an assignment of rights under a policy or contract or a share in such rights is ignored if it is—
(a) by way of security for a debt,
(b) on the discharge of a debt secured by the rights or share, or
(c) between spouses living together.

488 Disregard of some events after alterations of life insurance policy terms

(1) This section applies if—
(a) the terms of a policy of life insurance are altered,
(b) the alteration is not itself a chargeable event, and

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(c) the conditions specified in section 489 are met.

(2) After the alteration a chargeable event is only treated as occurring in relation to the policy if one would have been treated as occurring had the alteration not occurred.

(3) If the alteration results in the policy being regarded as replaced by another, this section and section 489 apply as if they were a single policy.

489 Conditions applicable to alterations of life insurance policy terms

(1) Conditions A to E are the conditions referred to in section 488.

(2) Condition A is that the policy was issued in respect of an insurance made at least 20 years before the alteration.

(3) Condition B is that the alteration results from a decision by the insurance company that it will not collect further premiums due from any of the holders under a number of policies of the same description if a particular period of time has elapsed since the contracts were made.

(4) Condition C is that no premiums are payable or paid after the date of the alteration.

(5) Condition D is that the benefits to be provided under the policy after the alteration are the same or substantially the same as those before the alteration.

(6) A deduction from the benefits is ignored for the purposes of subsection (5) if it does not exceed the total net premiums which, apart from the alteration, would have been payable under the policy between—
(a) the date of the alteration, and
(b) the date on which the benefits become payable.

(7) In subsection (6) "net premiums" means the premiums reduced by any tax relief which would have been due on the premiums had they been paid.

(8) Condition E is that the premiums payable under the policy before the alteration—
(a) have not been reduced to a nominal amount on the exercise of an option, in circumstances where the reduction is connected with a right to surrender in part the rights conferred by the policy after the date of the reduction, and
(b) are not capable of being so reduced in such circumstances.

490 Last payment under guaranteed income bonds etc. treated as total surrender

(1) This section applies to a payment that would fall within section 500(d) (payments under guaranteed income bonds etc. treated as surrenders of part of the rights under the contract) apart from section 504(5) (which prevents payments comprising the whole of the last benefit to be paid under such contracts from being so treated).

(2) The payment is treated for the purposes of this Chapter as the surrender of all the rights under the contract.

(3) A payment to which this section applies is not regarded as interest or as an annual payment for any income tax purposes.

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Calculating gains: general

491 Calculating gains: general rules

(1) This section deals with calculating—

(a) whether a gain has arisen on a chargeable event within section 484(1)(a)(i) to (iii) or (b) to (e) (surrender or assignment of all rights, final participation in profits, death, maturity, or taking a capital sum as a complete alternative to annuity payments), and

(b) if so, the amount of the gain.

(2) There is a gain if TB exceeds the sum of TD and PG where—

TB is the total benefit value of the policy or contract (see section 492),

TD is the total allowable deductions for the policy or contract (see section 494), and

PG is the total amount of gains treated as arising on calculation events occurring in relation to the policy or contract before the chargeable event in question.

(3) The gain is equal to the excess.

(4) In this Chapter—

"calculation event" means an excess event, a part surrender or assignment event or a personal portfolio bond event,

"excess event" means a chargeable event within section 509(1),

"part surrender or assignment event" means a chargeable event within section 514(1), and

"personal portfolio bond event" means a chargeable event within section 525(2).

(5) The reference to the policy in the definition of "PG" in subsection (2) includes any related policy.

(6) For the purposes of this Chapter, a policy ("policy A") is a related policy as respects another ("policy B") if—

(a) policy B is a new policy (as defined in paragraph 17 of Schedule 15 to ICTA (substitutions and variations)) in relation to policy A, or

(b) policy B is a new policy (as so defined) in relation to another policy ("policy C") and policy C is a new policy (as so defined) in relation to policy A,

and so on.

(7) See section 539 (relief for deficiencies) if there is no gain under subsection (2), but a gain arose on a calculation event occurring in relation to the policy or contract before the chargeable event in question.

(8) For the rules about calculating gains on calculation events, see—

section 507 (method for making periodic calculations under section 498),

section 511 (method for making transaction-related calculations under section 510), and

section 522 (method for making annual calculations under section 515).

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492 The total benefit value of a policy or contract

(1) To calculate the total benefit value of a policy or contract for the purposes of section 491, add together—

(a) its value in accordance with section 493,

(b) any capital sum paid under the policy or contract before the event,

(c) the value of any other benefit of a capital nature conferred by the policy or contract before the event,

(d) the amount of any loan made before the event, the making of which is treated as the surrender of a part of the rights under the policy or contract under section 500(c) (loans by insurers to which section 501 applies),

(e) in the case of a guaranteed income bond contract, as defined in section 504(7), any amount paid before the event, the payment of which is treated as a surrender of a part of the rights under the contract under section 500(d) of this Act (payments by insurers under such contracts), and

(f) in the case of an assignment, the amount or value of any share in the rights under the policy or contract that was assigned before the event.

(2) References to the policy in subsection (1)(b) to (e) include any related policy.

(3) This section is subject to—

section 495 (disregard of certain amounts in calculating gains under section 491), and

section 497 (disregard of trivial inducement benefits).

493 The value of a policy or contract

(1) In the case of a chargeable event within section 484(1)(a) (i) or (iii), (c), (d) or (e) (surrender of all rights, final participation in profits, maturity or, in the case of a contract for a life annuity that provides for taking a capital sum on death, death or taking a capital sum as a complete alternative to annuity payments), the value of the policy or contract is the total of—

(a) any sum payable because of the event, and

(b) in the case of a policy of life insurance or a capital redemption policy, any value or amount specified in subsection (2).

(2) The value or amount is—

(a) if a right to periodical payments arises because of the event, an amount equal to the capital value of those payments at the time the right arises, and

(b) the amount or value of any other benefits arising because of the event.

(3) Subsection (1) does not apply to a surrender treated as made under section 490 (last payment under guaranteed income bond contracts etc. treated as total surrender).

(4) In that case the value of the rights treated as surrendered is treated as being equal to the amount of the payment treated as the surrender.

(5) In the case of a chargeable event within section 484(1)(a)(ii) (assignment of all rights), the value of the policy or contract is the amount or value of the consideration for the assignment.

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(6) But an assignment of a policy of life insurance or a contract for a life annuity between connected persons is treated as made for a consideration equal to the market value of the policy or contract.

(7) In the case of a chargeable event within section 484(1)(b) (death), the value of the policy is its surrender value immediately before the death.

(8) This section is subject to—

section 495 (disregard of certain amounts in calculating gains under section 491), and

section 497 (disregard of trivial inducement benefits).

494 The total allowable deductions for a policy or contract

(1) To calculate the total allowable deductions for a policy or contract for the purposes of section 491—

Step 1

Add together—

(a) the total amount of premiums paid under the policy or contract before the event, and

(b) if the event occurs at the end of the final insurance year (see section 499), the amount of any repayment or partial repayment of a loan treated under section 500(c) as a surrender of a part of the rights under the policy or contract.

Step 2

In the case of a contract for a life annuity under which any annuity payments have been made, reduce the result of step 1 by so much of those payments as is—

(a) exempt under section 717 (exemption for part of purchased life annuity payments), or

(b) determined to be the capital element in those payments under section 658 of ICTA.

(2) In the case of a capital redemption policy which has been assigned for money or money's worth before the event, the reference in paragraph (a) of step 1 in subsection (1) to the total amount of premiums paid under the policy or contract before the event is a reference to the total of—

(a) the amount or value of the consideration given for the last such assignment, and

(b) the total amount of premiums paid under the policy or contract after that assignment and before the event.

(3) References to the policy in paragraphs (a) and (b) of step 1 in subsection (1) and in subsection (2) include any related policy.

(4) Subsection (1) is subject to—

section 495 (disregard of certain amounts in calculating gains under section 491), and

section 496 (modification of this section: qualifying endowment policies held as security for company debts).

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495 Disregard of certain amounts in calculating gains under section 491

(1) A retained replacement policy premium is ignored in calculating—
- (a) the total benefit value of a policy under section 492(1), or
- (b) the total allowable deductions for a policy under section 494(1).

(2) In subsection (1) "retained replacement policy premium" means a sum which—
- (a) has been payable under a policy which is one of two or more policies treated as a single policy under section 542(1) (qualifying policies and policies replacing them), and
- (b) is such a sum as is mentioned in section 542(4) and meets the condition in that section.

(3) For the purposes of section 492(1)(b) and (c) (total benefit value: capital sums and benefits paid or conferred before the event in question), any sum paid or benefit conferred under a policy is ignored if it is attributable to a person's disability.

(4) For the purposes of section 492(1)(f) (total benefit value: assignments), a share assigned before the event is ignored if—
- (a) it was assigned in an insurance year (see section 499) that began on or after 6th April 2001, and
- (b) it was not assigned for money or money's worth.

(5) The reference to the policy in subsection (3) includes any related policy.

496 Modification of section 494: qualifying endowment policies held as security for company debts

(1) This section applies if—
- (a) a chargeable event within section 484(1)(a)(i), (b) or (c) (surrender of all rights, death or maturity) occurs in relation to a qualifying endowment policy (see subsection (7)),
- (b) immediately before the event occurs the rights under the policy are held as security for a debt owed by a company, and
- (c) the company debt conditions are met (see subsection (4)).

(2) If—
- (a) the amount of the debt exceeds the amounts referred to in paragraph (a) of step 1 in section 494(1) (the total amount of premiums paid before the event), and
- (b) the company makes a claim within two years after the end of the accounting period in which the chargeable event occurs,

section 494 applies as if that paragraph referred instead to the amount of the debt.

(3) If the amount of the debt varied during the policy period, it is to be taken for the purposes of subsection (2) as the lowest amount at which it stood during that period.

(4) The company debt conditions are that—
- (a) throughout the policy period, the rights conferred by the policy have been held as security for a debt owed by the company referred to in subsection (1)(b),
- (b) the capital sum payable under the policy in the event of death during the term of the policy is not less than the amount of the debt when the insurance was made,

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(c) any sum payable under the policy as a result of the event is applied in repayment of the debt (except so far as it exceeds the debt), and

(d) the debt was incurred to pay money applied for the purposes of the company's trade premises.

(5) Money is applied for the purposes of a company's trade premises if it is applied—

(a) in purchasing an estate or interest in land to be occupied by the company for the purposes of a trade carried on by it, or

(b) for the purpose of the construction, extension or improvement (but not the repair or maintenance) of buildings which are or are to be so occupied.

(6) If during the policy period the company incurs a debt by borrowing in order to repay another debt, references to a debt in subsections (3) and (4) include both debts where appropriate.

(7) In this section—

"accounting period" is to be read in accordance with section 12 of ICTA,

"the policy period" means the period beginning with the making of the insurance and ending immediately before the chargeable event, and

" qualifying endowment policy" means a policy which is a qualifying policy as a result of paragraph 2 of Schedule 15 to ICTA.

497 Disregard of trivial inducement benefits

(1) A benefit other than a payment of money is ignored for the purposes of calculating any gain under this Chapter if—

(a) it is provided by an insurance company for any person as an inducement for the person to enter into—

(i) a policy or contract to which this Chapter applies, or

(ii) a later transaction in relation to such a policy or contract, and

(b) the condition specified in subsection (2) is met.

(2) The condition is that the total cost to the insurance company of providing the benefit and any other such benefits provided by it at any time in connection with the policy or contract, or any linked policy or contract, does not exceed £30.

(3) The Treasury may by order amend the sum for the time being specified in subsection (2) so as to increase it.

(4) For the purposes of this section, a policy or contract is linked to another policy or contract if—

(a) their terms are substantially identical, and

(b) when one of them is issued or made the issue or making of the other is contemplated.

Part surrenders and assignments: periodic calculations and excess events

498 Requirement for periodic calculations in part surrender or assignment cases

(1) This section applies if—

(a) a part of, or share in, the rights under a policy or contract is surrendered, or

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(b) such a part or share is assigned for money or money's worth.

(2) A calculation is to be made in accordance with section 507 in relation to the policy or contract as at the end of the insurance year in which the surrender or assignment occurs (see section 499) to determine—
(a) whether a gain has arisen on the policy or contract, and
(b) if so, the amount of the gain.

(3) For cases where surrenders and assignments of a part of the rights under a policy or contract are treated as occurring where they would not otherwise do so, see sections 500 to 506.

499 Meaning of "insurance year" and "final insurance year"

(1) In this Chapter "insurance year", in relation to a policy or contract, means the 12 months beginning with—
(a) the date on which the insurance or contract is made, or
(b) any anniversary of that date.

(2) Subsection (1) is subject to subsections (3) and (5).

(3) An event referred to in section 484(1)(a)(i) or (iii) or (b) to (e) (surrender of all rights, final participation in profits, death, maturity, or taking a capital sum as a complete alternative to annuity payments) is treated as ending the insurance year in which it occurs.

(4) In this Chapter "final insurance year" means an insurance year that is ended as a result of subsection (3).

(5) But if, as a result of subsection (3), an insurance year would begin and end in the same tax year—
(a) that insurance year and the previous insurance year are treated as one insurance year, and
(b) "final insurance year" needs to be read accordingly.

500 Events treated as part surrenders

The following events are treated for the purposes of this Chapter as a surrender of a part of the rights under the policy or contract in question—
(a) the falling due of a sum payable as a result of a right under a policy or contract to participate in profits where further rights remain under it,
(b) in the case of a contract for a life annuity which provides for a capital sum to be taken as an alternative in part to the annuity payments, taking the capital sum,
(c) the making of a loan to which section 501 applies, and
(d) the making of a payment to which section 504 applies (payments by insurers under guaranteed income bonds etc.).

501 Part surrenders: loans

(1) This section applies to a loan (and so it falls within section 500(c)) if it is made by the insurer under a policy or contract—
(a) to an individual falling within subsection (2),

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(b) to trustees falling within subsection (3), or
(c) to a company falling within subsection (4).

(2) An individual falls within this subsection at any time if, were a gain to arise in respect of the policy or contract at that time, the individual would be liable for tax under this Chapter as a result of section 465 (person liable: individuals).

(3) Trustees fall within this subsection at any time if, were a gain to arise in respect of the policy or contract at that time, they would be liable for tax under this Chapter as a result of section 467 (person liable: UK resident trustees).

(4) A company falls within this subsection at any time if, were a gain to arise in respect of the policy or contract at that time, it would be treated as forming part of the company's income under section 547 of ICTA (method of charging gain to corporation tax).

(5) For the purposes of subsection (1), a loan—
(a) is treated as made by an insurer if it is made by arrangement with it, and
(b) is treated as made to an individual, trustees or a company if it is made at the individual's, trustees' or company's direction.

(6) In this section “insurer”, in relation to a policy or contract, means the body issuing the policy or with which the contract is made.

(7) This section is subject to—
(a) section 502 (exception for loans to buy life annuities), and
(b) section 503 (exception for certain loans under qualifying policies).

502 Exception from section 501 for loans to buy life annuities

(1) Section 501 does not apply to a loan made under a contract for a life annuity if all the interest on the loan is eligible for tax relief.

(2) If part of the interest is eligible for tax relief, section 501 only applies to the part of the loan carrying ineligible interest.

(3) For the purposes of this section, interest is eligible for tax relief if it is eligible for relief under section 353 of ICTA (general provision for relief for interest) as a result of section 365 of ICTA (loan to buy life annuity).

503 Exception from section 501 for certain loans under qualifying policies

(1) Section 501 does not apply to a loan made by the body issuing a qualifying policy if either or both of conditions A and B are met.

(2) Condition A is that interest is payable on the loan at a commercial rate.

(3) Condition B is that the loan was made—
(a) before 6th April 2000,
(b) to a full-time employee of the body issuing the policy, and
(c) to assist the employee in purchasing or improving a dwelling to be used as the employee's only or main residence.

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504 Part surrenders: payments under guaranteed income bonds etc.

(1) This section applies to so much of any payment of an amount by an insurer under a guaranteed income bond contract as meets conditions A to C (and so it falls within section 500(d)).

(2) Condition A is that it is a sum which, but for subsection (6), would be treated for income tax purposes as interest or an annual payment.

(3) Condition B is that it is not a sum paid or falling to be paid because of provisions of the guaranteed income bond contract which, taken alone, would constitute a contract of insurance—

(a) within Part 1 or 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), but

(b) not within paragraph 1 or 3 of Part 2 of that Schedule (life and annuity contracts including certain linked long-term contracts).

(4) Condition C is that it does not represent late payment interest.

(5) This section does not apply if the payment comprises the whole of the last benefit to be paid under the contract (ignoring late payment interest).

(6) A sum to which this section applies is not regarded as interest or as an annual payment for any income tax purposes.

(7) In this section—

"guaranteed income bond contract" means a policy of life insurance that is a contract of insurance which—

(a) is within paragraph 1 or 3 of Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, and

(b) is neither an annuity contract nor a contract effected in the course of a company's pension business,

"late payment interest", in relation to a contract, means interest on an amount payable under the contract which is paid for a period beginning on or after the date of the occurrence as a result of which the amount is payable, and

"pension business" has the meaning given by section 431B of ICTA (or the corresponding enactment in force when the contract was effected).

505 Assignments etc. involving co-ownership

(1) For the purposes of this Chapter (except this section and section 506)—

(a) a transaction to which this section applies is taken to be one or more assignments of part only of the rights under the policy or contract in respect of which the transaction occurs, and

(b) those assignments are the ones specified in section 506.

(2) If subsection (1) applies to a transaction that is an assignment—

(a) of the whole of the rights under a policy or contract, or

(b) of a part of or a share in those rights,

any reference to the assignment in this Chapter (except this section and section 506) is to be read as a reference to the assignment or assignments that the transaction is taken to be under subsection (1).

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(3) This section applies to a transaction in respect of which conditions A and B and either condition C or D or E are met.

(4) Condition A is that—

(a) immediately before the transaction the whole or part of, or a share in, the rights under the policy or contract ("the ownership interest") was in the beneficial ownership of one person or of two or more persons jointly ("the old ownership"), and

(b) as a result of the transaction the ownership interest becomes beneficially owned by one person or by two or more persons jointly or in common ("the new ownership").

(5) Condition B is that at least one person who is a member of the old ownership is also a member of the new ownership.

(6) Condition C is that there is only one member of the old ownership and there are two or more members of the new ownership.

(7) Condition D is that there are two or more members of the old ownership and at least one of them is not a member of the new ownership.

(8) Condition E is that there are two or more members of the old ownership and the share in the ownership interest of at least one of those members (see section 506(5)) exceeds that member's share in the ownership interest as a member of the new ownership (see section 506(6)).

506 Assignments occurring when there is a co-ownership transaction

(1) This section sets out the assignment or assignments that are taken to occur under section 505 when there is a transaction to which that section applies ("a co-ownership transaction").

(2) If there is only one member of the old ownership, that member is to be treated as if the co-ownership transaction had been the assignment by that member of so much of the ownership interest as exceeds that member's share in the ownership interest as a member of the new ownership.

(3) If there are two or more members of the old ownership, each such member who is not a member of the new ownership is to be treated as if the co-ownership transaction had been the assignment by that member of that member's share in the ownership interest.

(4) If there are two or more members of the old ownership, each such member whose share in the ownership interest as a member of the old ownership exceeds that member's share in the ownership interest as a member of the new ownership is to be treated as if the co-ownership transaction had been the assignment by that member of that excess.

(5) If the old ownership consists of two or more persons beneficially entitled jointly, the members of the old ownership are to be treated as if the ownership interest had been in their beneficial ownership in equal shares instead of jointly.

(6) If the new ownership consists of two or more persons beneficially entitled jointly, the members of the old ownership are to be treated as if the result of the co-ownership transaction had been that the ownership interest was in the beneficial ownership of the members of the new ownership in equal shares instead of jointly.

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(7) In this section "the ownership interest", "the old ownership" and "the new ownership" are to be read as indicated in section 505(4).

507 Method for making periodic calculations under section 498

(1) This section deals with the calculation required to be made in relation to a policy or contract as at the end of an insurance year under section 498(2) (requirement for periodic calculations in part surrender and assignment cases) to determine—

(a) whether a gain has arisen, and

(b) if so, the amount of the gain.

(2) There is a gain if the net total value of rights surrendered or assigned exceeds the net total allowable payments (see subsections (4) and (5)).

(3) The gain is equal to the excess.

(4) To calculate the net total value of rights surrendered or assigned—

Step 1

Find—

(a) the value, as at the time of its surrender or assignment, of any part of or share in the rights under the policy or contract which has been surrendered at any time or assigned at any time for money or money's worth, and

(b) the value, as at the time of its assignment, of any part of or share in the rights under the policy or contract which has been assigned otherwise than for money or money's worth in an insurance year beginning on or before 5th April 2001,

in each case determining the value in accordance with section 508.

Step 2

Add together those values.

Step 3

If any previous calculation events (other than personal portfolio bond events) have occurred in relation to the policy or contract—

(a) add together each such value which has been brought into account under this subsection on those events, and

(b) subtract the result of paragraph (a) from the result of step 2.

(5) To calculate the net total allowable payments—

Step 1

Find the allowable element in each allowable payment by multiplying the amount of the payment by—

$$\frac{X}{20}$$

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where X is the number of insurance years in the period beginning with the year in which the payment is made and ending with the insurance year as at the end of which the calculation under this section is required to be made or, if it is less, 20.

Step 2

Add together the allowable elements for all allowable payments.

Step 3

Add together all the allowable elements brought into account under this subsection on a previous calculation event.

Step 4

Subtract the result of step 3 from the result of step 2.

(6) In this section—

"allowable payment" means a premium, other than a retained replacement policy premium, and

"retained replacement policy premium" has the meaning given in section 495(2).

508 The value of rights partially surrendered or assigned

(1) For the purposes of sections 507, 511 and 512, where any part of or share in rights conferred by a policy or contract is surrendered, the value of the part of or share in the rights surrendered is the amount or value of the sum payable or other benefits arising because of the surrender, except where subsection (2) or (3) applies.

(2) In the case of a surrender within section 500(c) (loans by insurers to which section 501 applies), the value for those purposes is an amount equal to the loan.

(3) In the case of a surrender within section 500(d) (payments by insurers under guaranteed income bonds etc.), the value for those purposes is the amount to which section 504 applies.

(4) For the purposes of sections 507, 511 and 512, where any part of or share in rights conferred by a policy or contract is assigned, the value of the part or share as at the time of the assignment is its surrender value at that time.

(5) For the requirement to ignore certain benefits, see section 497 (disregard of trivial inducement benefits).

509 Chargeable events in certain cases where periodic calculations show gains

(1) If the calculation in section 507 shows that a gain has arisen as at the end of the insurance year, the gain is treated as arising on the occurrence of a chargeable event at the end of that year, unless condition A, B or C is met.

(2) Subsection (1) is subject to section 485(3) (which restricts the circumstances in which such events occur in relation to qualifying policies).

(3) Condition A is that during the insurance year there has been an assignment for money or money's worth of part of or a share in the rights conferred by the policy or contract.

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(4) Condition B is that during the insurance year there has been both—
  (a) a surrender of part of or a share in the rights conferred by the policy or contract, and
  (b) a later assignment, otherwise than for money or money's worth, of the whole or part of or a share in the rights conferred by the policy or contract.

(5) Condition C is that the insurance year is the final insurance year.

(6) See section 510 (transaction-related calculations in certain part surrender and assignment cases) if one or both of conditions A and B are met.

Transaction-related calculations and part surrender or assignment events

510 Requirement for transaction-related calculations in certain part surrender and assignment cases

(1) This section applies if—
  (a) the calculation in section 507 shows that a gain has arisen as at the end of the insurance year, but
  (b) one or both of the conditions specified in section 509(3) and (4) are met (and so no chargeable event is treated as occurring at the end of the year under section 509).

(2) A calculation is to be made in accordance with section 511 in relation to each relevant transaction during the insurance year to determine—
  (a) whether the transaction resulted in a gain arising on the policy or contract, and
  (b) if so, the amount of the gain.

(3) In this section and sections 511 to 514 "relevant transaction" means—
  (a) a surrender of part of or a share in the rights under the policy or contract, or
  (b) an assignment of such a part or share for money or money's worth.

(4) If two or more relevant transactions occurred during the insurance year, a calculation in accordance with section 511 is to be made in relation to each of them successively in the order in which they occurred.

(5) A calculation falling to be made in accordance with section 511 in relation to a relevant transaction occurring in the final insurance year is to be made before any calculation under section 491 for the chargeable event that ends that year.

(6) But, in the case of a relevant transaction so occurring, subsections (2) and (4) are subject to section 513(5) (under which those subsections do not apply to some such relevant transactions).

511 Method for making transaction-related calculations under section 510

(1) This section deals with the calculation required to be made under section 510 to determine—
  (a) whether a relevant transaction which has occurred during an insurance year resulted in a gain arising on the policy or contract, and
  (b) if so, the amount of the gain.

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(2) There is a gain if the transaction value for the relevant transaction (see subsection (4)) exceeds the amount of available premium left for the relevant transaction as calculated in accordance with section 512.

(3) The gain is equal to the excess.

(4) The transaction value for the relevant transaction is the value in accordance with section 508, as at the time of its surrender or assignment, of the part of or share in the rights under the policy or contract which has been surrendered or assigned in the transaction.

(5) Subsections (2) and (4) are subject to section 513(4) (under which the transaction value is to be reduced in certain cases where the relevant transaction occurs in the final insurance year).

512 Available premium left for relevant transaction

(1) For the purposes of section 511(2), the amount of available premium left for a relevant transaction is the amount, if any, by which the available net allowable payments (see subsection (3)) exceed the available net total values for the year (see subsection (4)).

(2) But the amount of available premium left for the relevant transaction is nil if—
   (a) one or more other relevant transactions have occurred in respect of the relevant contract earlier in the insurance year, and
   (b) for the latest of them the calculation in section 511(2) produced a gain.

(3) To calculate the available net allowable payments—

Step 1

Calculate the net total allowable payments as at the end of the insurance year in accordance with section 507(5).

Step 2

If—
   (a) one or more other relevant transactions ("the earlier transactions") have occurred in respect of the policy or contract earlier in the insurance year, and
   (b) for the latest of them the calculation in section 511(2) produced no gain,

subtract the sum of the transaction values for the earlier transactions from the result of step 1.

(4) To calculate the available net total values for the year—

Step 1

Calculate the net total value of rights surrendered or assigned, as at the end of the insurance year, in accordance with section 507(4), ignoring for the purposes of step 3 in that section any relevant transactions in that year that are treated as chargeable events under section 514.

Step 2

Subtract from the result of step 1 the value, as at the time of its surrender or assignment, of any part of or share in the rights under the policy or contract which has been

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surrendered in the insurance year or assigned in that year for money or money's worth, determining the value in accordance with section 508.

513 Special rules for part surrenders and assignments in final insurance year

(1) This section applies if—
- (a) the calculation in section 511 falls to be made in relation to a relevant transaction occurring in the final insurance year,
- (b) the total transaction value for that transaction exceeds the gains limit (see subsections (2) and (3)), and
- (c) paragraph (b) has not applied to a relevant transaction occurring earlier in the final insurance year in respect of the policy or contract in question.

(2) The total transaction value is the total of—
- (a) the transaction value for the transaction in question in accordance with section 511(4), and
- (b) the transaction values for any relevant transactions occurring earlier in the final insurance year in respect of the policy or contract in accordance with that section.

(3) The gains limit is the amount calculated, as at the end of the final insurance year, as the amount of the gain that would have been treated as arising on the occurrence of the chargeable event that ends that year if in relation to that year—
- (a) section 509(1) did not refer to condition C, and
- (b) sections 510(2) and (4) and 514(1) did not apply.

(4) The transaction value for the relevant transaction used for the calculation in section 511(2) is reduced by the excess mentioned in subsection (1)(b).

(5) No calculations are required to be made under section 510(2) and (4) in relation to any subsequent relevant transaction in respect of the policy or contract.

514 Chargeable events where transaction-related calculations show gains

(1) If the calculation in section 511 shows that a relevant transaction resulted in a gain arising on the policy or contract, the relevant transaction is treated as a chargeable event.

(2) Subsection (1) is subject to section 485(5) (which restricts the circumstances in which such events occur in relation to qualifying policies).

(3) Subsection (4) applies if—
- (a) a relevant transaction that is a chargeable event occurs in a different tax year from that in which the insurance year ends, and
- (b) apart from subsection (4), a person would be liable to tax on the gain under this Chapter for the tax year in which the transaction occurs.

(4) The gain is charged to tax under this Chapter for the tax year in which the insurance year ends instead.

(5) If the relevant transaction occurs in the final insurance year, the chargeable event within subsection (1) is treated as occurring before the chargeable event that ends that year.

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Personal portfolio bonds

515 Requirement for annual calculations in relation to personal portfolio bonds 9

(1) This section applies if a policy or contract to which this Chapter applies is a personal portfolio bond at the end of an insurance year.

(2) But this section does not apply if the insurance year is the final insurance year.

(3) A calculation is to be made in accordance with section 522 in relation to the policy or contract as at the end of the insurance year to determine—
- (a) whether a gain has arisen on the policy or contract in relation to that year, and
- (b) if so, the amount of the gain.

(4) The calculation is in addition to any other calculation which is required to be made under this Chapter in relation to the policy or contract.

516 Meaning of "personal portfolio bond"

(1) In this Chapter "personal portfolio bond" means a policy of life insurance, contract for a life annuity or capital redemption policy which meets conditions A and B.

This is subject to section 517.

(2) Condition A is that, under the terms of the policy or contract, some or all of the benefits are determined by reference to—
- (a) fluctuations in, or in an index of, the value of property of any description, or
- (b) the value of, or the income from, property of any description.

(3) For this purpose it does not matter whether or not the index or property is specified in the policy or contract.

(4) Condition B is that the terms of the policy or contract permit the selection of the index or some or all of the property by—
- (a) the holder of the policy or contract,
- (b) a person connected with the holder,
- (c) the holder and such a connected person acting together,
- (d) a person acting on behalf of the holder,
- (e) a person acting on behalf of a person connected with the holder, or
- (f) a person acting on behalf of the holder and such a connected person acting together.

(5) In subsection (4) "holder", in the case of a policy or contract held by two or more persons, means any of them.

517 Policies and contracts which are not personal portfolio bonds

(1) A policy or contract is not a personal portfolio bond merely because its terms permit the selection of an index as described in section 516(4) if that index—
- (a) falls within one of the categories listed in section 518, and
- (b) meets one of the index selection conditions (see section 519).

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(2) A policy or contract is not a personal portfolio bond merely because its terms permit the selection of property as described in section 516(4) if all of the property which may be so selected—
  (a) falls within one or more of the categories listed in section 520, and
  (b) meets one or both of the property selection conditions (see section 521).

518 The index categories

(1) This section sets out the categories of index referred to in section 517(1).

(2) Category 1 is the retail prices index.

(3) Category 2 is any general index which—
  (a) is similar to the retail prices index, and
  (b) is published by the government of any foreign state or an agent of such a government.

(4) Category 3 is any published index of prices of shares listed on a recognised stock exchange.

519 The index selection conditions

(1) The index selection conditions are—
  (a) the general selection condition (see subsection (2)), and
  (b) the class selection condition (see subsection (3)).

(2) An index meets the general selection condition if, at the time when it may be selected, the opportunity to select the same index is available to—
  (a) all policy holders of the insurance company, or
  (b) persons acting on behalf of those policy holders.

(3) An index meets the class selection condition if, at the time when it may be selected, the opportunity to select the same index is available to—
  (a) a particular class or classes of policy holders of the insurance company, or
  (b) persons acting on behalf of the members of that class or those classes.

(4) A group of policy holders to whom the opportunity to select an index is available is a "class" for the purposes of subsection (3) if—
  (a) neither membership of the class nor the opportunity are limited to connected persons,
  (b) the question whether a policy holder is a member of the class, or has the opportunity, is determined solely by the insurance company, and
  (c) the opportunity is clearly identified in marketing or other promotional material published by the insurance company to members of the public, or members of the public who are intending investors, as available generally to any person falling within its terms.

(5) In this section—

"holder" has the meaning given by section 516(5), and

"policy holder" includes a holder of a life annuity contract.

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520 The property categories

(1) The table in subsection (2) sets out the categories of property referred to in section 517(2).

(2) This is the table—

Category	*Property*
Category 1	property which the insurance company has appropriated to an internal linked fund
Category 2	units in an authorised unit trust
Category 3	shares in an investment trust
Category 4	shares in an open-ended investment company
Category 5	cash
Category 6	a policy or contract to which this Chapter applies, other than an excluded policy or contract (see subsection (3))
Category 7	an interest in a collective investment scheme constituted by— (a) a company which is resident outside the United Kingdom (other than an open-ended investment company), (b) a unit trust scheme the trustees of which are non-UK resident, or (c) any other arrangement which takes effect by virtue of the law of a territory outside the United Kingdom, and which under that law creates rights in the nature of co-ownership (without restricting that term to its legal meaning in any part of the United Kingdom)

(3) A policy or contract is "excluded" if—

(a) the policy or contract is itself a personal portfolio bond,

(b) the value of any benefits under the policy or contract is or has at any time been capable of being determined directly or indirectly by reference to a personal portfolio bond, or

(c) a personal portfolio bond is related property in relation to the policy or contract.

(4) In this section—

"cash"—

(a) includes any sum which is deposited—

(i) in a building society account (including a share account) or similar account, or

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(ii) in a bank account or similar account, but

(b) does not include cash which is acquired wholly or partly for the purpose of realising a gain from its disposal,

"collective investment scheme" has the meaning given by section 235 of FISMA 2000, and "interest", in relation to such a scheme, means the beneficial entitlement of a participant in such a scheme,

"internal linked fund" has the meaning given by—

(a) the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under FISMA 2000, or

(b) rules made by the Authority under FISMA 2000 and having effect for the time being in place of the Sourcebook,

"open-ended investment company" has the meaning given by section 236 of FISMA 2000, and

"related property" has the same meaning as in section 625 (see subsection (5)).

521 The property selection conditions

(1) The property selection conditions are—

(a) the general selection condition (see subsection (2)), and

(b) the class selection condition (see subsection (3)).

(2) Property meets the general selection condition if, at the time when it may be selected, the opportunity to select property falling within the same category is available to—

(a) all policy holders of the insurance company, or

(b) persons acting on behalf of those policy holders.

(3) Property meets the class selection condition if, at the time when it may be selected, the opportunity to select property falling within the same category is available to—

(a) a particular class or classes of policy holders of the insurance company, or

(b) persons acting on behalf of the members of that class or those classes.

(4) A group of policy holders to whom the opportunity to select property falling within a particular category is available is a "class" for the purposes of subsection (3) if—

(a) neither membership of the class nor the opportunity are limited to connected persons,

(b) the question whether a policy holder is a member of a class, or has the opportunity, is determined solely by the insurance company, and

(c) the opportunity is clearly identified in marketing or other promotional material published by the insurance company to members of the public, or members of the public who are intending investors, as available generally to any person falling within its terms.

(5) In this section—

"holder" has the meaning given by section 516(5), and

"policy holder" includes a holder of a life annuity contract.

522 Method for making annual calculations under section 515

(1) This section deals with the calculation required to be made in relation to a policy or contract as at the end of an insurance year under section 515 to determine—

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(a) whether a gain has arisen in relation to that year, and
(b) if so, the amount of the gain.

(2) There is a gain if, as at the end of the insurance year, the sum of PP and TPE exceeds TSG.

(3) In subsection (2)—

PP is the total amount of premiums paid up to the end of the insurance year,

TPE is the total amount of personal portfolio bond excesses (see section 523), and

TSG is the total amount of part surrender gains (see section 524).

(4) The gain is equal to 15% of the excess.

523 The total amount of personal portfolio bond excesses

(1) To calculate the total amount of personal portfolio bond excesses—

Step 1

Apply the calculation in section 522 in relation to the policy or contract as at the end of each previous insurance year during its existence in succession starting with the first such year.

Step 2

Determine whether in each case the calculation produces a gain and, if so, its amount.

Step 3

Add together all the amounts produced by step 2.

(2) But if there is no previous insurance year during the existence of the policy or contract, the total amount of personal portfolio bond excesses is nil.

524 The total amount of part surrender gains

(1) To calculate the total amount of part surrender gains—

Step 1

Apply the provisions of this Chapter mentioned in subsection (3) as modified by subsections (4) and (5) in relation to the policy or contract as at the end of each previous insurance year during its existence.

Step 2

Determine whether in each case those provisions produce a gain and, if so, its amount.

Step 3

Add together all of the amounts produced by step 2.

(2) But if there is no previous insurance year during the existence of the policy or contract, the total amount of part surrender gains is nil.

(3) The provisions of this Chapter which apply for the purposes of the calculation in subsection (1) are—

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(a) subsections (2) to (6) of section 507 (method for making periodic calculations), and
(b) subsections (1) to (3) and (5) of section 508 (the value of rights partially surrendered).

(4) The provisions of section 507 mentioned in subsection (3) apply for the purposes of this section with the omission of all references in that section—
(a) to the assignment of any part of or share in the rights under the policy or contract, or
(b) to the value of any part of or share in the rights under the policy or contract so assigned.

(5) In the application of step 3 in subsection (4) of section 507 for the purposes of this section, the reference in that step to previous calculation events does not include a reference to an excess event consisting of the assignment of a part of or share in the rights under the policy or contract.

525 Chargeable events where annual calculations show gains

(1) This section applies if the calculation in section 522 shows that a gain has arisen in relation to an insurance year.

(2) The gain is treated as arising at the end of the insurance year on the occurrence of a chargeable event at that time.

526 Power to make regulations about personal portfolio bonds

(1) The Treasury may by regulations make provision about the administration of the charge to tax on personal portfolio bonds.

(2) The regulations may modify—
(a) any provision of this Chapter, or
(b) any provision of Chapter 2 of Part 13 of ICTA.

(3) The regulations may—
(a) make different provision for different cases, different circumstances or different periods, and
(b) make incidental, supplemental, consequential or transitional provision or savings.

(4) In this section "modify" includes amend or repeal.

Reductions from gains

527 Reduction for sums taken into account otherwise than under Chapter 9

(1) This section applies if the whole or part of any receipt or other credit item is taken into account in calculating both—
(a) the amount of a gain treated as arising under this Chapter, and
(b) an amount on which income tax is charged otherwise than under this Chapter or on which corporation tax is charged.

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(2) The amount of the gain on which tax is charged under this Chapter is reduced by so much of the amount of that receipt or other credit item as is taken into account in both those calculations.

528 Reduction in amount charged: non-UK resident policy holders

(1) The gain from a foreign policy of life insurance or foreign capital redemption policy is reduced for the purposes of this Chapter if the policy holder was not UK resident throughout the policy period.

(2) The amount of the reduction is the appropriate fraction of the gain.

(3) The appropriate fraction is—

$$\frac{A}{B}$$

where—

A is the number of days on which the policy holder was not UK resident in the policy period, and

B is the number of days in that period.

(4) In this section and section 529 (exceptions from this section), "the policy period" means the period for which the policy has run before the chargeable event occurs.

(5) If the gain is from a policy of life insurance which is a new policy in relation to another policy, for the purposes of subsection (4) the new policy is taken to have run—

(a) from the issue of the other policy, or

(b) if it also was a new policy in relation to an earlier policy, from the issue of the earlier policy,

and so on.

(6) In subsection (5) "new policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA.

(7) This section is subject to section 529.

Modifications etc. (not altering text)

C34 S. 528 (as in force immediately before its substitution by Finance Act 2013 (c. 29), **Sch. 8 para. 3**, so far as that section as so in force continues to have effect after the substitution) amended (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 86(7)-(10)**

529 Exceptions to section 528

(1) Section 528 does not apply if, when the chargeable event occurs or at any time during the policy period, the policy is or was held—

(a) by a non-UK resident trustee,

(b) by non-UK resident trustees, or

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(c) by a foreign institution.

(2) Section 110 of FA 1989 (residence of trustees) applies for the purposes of subsection (1)(b) despite section 110(6) of that Act (which provides that it only applies for 1989-90 and subsequent tax years).

Income tax treated as paid and reliefs

530 Income tax treated as paid etc.

(1) An individual or trustees who are liable for tax on an amount under this Chapter are treated as having paid income tax at the lower rate on that amount.

(2) The income tax treated as paid under subsection (1) is not repayable.

(3) The amount on which an individual is treated under subsection (1) as having paid income tax is reduced if subsection (4) applies.

(4) This subsection applies if the individual's total income is reduced by any deductions which fall to be made from the part of the income charged to tax under this Chapter.

(5) The reduction under subsection (3) is equal to the amount of those deductions.

(6) An amount on which an individual is liable to tax under this Chapter is not charged at the starting rate.

(7) This section is subject to section 531.

531 Exceptions to section 530

(1) Section 530 does not apply to gains from the kinds of policies and contracts specified in subsection (3), except for the purposes of calculating relief under section 535 (top slicing relief).

(2) Subsection (1) is subject to—

section 532 (relief for policies and contracts with European Economic Area insurers), and

section 534 (regulations providing for relief in other cases where foreign tax chargeable).

(3) The policies and contracts are—

(a) a policy of life insurance issued or a contract for a life annuity made by a friendly society in the course of tax exempt life or endowment business,

(b) a foreign policy of life insurance that does not meet conditions A and B,

(c) a contract for a life annuity (other than one within paragraph (a)) which has at any time not formed part of any insurance company's or friendly society's basic life assurance and general annuity business the income and gains of which are subject to corporation tax, and

(d) a foreign capital redemption policy.

(4) In this section and section 532—

"basic life assurance and general annuity business" has the same meaning as in Chapter 1 of Part 12 of ICTA (see section 431F), and

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"tax exempt life or endowment business" has the meaning given in section 466(2) of ICTA.

(5) Condition A is that the policy falls within paragraph (a) of the definition of "foreign policy of life insurance" in section 476(3) (policy issued by a non-UK resident company).

(6) Condition B is that the conditions in paragraph 24(3) of Schedule 15 to ICTA (conditions that are required to be met for certain policies issued by non-UK resident companies to be qualifying policies) are met throughout the period between—
  (a) the date on which the policy was issued, and
  (b) the date on which the gain arises.

532 Relief for policies and contracts with European Economic Area insurers

(1) Section 530 applies to a gain from a foreign policy of life insurance or a foreign capital redemption policy or to a gain from a contract for a life annuity (and accordingly section 531 and paragraph 109(2) of Schedule 2 do not apply) if a claim is made that conditions A to C have been met throughout the policy period.

(2) Condition A is that the company liable to make payments under the policy or contract ("the insurer") has not been UK resident.

(3) Condition B is that a comparable EEA tax charge has applied to the insurer (see section 533).

(4) Condition C is that no excluded reinsurance contract has been made in relation to the policy or contract.

(5) In this section—

"excluded reinsurance contract", in relation to a policy or contract, means any reinsurance contract—
  (a) wholly or partly covering any of the insurer's obligations to pay any sum or to meet any other liability arising under the policy or contract, and
  (b) relating to risk other than that the individual whose life is insured by the policy or the annuitant will die or suffer any sickness or accident,

"policy period"—
  (a) in relation to a policy, means the period between—
    (i) the making of the insurance or contract, and
    (ii) the date on which the gain arises,

  but excluding any period when the conditions in paragraph 24(3) of Schedule 15 to ICTA are met (conditions that are required to be met for certain policies issued by non-UK resident companies to be qualifying policies), and
  (b) in relation to a contract for a life annuity, means the period between—
    (i) the date the insurer entered into the contract, and
    (ii) the date on which the gain arises,

  but excluding any period when the contract fell to be regarded as forming part of a basic life assurance and general annuity business the income and gains of which were subject to corporation tax.

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533 Meaning of "comparable EEA tax charge"

(1) In section 532 "comparable EEA tax charge" in relation to the company liable to make payments under the policy or contract under which the gain has arisen ("the insurer") means a charge that meets conditions A to F.

(2) Condition A is that the charge is imposed on the insurer under the laws of a territory outside the United Kingdom that is within the European Economic Area when the gain arises.

(3) Condition B is that the charge has applied to the insurer—
- (a) as a body deriving its status as a company from those laws,
- (b) as a company with its place of management there, or
- (c) as a company falling under those laws to be regarded for any other reason as resident or domiciled there.

(4) Condition C is that the charge applies at a rate of at least 20% in relation to the amounts subject to tax in the insurer's hands, other than amounts arising or accruing in respect of investments of a description for which a special relief or exemption is generally available.

(5) Condition D is that the charge is made otherwise than by reference to the insurer's profits.

(6) Condition E is that the charge requires sums payable and other liabilities arising under policies or contracts of the same class as the policy or contract in question to be treated as falling to be met out of amounts subject to tax in the insurer's hands.

(7) Condition F is that the charge so requires them by disallowing their deduction in calculating the amount chargeable.

534 Regulations providing for relief in other cases where foreign tax chargeable

(1) This section applies if—
- (a) apart from this section, as a result of section 531 or paragraph 109(2) of Schedule 2, section 530 would not apply to gains from a policy or contract (except for the purposes of section 535 (top slicing relief)), and
- (b) the Board of Inland Revenue consider it appropriate to disapply section 531 and paragraph 109(2) of Schedule 2 in relation to such gains by reference to tax chargeable under the laws of a territory outside the United Kingdom in cases other than those where they are disapplied as a result of section 532.

(2) The Board of Inland Revenue may by regulations provide for section 530 to apply to those gains (and accordingly section 531 and paragraph 109(2) of Schedule 2 not to apply to them) if a claim is made that the conditions specified in the regulations are met in relation to any time.

(3) That time may be a time before the regulations are made or a later time.

535 Top slicing relief

(1) An individual is entitled to relief under this section for a tax year if—
- (a) the individual's liability for the tax year, as calculated under subsection (3), exceeds

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(b) the individual's relieved liability for the tax year, as calculated under—

section 536 (top slicing relieved liability: one chargeable event), or

section 537 (top slicing relieved liability: two or more chargeable events).

(2) The relief is given by a reduction in or repayment of income tax equal to the excess.

(3) An individual's liability for a tax year for the purposes of subsection (1)(a) equals TL — LRL, where—

TL is the amount of the individual's total liability to income tax on income charged to tax under this Chapter for the tax year, calculated on the basis that no relief is available under this section and the highest part assumptions apply, and

LRL is the amount of income tax at the lower rate that the individual is treated as having paid under section 530(1) for the tax year.

(4) For the purposes of subsection (3) and sections 536 and 537, the highest part assumptions, in calculating liability to income tax on an amount, are that—

(a) the amount is the highest part of the individual's total income for the tax year, and

(b) any provision directing any other amount to be treated as the highest part is ignored.

(5) For the purposes of this section and sections 536 and 537, an individual's total income is treated as not including any amount which—

(a) is charged to tax under Chapter 4 of Part 3 (profits of property businesses: lease premiums etc.) as the profits of a UK property business, or

(b) counts as employment income under section 403 of ITEPA 2003 (payments and benefits on termination of employment etc.).

(6) For the purposes of this section and sections 536 and 537—

(a) any chargeable event under section 525(2) (chargeable events where annual personal portfolio bond calculations show gains),

(b) any gain treated as arising on the occurrence of such an event, and

(c) the amount of any liability to income tax arising on such a gain,

are ignored.

536 Top slicing relieved liability: one chargeable event

(1) To calculate an individual's relieved liability for the purposes of section 535(1) for a tax year for which the individual is only liable for tax on a gain from one chargeable event—

Step 1

Find the annual equivalent of the amount of that gain ("the annual equivalent") by dividing that amount by the number of complete years for which the policy or contract has run before the chargeable event ("N").

See subsections (2) to (8) for further provisions about calculating N.

Step 2

Find the relieved liability on the annual equivalent by—

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(a) calculating the individual's liability (if any) to income tax on the annual equivalent, on the basis that—

(i) the gain from the chargeable event is limited to the amount of the annual equivalent, and

(ii) the highest part assumptions apply, and

(b) subtracting the amount of income tax at the lower rate on the annual equivalent which the individual is treated as having paid under section 530(1).

Step 3

Multiply the relieved liability on the annual equivalent by N.

(2) In the case of a calculation event that is not the first calculation event in relation to the policy or contract, for steps 1 and 3 in subsection (1) N is the number of complete years since the previous such event (but see subsection (6)).

(3) For the purposes of subsection (2), part surrender or assignment events are taken to occur at the end of the insurance year in which the surrender or assignment occurs.

(4) If, in a case where subsection (2) does not apply, the gain is from a policy of life insurance which is a new policy in relation to another policy, for steps 1 and 3 N is calculated from—

(a) the issue of the other policy, or

(b) if it also was a new policy in relation to an earlier policy, the issue of the earlier policy,

and so on.

(5) In subsection (4) "new policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA.

(6) Subsection (2) does not apply if the gain is from a foreign policy of life insurance or a foreign capital redemption policy.

(7) If the gain is from such a policy, for steps 1 and 3 in subsection (1) N is reduced by the number of complete years during which the policy holder was non-UK resident.

(8) If subsections (4) and (7) both apply, subsection (7) applies to N as calculated under subsection (4).

537 Top slicing relieved liability: two or more chargeable events

To calculate an individual's relieved liability for the purposes of section 535(1) for a tax year for which the individual is liable for tax on gains from two or more chargeable events—

Step 1

Calculate the total annual equivalent by adding together the annual equivalents for each of the chargeable events, found as specified in step 1 in section 536(1).

Step 2

Find the total relieved liability on the total annual equivalent by—

(a) calculating the individual's liability to income tax (if any) on the total annual equivalent, on the basis that—

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(i) the total gains from the chargeable events are limited to the amount of the total annual equivalent, and

(ii) the highest part assumptions apply, and

(b) subtracting the amount of income tax at the lower rate on the total annual equivalent which the individual is treated as having paid under section 530(1).

Step 3

Multiply the total relieved liability on the total annual equivalent by the total gains charged to tax under this Chapter for the tax year in respect of all the events.

Step 4

Divide the result of step 3 by the total annual equivalent.

538 Recovery of tax from trustees

(1) This section applies if—

(a) immediately before a chargeable event the rights under the policy or contract, or the part of or share in them in question, were held on non-charitable trusts,

(b) an individual is liable for tax under this Chapter for the tax year on the gain from the event, and

(c) the income tax for which the individual is liable for the tax year, after any relief available in respect of the gain under section 535 (top slicing relief), exceeds that for which the individual would have been liable apart from the event.

(2) The individual is entitled to recover that excess from the trustees, subject to the restriction specified in subsection (3).

(3) The amount recovered must not exceed the total of—

(a) any sums received by the trustees because of the chargeable event, and

(b) the value of any benefits so received.

(4) If the individual's relief under section 535 for the tax year does not relate only to the gain from the event in question, for the purposes of subsection (1)(c) a proportionate part of that relief is taken to be relief in respect of that gain.

(5) An individual may require the Inland Revenue to certify an amount recoverable by the individual under this section.

(6) Such a certificate is conclusive evidence of the amount.

Deficiencies

539 Relief for deficiencies

(1) A deficiency from a policy or contract arising on a chargeable event is allowable as a deduction from an individual's total income for a tax year if, had a gain arisen instead on that event—

(a) the individual would have been liable to income tax on the gain for that year, or

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(b) the individual would have been so liable apart from the requirement in section 465(1) that the individual must be UK resident in the tax year in which the gain arises.

(2) See section 540 for the cases in which such a deficiency is treated as arising, section 541 for how the deficiency is calculated and section 469(5) for the apportionment of deficiencies in cases where two or more persons are interested in a policy or contract.

(3) Subsection (1) only applies for the purpose of determining the individual's extra liability.

(4) For this purpose, an individual's extra liability is the amount by which the individual's liability to income tax exceeds the amount it would be on the assumptions specified in subsections (5) and (6).

(5) It is assumed that income charged to tax at the higher rate is charged—

(a) in the case of income within section 1A(1A)(c) of ICTA (income charged at the lower rate instead of the basic rate), at the lower rate, and

(b) in any other case, at the basic rate.

(6) It is assumed that income charged to tax at the dividend upper rate is charged at the dividend ordinary rate.

540 When deficiencies arise: events following calculation events

(1) A deficiency is treated as arising from a policy or contract on a chargeable event ("the later event") if conditions A to C are met.

(2) Condition A is that the later event is an event within section 484(1)(a)(i) or (iii) or (b) to (e) (surrender of all rights, final participation in profits, death, maturity, or taking a capital sum as a complete alternative to annuity payments).

(3) Condition B is that a gain from the policy or contract has arisen on a calculation event other than a personal portfolio bond event, occurring in relation to the policy or contract in question before the later event.

(4) Condition C is that on the later event no gain is shown by the calculation in section 491(2) (calculation of gains for such events).

541 Calculation of deficiencies

(1) This section sets out how the amount of a deficiency treated as arising under section 540(1) on a chargeable event ("the later event") is calculated.

(2) If, when the calculation in section 491(2) is made for the later event, the total allowable deductions equal or exceed the total benefit value, the amount of the deficiency is equal to the total previous gains.

(3) If, when that calculation is made, the total benefit value exceeds the total allowable deductions, the amount of the deficiency is equal to the total previous gains, less that excess.

(4) In this section "the total previous gains" means the total amount of gains that—

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(a) were treated as arising on calculation events (other than personal portfolio bond events) occurring in relation to the policy or contract in question before the later event, and

(b) formed part of the total income of the individual mentioned in section 539(1) for a tax year earlier than the tax year mentioned in that section.

VALID FROM 19/07/2007

[F44 Rebated or reinvested commission

Textual Amendments

F44 Ss. 541A, 541B and cross-heading inserted (19.7.2007 with effect as stated in s. 29(4) of the amending Act) by Finance Act 2007 (c. 11), **s. 29(3)**

541A Effect of rebated or reinvested commission in certain cases

(1) This section applies if—

(a) a chargeable event within section 484(1)(a)(i) to (iii), (c) or (e) occurs in respect of a policy or contract,

(b) commission in respect of the policy or contract has at any time been rebated or reinvested, and

(c) condition A or B is met.

(2) For the purposes of performing the calculation in section 494 (total allowable deductions) for the chargeable event, the total amount of premiums under the policy or contract paid in the period mentioned in section 494(1) or (2)(b) is to be reduced by the total amount of commission attributable to those premiums that has been rebated or reinvested.

(3) Condition A is that the total amount of premiums under the policy or contract paid in a relevant period exceeds £100,000.

(4) Condition B is that—

(a) at a time when the policy or contract was the taxable person's, the taxable person's policies and contracts exceeded the relevant threshold as respects a relevant period, and

(b) premiums under the policy or contract were paid in that relevant period.

(5) In subsection (4)(a) "taxable person" means the person whose policy or contract the policy or contract is, immediately before the chargeable event.

(6) For the purposes of subsection (4)(a) a person's policies and contracts "exceed the relevant threshold" as respects a relevant period if the total amount of premiums under them paid in that relevant period exceeds the sum specified in subsection (3).

(7) In this section "relevant period" means—

(a) the period beginning with the beginning of the tax year in which the chargeable event occurs and ending with the chargeable event, or

(b) any of the 3 preceding tax years.

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(8) The Treasury may by order—
- (a) substitute another sum for the sum for the time being specified in subsection (3);
- (b) amend the definition of "relevant period".

541B Section 541A: further definitions

(1) This section supplements section 541A.

(2) "Commission", in relation to a policy or contract, includes any passing of value to or for the benefit of an intermediary, or a person connected with an intermediary, that can reasonably be taken to represent a reward in respect of the policy or contract.

(3) Commission in respect of a policy or contract is "reinvested" if, as a result of a waiver of an entitlement to it, there is an increase in the total value of a relevant person's policies and contracts.

(4) The amount of commission reinvested is the amount of the increase.

(5) Commission in respect of a policy or contract is "rebated" if—
- (a) value passes (directly or indirectly) from an intermediary, or a person connected with an intermediary, to or for the benefit of a relevant person (and the passing of value does not amount to the reinvestment of the commission), and
- (b) the passing of value can reasonably be taken to be in respect of the commission.

(6) The amount of commission rebated is the amount of value passed.

(7) A policy or contract is a person's policy or contract if a gain arising in connection with it would be—
- (a) a gain for which the person, or (if the person is an individual) the person's spouse or civil partner, would be liable to tax under this Chapter, or
- (b) treated by virtue of section 547(1) of ICTA as forming part of the person's income.

(8) Any necessary apportionment is to be made (on a just and reasonable basis) as regards—
- (a) commission which is attributable to two or more premiums, and
- (b) any part of such commission that has been rebated or reinvested.

(9) Commission which is in respect of one or more policies or contracts (but is not attributable to particular premiums) is to be attributed to such premiums as is just and reasonable.

(10) In subsections (3) and (5), "relevant person" means—
- (a) any of the policyholders (including any of the persons who hold the contract),
- (b) a person who beneficially owns the rights under the policy or contract,
- (c) if those rights are held on trust, any of the trustees, or
- (d) a person connected with a person within any of paragraphs (a) to (c).]

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Supplementary

542 Replacement of qualifying policies

(1) A qualifying policy ("the replaced policy") and a policy of life insurance ("the replacement policy") which replaces the replaced policy are treated as a single policy for the purposes of sections 484 to 497 if conditions A to D are met.

(2) Condition A is that the replacement policy is also a qualifying policy under the rules in paragraph 17 of Schedule 15 to ICTA.

(3) Condition B is that the replacement results from a change in the life or lives insured.

(4) Condition C is that any sum becoming payable by the insurance company on or in connection with the termination of the replaced policy is retained by it and applied in the discharge of some or all of the liability for any premium becoming due under the replacement policy.

(5) Condition D is that no consideration in money or money's worth (other than the benefits for which provision is made by the replacement policy) is receivable by any person on or in connection with—
   (a) the termination of the replaced policy, or
   (b) the coming into existence of the replacement policy.

(6) The single policy is treated for the purposes of sections 484 to 497 as issued in respect of an insurance made at the time of the making of the insurance in respect of which the replaced policy was issued.

(7) So long as the replacement policy continues to be a qualifying policy, the single policy is also treated as a qualifying policy for those purposes.

(8) This section applies equally to a second or subsequent replacement policy.

(9) References in Schedule 2 (transitionals and savings) to—
   (a) a policy of life insurance,
   (b) the time of the making of the insurance in respect of which a policy of life insurance is issued, and
   (c) a qualifying policy,

   are to be read in accordance with this section.

543 Issue time of qualifying policy replacing foreign policy

(1) This section applies if—
   (a) there has been a substitution of policies falling within paragraph 25(1) or (3) of Schedule 15 of ICTA (replacement of a policy issued by a non-UK resident company by a policy which is not so issued), and
   (b) the new policy is a qualifying policy.

(2) The new policy is treated for the purposes of sections 484 to 497 as having been issued in respect of an insurance made on the day on which the insurance was made in respect of which the old policy was issued.

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(3) References in Schedule 2 (transitionals and savings) to the time of the making of the insurance in respect of which a policy of life insurance is issued are to be read in accordance with this section.

544 Application of Chapter to policies and contracts in which companies interested

(1) This section applies where, for the purposes of determining the application of this Chapter in relation to a policy or contract at any time, it is necessary to have regard to its application at another time.

(2) It makes no difference to the application of this Chapter at that other time whether liability in respect of a gain arising at that time would have arisen or (as the case may be) would arise because of the application of this Chapter or the corporation tax provisions.

(3) In subsection (2) "the corporation tax provisions" means—
- (a) Chapter 2 of Part 13 of ICTA (which makes provision for corporation tax purposes corresponding to that made by this Chapter),
- (b) paragraph 20 of Schedule 15 to that Act (replacement of qualifying policies), and
- (c) section 79 of FA 1997 (payments under certain life insurance policies).

545 Minor definitions

(1) In this Chapter—

"charitable trust" means a trust established for charitable purposes only,

"contract of insurance" has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544),

"friendly society" has the meaning given in the Friendly Societies Act 1992 (c. 40) and includes a society which under section 96(2) of that Act is to be treated as a registered friendly society,

"insurance company" means an undertaking carrying on the business of effecting or carrying out contracts of insurance,

"market value" has the meaning given by sections 272 and 273 of TCGA 1992,

"non-charitable trust" means a trust other than a charitable trust, and

"policy" means a policy of life insurance or a capital redemption policy.

(2) References in this Chapter to a premium include a reference to—
- (a) lump sum consideration, and
- (b) property other than cash transferred to the insurance company in satisfaction of a premium.

(3) References in this Chapter to the amount of premiums paid include a reference to—
- (a) the amount of lump sum consideration paid by way of premium, and
- (b) the market value at the date of transfer of property other than cash transferred to the insurance company in satisfaction of any premium.

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546 Table of provisions subject to special rules for older policies and contracts

(1) Column 1 of the table in subsection (4) specifies provisions of this Chapter which are subject to Part 6 or 7 of Schedule 2 (transitionals and savings), and column 2 of the table specifies the provisions of that Schedule to which they are subject.

(2) See also paragraphs 85 to 91 of that Schedule.

(3) The provisions of that Schedule referred to in subsections (1) and (2) are to be read as if they were in this Chapter.

(4) This is the table—

Provisions of Chapter 9	***Provisions of Schedule 2***
Section 467	paragraph 112 (pre-17th March 1998 policies and contracts) and paragraph 114 (pre-9th April 2003 policies and contracts)
Section 473	paragraph 96 (exclusion of pre-20th March 1968 policies and contracts) and paragraph 102 (exclusion of certain pre-26th June 1982 policies and contracts)
Section 476(3)	paragraphs 103 and 111 (certain pre-18th November 1983 and pre-17th March 1998 policies not foreign policies of life insurance) and paragraphs 104 and 113 (certain pre-23rd February 1984 and pre-23rd March 1999 policies not foreign capital redemption policies)
Section 480	paragraph 116 (pre-9th April 2003 policies)
Section 484	paragraph 99 (pre-10th December 1974 contracts for a life annuity: disregard of death)
Section 485(2) and (3)	paragraph 107 (pre-14th March 1989 qualifying policies)
Section 494(1)	paragraph 105(a) (pre-14th March 1984 policies: disregard of amounts deducted and repaid after tax relief by deduction from premiums abolished)
Section 500(c)	paragraph 97 (disapplication in relation to pre-27th March 1974 policies and contracts) and paragraph 102(9) (exclusion of certain pre-26th June 1982 policies and contracts)
Section 501	paragraph 102(9) (exclusion of certain pre-26th June 1982 policies and contracts), paragraph 108 (pre-14th

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	March 1989 policies and contracts) and paragraph 115 (pre-9th April 2003 policies and contracts: loans to trustees)
Section 507	paragraph 100 (pre-14th March 1975 policies and contracts) and paragraph 105(b) (pre-14th March 1984 policies: disregard of amounts deducted and repaid after tax relief by deduction from premiums abolished)
Section 516	paragraph 119 (pre-17th March 1998 policies and contracts)
Section 525	paragraph 124(3) (pre-17th March 1998 policies and contracts) and paragraph 125(3) (pre-17th March 1998 policies and contracts)
Section 529	paragraph 106 (disapplication of section 529(1)(a) and (b) for certain pre-20th March 1985 policies) and paragraph 110 (disapplication of section 529(1)(c) for certain pre-17th March 1998 policies)
Section 530	paragraph 109(2) (disapplication for contracts for life annuities made in accounting periods beginning before 1st January 1992)
Section 531	paragraph 98 (pre-27th March 1974 policies and contracts: disapplication of section 531(3)(c)) and paragraph 118 (pre-1st January 2005 contracts for immediate needs annuities: income tax treated as paid)
Section 539(3)	paragraph 109(4) (contracts made in accounting periods beginning before 1st January 1992)
Section 541(4)	paragraph 117 (pre-3rd March 2004 contract or policy: calculation of deficiencies)
Section 542	paragraph 101 (disapplication in the case of pre-25th March 1982 replacement policies)

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CHAPTER 10

DISTRIBUTIONS FROM UNAUTHORISED UNIT TRUSTS

547 Charge to tax under Chapter 10

(1) Income tax is charged on income treated as received by a unit holder from a scheme to which section 469 of ICTA applies (unauthorised unit trust schemes).

(2) For the purposes of this Chapter, a unit holder is treated as receiving such income if an amount is shown in the scheme's accounts as income available for payment to unit holders or for investment.

548 Income charged

(1) Tax is charged under this Chapter on the gross amount of the income treated as received by the unit holder in the tax year.

(2) To calculate the gross amount of the income treated as received by a unit holder for a distribution period—

Step 1

Calculate the unit holder's share of the scheme's available income by applying the formula—

$$\mathrm{SAI} \times \frac{R}{\mathrm{TR}}$$

where—

SAI is the total amount shown in the scheme's accounts as income available for payment to unit holders or for investment,

R is the unit holder's rights, and

TR is all the unit holders' rights.

Step 2

Gross up the unit holder's share of the scheme's available income by reference to the basic rate for the tax year in which the income from the scheme is treated as received.

(3) The income from a scheme for a distribution period is treated as received on the date or latest date provided by the terms of the scheme for any distribution for the period, unless that date is more than 12 months after it ends.

(4) If—

(a) that date is more than 12 months after the distribution period ends, or

(b) no date is so provided,

the income for the period is treated as received on the last day of the period.

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(5) In this section "distribution period" means a period over which income from the investments subject to the trusts is aggregated to ascertain the amount available for distribution to unit holders.

This is subject to subsections (6) and (7).

(6) If the scheme does not provide for distribution periods, its distribution periods are taken to be successive periods of 12 months, the first of which began with the day on which the scheme took effect.

(7) If the scheme provides for a distribution period of more than 12 months, each successive period of 12 months within that period and any remaining period of less than 12 months are taken to be distribution periods.

549 Person liable

The person liable for any tax charged under this Chapter is the unit holder treated as receiving the income under section 547(2).

550 Income tax treated as paid

Income tax treated as deducted from income within this Chapter as a result of section 469(3) of ICTA (treatment of income within this Chapter as annual payments for certain purposes) is treated as income tax paid by the recipient.

CHAPTER 11

TRANSACTIONS IN DEPOSITS

551 Charge to tax on profits from disposal of deposit rights

(1) Income tax is charged on profits and gains from the disposal of deposit rights.

(2) For the purposes of this section, the exercise of a deposit right is a disposal of it, except so far as the right is a right to receive interest.

552 Meaning of "deposit rights"

(1) In this Chapter "deposit rights" means—

(a) a right to receive, with or without interest, a principal amount stated in, or determined in accordance with, the current terms of issue of an eligible debt security, where in accordance with those terms the issue of uncertificated units of the eligible debt security corresponds to the issue of a certificate of deposit,

(b) a right to receive the principal amount stated in a certificate of deposit, with or without interest,

(c) an uncertificated right to receive a principal amount, with or without interest, as a result of a deposit of money,

(d) a right which—

(i) is not within paragraph (c),

(ii) is acquired in a transaction in which no certificate of deposit or security or uncertificated eligible debt security units are issued, and

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(iii) is a right to receive a principal amount payable with interest by a bank or similar institution or a person regularly engaging in similar transactions, and

(e) the right to receive the interest mentioned in paragraph (d).

(2) In this section—

"certificate of deposit" means a document—

(a) relating to the deposit of money in any currency,

(b) recognising an obligation to pay a stated principal amount to bearer or to order, with or without interest, and

(c) by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable,

"eligible debt security" has the meaning given in regulation 3(1) of the Uncertificated Securities Regulations 2001 (S.I. 2001/3755),

"security" (except in relation to an eligible debt security) includes any loan stock or similar security, whether secured or unsecured and whether issued by—

(a) the Government of the United Kingdom or another government,

(b) any local or other public authority in the United Kingdom or elsewhere, or

(c) any company,

"uncertificated", in relation to a unit, has the meaning given in regulation 3(1) of the Uncertificated Securities Regulations 2001,

"uncertificated eligible debt security units" means uncertificated units of an eligible debt security where the issue of the units corresponds, in accordance with the current terms of issue of the eligible debt security, to the issue of a certificate of deposit,

"uncertificated right" means a right in respect of which no certificate of deposit has been issued, although the person for the time being entitled to it is entitled to call for the issue of such a certificate, and

"unit" has the meaning given in regulation 3(1) of the Uncertificated Securities Regulations 2001.

553 Income charged

Tax is charged under this Chapter on the full amount of profits or gains arising in the tax year.

554 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the profits or gains.

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CHAPTER 12

DISPOSALS OF FUTURES AND OPTIONS INVOLVING GUARANTEED RETURNS

Charge to tax under Chapter 12

555 Charge to tax under Chapter 12

(1) Income tax is charged on profits and gains from a disposal of a future or option that is a disposal involving guaranteed returns.

(2) Those profits and gains are treated as income for income tax purposes even if they would otherwise be taken to be a capital item.

556 Income charged

(1) Tax is charged under this Chapter on the full amount of profits or gains arising in the tax year.

(2) The profits and gains from a disposal are taken to arise when the disposal occurs.

557 Person liable

The person liable for any tax charged under this Chapter is the person realising the profits or gains.

558 Meaning of "future", "option" etc.

(1) In this Chapter "future" means outstanding rights and obligations under a commodity or financial futures contract.

(2) In this Chapter "option" means—
- (a) an option relating to—
  - (i) currency, shares, stock, securities or an interest rate, or
  - (ii) rights under a commodity or financial futures contract, or
- (b) any other option which at the time of the disposal in question is listed on a recognised stock exchange or recognised futures exchange,

and includes any liability or entitlement under an option within paragraph (a) or (b).

(3) In this Act "recognised futures exchange" means the London International Financial Futures Exchange and any other futures exchange which is for the time being designated for the purposes of TCGA 1992 by order made by the Board of Inland Revenue under section 288(6) of that Act.

When disposals involve guaranteed returns

559 When disposals involve guaranteed returns

(1) For the purposes of this Chapter, a disposal of a future or option involves guaranteed returns if conditions A to C are met.

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(2) Condition A is that the disposal is one of two or more related transactions (see section 566).

(3) Condition B is that those transactions are designed to produce a guaranteed return (see subsection (5)).

(4) Condition C is that the guaranteed return comprises—
  (a) the return from the disposal (see section 561), or
  (b) the return from a number of disposals of futures or options, of which the disposal is one, taken together.

(5) For the purposes of this Chapter, two or more related transactions are transactions designed to produce a guaranteed return if, taking them together, it would be reasonable to assume from one or more of the matters specified in subsection (6) that—
  (a) the main purpose of the transactions is or was the production of a guaranteed return from one or more disposals of futures or options (see section 560), or
  (b) that is or was one of their main purposes.

(6) Those matters are—
  (a) the likely effect of the transactions,
  (b) the circumstances in which the transactions are entered into, and
  (c) the circumstances in which any one of the transactions is entered into.

(7) In the case of a transaction which is a disposal, the references in subsection (6) to entering into the transaction are references to making the disposal.

560 Production of guaranteed returns

(1) For the purposes of this Chapter, a guaranteed return is produced from a disposal of a future or option if risks from fluctuations in the underlying subject matter are so eliminated or reduced as to produce a return from the disposal that meets conditions A and B.

(2) If there is more than one such disposal, a guaranteed return is produced from them if, taking them together, such risks are so eliminated or reduced.

(3) Condition A is that the amount of the return is not to any significant extent attributable (otherwise than incidentally) to any such fluctuations.

(4) Condition B is that the return equates, in substance, to the return on an investment of money at interest.

(5) For the purposes of subsections (1) and (2), the cases where risks from fluctuations in the underlying subject matter are eliminated or reduced include any case where the main reason or one of the main reasons for the choice of that subject matter is—
  (a) that there appears to be no risk that it will fluctuate, or
  (b) that the risk that it will do so appears insignificant.

(6) In this section the references, in relation to a disposal of a future or option, to the underlying subject matter are references to, or to the value of, the commodities, currencies, shares, stock or securities, interest rates, indices or other matters—
  (a) to which the future or option is referable, or
  (b) to the value of which it is referable.

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561 The return from one or more disposals

(1) In this Chapter, references to the return from one or more disposals are references to the return on investment represented by—
  (a) the total net profits and gains arising from the disposal or disposals, or
  (b) all but an insignificant part of those net profits and gains.

(2) For the purposes of subsection (1), if there are two or more disposals, it is to be assumed that profits and gains realised, and losses made, by persons who are associated with each other are all realised or made by the same person.

(3) For the purposes of subsection (2), persons are associated with each other in relation to any two or more disposals if conditions A to C are met.

(4) Condition A is that the disposals are made in pursuance of the same scheme or arrangements.

(5) Condition B is that each of the persons shares or is to share in the net return represented by the total of all the profits, gains and losses realised or made on the disposals.

(6) Condition C is that the extent of the persons' shares is determined for the purposes of, or in accordance with, the scheme or arrangements.

(7) For the purposes of this section—
  (a) "scheme or arrangements" includes understandings of any kind, and
  (b) it does not matter whether any scheme or arrangements are legally enforceable.

When disposals of futures and options occur

562 When disposals of futures and options occur: general

(1) Any question whether there is a disposal for the purposes of this Chapter, or as to when such a disposal is made, is to be determined—
  (a) in accordance with sections 143(5) and (6), 144 and 144A of TCGA 1992 (closing out and settlement of futures contracts and rules in relation to options),
  (b) otherwise in accordance with the provisions having effect for determining for the purposes of TCGA 1992 whether or when an asset has been disposed of, and
  (c) on assumptions A to C.

(2) Assumption A is that all futures are assets for the purposes of TCGA 1992.

(3) Assumption B is that the words "in the course of dealing in commodity or financial futures" are omitted from section 143(5) and (6) of TCGA 1992 in each place where they occur.

(4) Assumption C is that any reference in TCGA 1992 to a financial option within the meaning given by section 144(8) of that Act is a reference to any option that at the time of the disposal in question is not listed on a recognised stock exchange or recognised futures exchange (regardless of whether the conditions in section 144(8)(c)(i) to (iv) of that Act are met).

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(5) Subsection (1) is subject to section 563 (timing of certain grants of options where related disposals occur later), and see also section 564 (deemed disposal where futures run to delivery or options are exercised).

563 Timing of certain grants of options where related disposals occur later

(1) For the purpose of this Chapter, a disposal consisting in the grant of an option ("the grant") is treated as taking place at a later time than it would be taken as occurring under section 562 if conditions A to C are met.

(2) Condition A is that the grant is one of a number of related transactions designed to produce a guaranteed return.

(3) Condition B is that at least one of the other transactions is a transaction entered into after the grant.

(4) Condition C is that one or more of the transactions entered into after the grant is a disposal which is not itself the grant of an option.

(5) The grant is treated as taking place when the first such later disposal takes place.

(6) Subsection (5) does not apply in any case where, by applying sections 144(2) and 144A(2) of TCGA 1992, section 562(1)—

(a) requires the grant of an option and the transaction entered into by the grantor in fulfilment of the grantor's obligations under the option to be treated as a single transaction, or

(b) determines when such a single transaction is to be treated as entered into,

and that requirement or determination has a different effect from subsection (5).

564 Deemed disposal where futures run to delivery or options are exercised

(1) This section applies if there are two or more related transactions (see section 566) in relation to which conditions A and B are met.

(2) Condition A is that one of the transactions is the creation or acquisition (by the making or receiving of a grant or otherwise) of a future or option.

(3) Condition B is that the other transaction or one of the other transactions—

(a) is the running of the future to delivery or the exercise of the option, and

(b) is not treated for the purposes of this Chapter as a disposal of a future or option.

(4) In relation to the parties to the future or option, this Chapter applies as if—

(a) a disposal of the future or option takes place at the time ("the relevant time") immediately before the future runs to delivery or, as the case may be, the option is exercised, and

(b) the scheme or arrangements by reference to which the transactions are related transactions provide for the disposal.

(5) In the case of a person whose rights and entitlements under the future or option have a market value at the relevant time, the disposal referred to in subsection (4)(a) is taken to be for a consideration equal to that market value.

(6) In the case of any other party to the future or option ("P"), the disposal is taken—

(a) to be made for a nil consideration, and

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(b) to involve P in incurring costs equal to the release amount.

(7) In subsection (6) "the release amount" means the amount which P might reasonably have been expected to pay, in a transaction at arm's length entered into at the relevant time, for the release of P's obligations and liabilities under the future or option.

(8) Section 144(2) and (3) of TCGA 1992 are ignored for the purposes of subsections (1) to (3).

565 Interpretation of section 564

(1) References in section 564 to the running of a future to delivery are references to performing (and so discharging) the obligations owed under the commodity or financial futures contract in question to the party to the future whose rights as a party relate to the underlying subject matter.

(2) In subsection (1) the reference to the underlying subject matter is a reference to, or to the value of, the commodities, currencies, shares, stock or securities, interest rates, indices or other matters—
(a) to which the future is referable, or
(b) to the value of which it is referable.

(3) In section 564 and this section "party", in relation to a future or option, means one of the persons who—
(a) has any right or entitlement comprised in or arising under the future or option, or
(b) is subject to any obligation or liability so comprised or arising.

(4) In section 564 "market value" has the same meaning as in TCGA 1992 (see sections 272 to 274).

566 When transactions are related

(1) For the purposes of this Chapter, two or more transactions are related if all of them are entered into in pursuance of the same scheme or arrangements.

(2) For this purpose the cases where any two or more transactions are to be taken to be entered into in pursuance of the same scheme or arrangements include any case where it would be reasonable to assume from one or more of the matters specified in subsection (3) that none of them would have been entered into independently of the others.

(3) The matters are—
(a) the likely effect of the transactions,
(b) the circumstances in which the transactions are entered into, and
(c) the circumstances in which any one of the transactions is entered into.

(4) Nothing in this Chapter prevents transactions from being related transactions just because they are transactions—
(a) with different parties, or
(b) with parties different from the parties to the scheme or arrangements in pursuance of which they are entered into.

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(5) In the case of a transaction which is a disposal, the references in this section to entering into the transaction are references to making the disposal.

(6) In this section "scheme or arrangements" includes schemes, arrangements and understandings of any kind, whether or not they are legally enforceable.

Losses

567 Losses

(1) This section applies if—
  (a) losses are made by a person from a disposal, and
  (b) had profits or gains arisen to the person from the disposal, they would be chargeable under this Chapter.

(2) The losses are not to be brought into account for income tax purposes, except where section 392 of ICTA (losses from miscellaneous transactions) applies.

(3) For the purposes of that section, the losses are taken to be made at the time when the disposal occurs.

(4) For the treatment of the losses for capital gains tax purposes, and how TCGA 1992 applies where a profit arises or a loss is made from a deemed disposal under section 564(4), see sections 148A to 148C of that Act.

Trustees

568 Special rule for certain income of trustees

(1) This section applies if the profits or gains charged under this Chapter and arising to trustees do not meet any of conditions A to C.

(2) Condition A is that the profits or gains fall to be treated for income tax purposes as income of a settlor.

(3) Condition B is that the profits or gains arise under a trust established for charitable purposes.

(4) Condition C is that the profits or gains are from property held for the purposes of a superannuation fund to which section 615(3) of ICTA applies.

(5) The profits or gains are to be treated for income tax purposes as if they were income to which section 686 of ICTA applies (accumulation and discretionary trusts: special rates of tax).

(6) In this section "trustees" does not include personal representatives, but where, during or at the end of the administration period, personal representatives pay trustees any sum representing profits or gains to which this section would apply if the personal representatives were trustees, that sum is treated as—
  (a) being paid as income, and
  (b) having borne income tax at the applicable rate.

(7) In subsection (6)—

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(a) "administration period" has the meaning given by section 653, and
(b) "the applicable rate" means the rate referred to in section 663(1) (the applicable rate for grossing up basic amounts of estate income).

Transfer of assets abroad

569 Anti-avoidance: transfer of assets abroad

(1) This section applies if profits or gains arising from a transaction to which this Chapter applies are realised by a person ("A") who is resident or domiciled outside the United Kingdom.

(2) For the purpose of determining whether an individual ordinarily UK resident is liable for income tax in respect of the profits or gains, sections 739 and 740 of ICTA (transfer of assets abroad) have effect as if the profits or gains, when realised, constituted income becoming payable to A.

CHAPTER 13

SALES OF FOREIGN DIVIDEND COUPONS

570 Charge to tax under Chapter 13

(1) Income tax is charged on income treated under subsection (2) as arising from foreign holdings.

(2) Income is treated as arising from such holdings in the following cases.

(3) The first case is where a bank's office in the United Kingdom—
(a) pays over the proceeds of a sale or other realisation of dividend coupons in respect of the holdings which has been effected by the bank, or
(b) carries such proceeds into an account.

(4) The second case is where a person who is not a bank or a dealer in coupons sells dividend coupons in respect of the holdings to a person dealing in coupons in the United Kingdom.

(5) In this section "bank" has the meaning given by section 840A of ICTA.

571 Meaning of "foreign holdings" etc.

(1) In this Chapter "foreign holdings" means shares or other securities outside the United Kingdom that are—
(a) securities issued by or on behalf of a government or local or other public authority in a country outside the United Kingdom, or
(b) shares or securities issued by or on behalf of a non-UK resident body of persons.

(2) In section 570 "dividend coupons" means coupons for dividends payable in respect of foreign holdings.

(3) In this Chapter "coupons" includes—

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(a) warrants, and
(b) bills of exchange that purport to be drawn or made in payment of dividends payable in respect of foreign holdings.

(4) In this section "dividends"—
(a) in the case of foreign holdings within subsection (1)(a), means interest or annual payments payable out of the revenue of the government or authority, and
(b) in the case of foreign holdings within subsection (1)(b), includes interest or other annual payments.

(5) In subsection (1) "securities" includes loan stock and similar securities.

572 Income charged

(1) In a case within section 570(3), tax is charged under this Chapter on the full amount of the proceeds that are paid over or carried into the account in the tax year.

(2) In a case within section 570(4), tax is charged under this Chapter on the full amount of the proceeds arising in the tax year.

(3) Subsections (1) and (2) are subject to Part 8 (foreign income: special rules).

573 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the proceeds.

PART 5

MISCELLANEOUS INCOME

CHAPTER 1

INTRODUCTION

574 Overview of Part 5

(1) This Part imposes charges to income tax under—
(a) Chapter 2 (receipts from intellectual property),
(b) Chapter 3 (films and sound recordings: non-trade businesses),
(c) Chapter 4 (certain telecommunication rights: non-trading income),
(d) Chapter 5 (settlements: amounts treated as income of settlor),
(e) Chapter 6 (beneficiaries' income from estates in administration),
(f) Chapter 7 (annual payments not otherwise charged), and
(g) Chapter 8 (income not otherwise charged).

(2) Part 6 deals with exemptions from the charges under this Part.

(3) See, in particular, any exemptions mentioned in the Chapters of this Part.

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(4) The charges under this Part apply to non-UK residents as well as UK residents but this is subject to section 577(2) (charges on non-UK residents only on UK source income).

(5) This section needs to be read with the relevant priority rules (see sections 2, 575 and 576).

575 Provisions which must be given priority over Part 5

(1) Any income, so far as it falls within—
  (a) any Chapter of this Part, and
  (b) Chapter 2 of Part 2 (receipts of a trade, profession or vocation),
is dealt with under Part 2.

(2) Any income, so far as it falls within—
  (a) any Chapter of this Part, and
  (b) Chapter 3 of Part 3 so far as the Chapter relates to a UK property business,
is dealt with under Part 3.

(3) Any income, so far as it falls within—
  (a) any Chapter of this Part, and
  (b) Chapter 2 or 3 of Part 4 (interest and dividends etc. from UK resident companies etc.),
is dealt with under the relevant Chapter of Part 4.

(4) Any income, so far as it falls within—
  (a) any Chapter of this Part, and
  (b) Part 2, 9 or 10 of ITEPA 2003 (employment income, pension income or social security income),
is dealt with under the relevant Part of ITEPA 2003.

576 Priority between Chapters within Part 5

Any income, so far as it falls within Chapter 2 (receipts from intellectual property) and Chapter 3 (films and sound recordings: non-trade businesses), is dealt with under Chapter 3.

577 Territorial scope of Part 5 charges

(1) Income arising to a UK resident is chargeable to tax under this Part whether or not it is from a source in the United Kingdom.

(2) Income arising to a non-UK resident is chargeable to tax under this Part only if it is from a source in the United Kingdom.

(3) References in this section to income which is from a source in the United Kingdom include, in the case of any income which does not have a source, references to income which has a comparable connection to the United Kingdom.

(4) This section is subject to any express or implied provision to the contrary in this Part (or elsewhere in the Income Tax Acts).

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CHAPTER 2

RECEIPTS FROM INTELLECTUAL PROPERTY

Introduction

578 Contents of Chapter

(1) This Chapter imposes charges to income tax under—
- (a) section 579 (royalties and other income from intellectual property),
- (b) section 583 (income from disposals of know-how), and
- (c) section 587 (income from sales of patent rights).

(2) For exemptions from the charge under section 579, see, in particular, sections 727 (certain annual payments by individuals) and 758 (certain interest and royalty payments).

(3) This Chapter also provides for relief from income tax on patent income (see section 600).

Charge to tax on non-trading income from intellectual property

579 Charge to tax on royalties and other income from intellectual property

(1) Income tax is charged on royalties and other income from intellectual property.

(2) In this section "intellectual property" means—
- (a) any patent, trade mark, registered design, copyright, design right, performer's right or plant breeder's right,
- (b) any rights under the law of any part of the United Kingdom which are similar to rights within paragraph (a),
- (c) any rights under the law of any territory outside the United Kingdom which correspond or are similar to rights within paragraph (a), and
- (d) any idea, information or technique not protected by a right within paragraph (a), (b) or (c).

580 Income charged under section 579

(1) Tax is charged under section 579 on the full amount of the income arising in the tax year.

(2) Subsection (1) is subject to Part 8 (foreign income: special rules).

(3) See section 582 for provision about the calculation of the amount of income charged under section 579.

(4) This section needs to be read with section 527 of ICTA (spreading of patent royalties etc. over several years).

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581 Person liable for tax under section 579

The person liable for any tax charged under section 579 is the person receiving or entitled to the income.

582 Deductions in calculating certain income charged under section 579

(1) This section applies for calculating the amount of income charged under section 579 other than annual payments.

(2) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.

(3) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.

(4) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.

(5) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.

(6) The relief given under section 600 (relief for expenses: patent income) is additional to the relief under this section.

(7) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of subsection (1).

Disposals of know-how

583 Charge to tax on income from disposals of know-how

(1) Income tax is charged on profits arising where consideration is received by a person—
  (a) for the disposal of know-how, or
  (b) for giving, or wholly or partly fulfilling, an undertaking which—
    (i) is given in connection with a disposal of know-how, and
    (ii) restricts or is designed to restrict any person's activities in any way.

(2) For the purposes of subsection (1)(b), it does not matter whether or not the undertaking is legally enforceable.

(3) Subsection (1) is subject to the exceptions in section 584.

(4) 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.

(5) In subsection (4)—

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(a) "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
(b) "source of mineral deposits" includes a mine, an oil well and a source of geothermal energy.

584 Exceptions to charge under section 583

(1) Section 583 does not apply in the following cases.

(2) Case A is if the consideration is brought into account under—
(a) section 579 (charge to tax on royalties etc.), or
(b) section 462 of CAA 2001 (disposal values).

(3) Case B is if the consideration is dealt with in relation to the person receiving it as a capital receipt for goodwill under section 194(2) (disposal of know-how as part of disposal of all or part of a trade).

(4) Case C is if the disposal of the know-how is by way of a sale and—
(a) the buyer is a body of persons over which the seller has control,
(b) the seller is a body of persons over which the buyer has control, or
(c) the buyer and the seller are both bodies of persons and another person has control over both of them.

(5) In subsection (4) "body of persons" includes a firm.

(6) See also Chapter 14 of Part 2 and section 575 (disposals of know-how used in a trade dealt with by Part 2).

585 Income charged under section 583

(1) Tax is charged under section 583 on the full amount of the profits arising in the tax year.

(2) The profits charged under section 583 are—
(a) the amount of the consideration, less
(b) any expenditure incurred by the recipient wholly and exclusively in the acquisition or disposal of the know-how.

(3) Such expenditure may not be taken into account more than once, whether under this section or otherwise.

(4) This section needs to be read with section 603 (contributions to expenditure).

586 Person liable for tax under section 583

The person liable for any tax charged under section 583 is the person receiving the consideration.

Sales of patent rights

587 Charge to tax on income from sales of patent rights

(1) Income tax is charged on profits from sales of the whole or part of any patent rights.

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(2) The tax is charged if—
  (a) the seller is a UK resident, or
  (b) the seller is a non-UK resident and the patent is granted under the laws of the United Kingdom.

(3) Where the seller is a non-UK resident company, tax is not charged if the seller is chargeable to corporation tax in respect of the proceeds of the sale.

(4) In this Chapter "patent rights" means the right to do or authorise the doing of anything which, but for the right, would be an infringement of a patent.

588 Income charged under section 587

(1) A seller's profits from the sale of the whole or part of patent rights are—
  (a) any capital sum comprised in the proceeds of the sale, less
  (b) the deductible costs.

(2) The deductible costs are—
  (a) the capital cost (if any) of the rights sold, and
  (b) any incidental expenses incurred by the seller in connection with the sale.

(3) If—
  (a) the seller acquired the rights sold, or the rights out of which they were granted, by purchase,
  (b) the seller has previously sold part of the purchased rights, and
  (c) the proceeds of that sale, after deducting any incidental expenses, consisted wholly or partly of a capital sum,

  the capital cost is reduced by that capital sum.

(4) References in this Chapter to the capital cost of patent rights are to any capital sum included in any price paid by the seller to purchase—
  (a) the rights, or
  (b) the rights out of which they were granted.

(5) This section needs to be read with sections 600 (relief for expenses: patent income) and 603 (contributions to expenditure).

589 Person liable for tax under section 587

The person liable for any tax charged under section 587 is the seller of the patent rights.

590 UK resident sellers: spreading rules

(1) This section applies if the person liable under section 587 is a UK resident.

(2) If the person does not receive the proceeds of sale in instalments, one-sixth of the amount chargeable is taxed in the tax year in which the person receives the proceeds of the sale and in each of the next 5 tax years.

(3) The person may elect to be taxed instead on the whole of the amount chargeable under section 587 in the tax year in which the person receives the proceeds of sale.

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(4) If the person receives the proceeds of sale in instalments, one-sixth of the amount chargeable in respect of each instalment is taxed in the tax year in which the person receives the instalment and in each of the next 5 tax years.

(5) The person may elect to be taxed instead on the whole of any instalment in the tax year in which the person receives it.

(6) An election under subsection (3) or (5) must be made on or before the first anniversary of the normal self-assessment filing date for that tax year.

591 Non-UK resident sellers: election for spreading

(1) If the person liable under section 587—
  (a) is a non-UK resident, and
  (b) does not receive the proceeds of sale in instalments,
the whole amount chargeable is taxed in the tax year in which the person receives the proceeds.

(2) The person may elect to be taxed instead on one-sixth of the amount chargeable in the tax year in which the person receives the proceeds of sale and in each of the next 5 tax years.

(3) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the proceeds of sale are received.

(4) Such repayments and assessments are to be made for each of the tax years affected as are necessary to give effect to the election.

(5) Subsection (4) is subject to the qualifications in section 596 (adjustments where tax has been deducted).

592 Further provision about elections for spreading: instalments

(1) If the person liable under section 587—
  (a) is a non-UK resident, and
  (b) receives the proceeds of sale in instalments,
the amount chargeable in respect of each instalment is taxed in the tax year in which the person receives the instalment.

(2) The person may, for any instalment, elect to be taxed instead on one-sixth of the amount chargeable in respect of the instalment in the tax year in which the person receives it and in each of the next 5 tax years.

(3) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the instalment is received.

(4) Such repayments and assessments are to be made for each of the tax years affected as are necessary to give effect to the election.

(5) Subsection (4) is subject to the qualifications in section 596 (adjustments where tax has been deducted).

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593 Death of seller

(1) If a seller who is liable to income tax under section 587 dies, any amounts which would have been chargeable in later tax years under—
  (a) section 590(2) or (4) (UK resident sellers: spreading rules), or
  (b) section 591(2) or 592(2) (non-UK resident sellers: elections for spreading),

are taxed in the tax year in which the seller dies.

(2) The personal representatives may elect that the tax payable by reason of subsection (1) be reduced to the total amount of income tax that the seller and the estate would have been liable to pay if the amounts chargeable by reason of that subsection had been taxed in equal parts in each of the lifetime tax years.

(3) In subsection (2) "the lifetime tax years" means—
  (a) the tax year in which the seller received the proceeds or, as the case may be, the instalment, and
  (b) each of the next tax years up to and including that in which the seller died.

(4) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the death occurs.

594 Winding up of a body corporate

(1) If a body corporate which is liable to income tax under section 587 commences to be wound up, any amounts falling within subsection (2) are taxed in the year in which the winding up commences.

(2) The amounts are—
  (a) any amounts which would have been chargeable in later tax years under section 591(2) or 592(2), and
  (b) any amounts (arising to the body in a fiduciary or representative capacity) which would have been chargeable in later tax years under section 590(2) or (4).

595 Deduction of tax from payments to non-UK residents

(1) This section applies if a person who is a non-UK resident is liable to tax under section 587 on profits from the sale of the whole or part of any patent rights.

(2) The rules in section 588 allowing the capital cost (if any) of the rights sold to be deducted in calculating the profits from the sale do not affect the amount of income tax which (by virtue of section 349ZA of ICTA: application of rules for deduction of income tax by the payer) is to be—
  (a) deducted under section 349(1) of ICTA, and
  (b) assessed under section 350 of that Act (assessment on the payer).

(3) No election made by the seller under section 591(2) or 592(2) (election for spreading) in relation to the proceeds of sale or any instalment affects the amount of income tax which (by virtue of section 349ZA of ICTA: application of rules for deduction of income tax by the payer) is to be—
  (a) deducted from the proceeds of sale or instalment under section 349(1) of ICTA, and
  (b) assessed under section 350 of that Act.

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596 Adjustments where tax has been deducted

(1) Where any sum has been deducted from a payment by virtue of section 595(2), any adjustment necessary—

(a) because of section 595(2), or

(b) because of an election under section 591(2) or 592(2),

must be made by way of repayment of tax.

(2) Adjustments necessary to give effect to an election under section 591(2) or 592(2) must be made year by year, treating one-sixth of the sum deducted from the proceeds of sale or instalment as income tax paid for each of the 6 years.

(3) No repayment is to be made of any tax treated under subsection (2) as income tax paid for a particular year unless and until it is ascertained that the income tax ultimately falling to be paid for that year is less than the amount which was paid for that year.

597 Licences connected with patents

(1) The acquisition of a licence in respect of a patent is treated for the purposes of sections 587 to 596 as a purchase of patent rights.

(2) The grant of a licence in respect of a patent is treated for the purposes of sections 587 to 596 as a sale of part of patent rights.

(3) But the grant by a person entitled to patent rights of an exclusive licence is treated for the purposes of sections 587 to 596 as a sale of the whole of those rights.

(4) In subsection (3) "exclusive licence" means a licence to exercise the rights to the exclusion of the grantor and all other persons for the period remaining until the rights come to an end.

Modifications etc. (not altering text)

C35 Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883(1), **Sch. 1 para. 149** (with Sch. 2))
Ss. 597-599 applied (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 910(4)**, 1034 (with transitional provisions and savings in Sch. 2)

598 Rights to acquire future patent rights

(1) If a sum is paid to obtain a right to acquire future patent rights, then for the purposes of sections 587 to 596—

(a) the payer is treated as purchasing patent rights for that sum, and

(b) the recipient is treated as selling patent rights for that sum.

(2) If a person—

(a) pays a sum to obtain a right to acquire future patent rights, and

(b) subsequently acquires those rights,

the expenditure is to be treated for the purposes of sections 587 to 596 as having been expenditure on the purchase of those rights.

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(3) In this section "a right to acquire future patent rights" means a right to acquire in the future patent rights relating to an invention in respect of which the patent has not yet been granted.

Modifications etc. (not altering text)

C36 Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883(1), **Sch. 1 para. 149** (with Sch. 2))
Ss. 597-599 applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 910(4)**, 1034 (with transitional provisions and savings in Sch. 2)

599 Sums paid for Crown use etc. treated as paid under licence

(1) This section applies if an invention which is the subject of a patent is used by or for the service of—

(a) the Crown under sections 55 to 59 of the Patents Act 1977 (c. 37), or

(b) the government of a country outside the United Kingdom under corresponding provisions of the law of that country.

(2) The use is treated for the purposes of sections 587 to 596 as having taken place under a licence.

(3) Sums paid in respect of the use are treated for the purposes of sections 587 to 596 as having been paid under a licence.

Modifications etc. (not altering text)

C37 Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883(1), **Sch. 1 para. 149** (with Sch. 2))
Ss. 597-599 applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 910(4)**, 1034 (with transitional provisions and savings in Sch. 2)

Relief from income tax on patent income

600 Relief for expenses: patent income

(1) Relief may be claimed under this section for—

(a) inventor's expenses, and

(b) patent application and maintenance expenses.

(2) In this section "inventor's expenses" means expenses which—

(a) have been incurred by an individual who, alone or jointly, devised an invention for which a patent has been granted, and

(b) are attributable to devising it.

(3) In this section "patent application and maintenance expenses" means expenses incurred by a person in connection with—

(a) the grant or maintenance of a patent,

(b) the extension of the term of a patent, or

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(c) a rejected or abandoned application for a patent,

but not incurred for the purposes of any trade carried on by the person.

(4) Relief may not be claimed under this section for patent application and maintenance expenses unless they are expenses which would, if incurred for the purposes of a trade, have been allowable as a deduction in calculating the profits of the trade.

(5) Relief may not be claimed under this section for any expenses if relief for them is given under—

(a) section 582 (calculation of income for the purposes of the charge to tax on royalties etc.), or

(b) any other provision of the Tax Acts.

(6) This section needs to be read with section 603 (contributions to expenditure).

601 How relief is given under section 600

(1) This section sets out how relief for expenses is given where a person makes a claim under section 600.

(2) The amount of the expenses must be deducted from or set off against the person's income from patents for the tax year in which the expenses were incurred.

(3) If the amount to be allowed is greater than the amount of the person's income from patents for that tax year, the excess must be deducted from or set off against the person's income from patents for the next tax year, and so on for subsequent tax years, without the need for a further claim.

(4) In this section "income from patents" means—

(a) royalties or other sums paid in respect of the use of a patent (whether chargeable under this Chapter or otherwise),

(b) amounts on which tax is payable under section 587, 593 or 594, and

(c) amounts on which tax is payable under—

(i) section 472(5) of CAA 2001 (patent allowances: balancing charges), or

(ii) paragraph 100 of Schedule 3 to that Act (balancing charges in respect of pre-1st April 1986 expenditure on the purchase of patent rights).

(5) In this section references to a person's income from patents are to the income after any allowance has been deducted from or set off against it under section 479 of CAA 2001 (certain allowances against income from patents).

Payments received after deduction of tax

602 Payments received after deduction of tax

Income tax deducted under either of the following sections from a payment of royalties or other income within this Chapter is treated as income tax paid by the recipient—

section 348(1) of ICTA (under which income tax may be deducted from some payments by the payer), and

section 349(1) of ICTA (under which income tax must be deducted from some payments by the payer).

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Supplementary

603 Contributions to expenditure

(1) For the purposes of sections 585, 588 and 600, the general rule is that a person ("A") is to be regarded as not having incurred expenditure so far as it has been, or is to be, met (directly or indirectly) by—
  (a) a public body, or
  (b) a person other than A.

(2) In this Chapter "public body" means the Crown or any government, local authority or other public authority (whether in the United Kingdom or elsewhere).

(3) The general rule does not apply to the expenses mentioned in section 588(2)(b) (incidental expenses incurred by a seller of patent rights).

(4) The general rule is subject to the exception in section 604.

604 Contributions not made by public bodies nor eligible for tax relief

(1) A person ("A") is to be regarded as having incurred expenditure (despite section 603(1)) so far as the requirements in subsections (2) and (3) are met in relation to the expenditure.

(2) The first requirement is that the person meeting A's expenditure ("B") is not a public body.

(3) The second requirement is that—
  (a) no allowance can be made under Chapter 2 of Part 11 of CAA 2001 (contribution allowances) in respect of B's expenditure, and
  (b) the expenditure is not allowed to be deducted in calculating the profits of a trade, profession or vocation carried on by B.

(4) When determining for the purposes of subsection (3)(a) whether such an allowance can be made, assume that B is within the charge to tax.

605 Exchanges

(1) In this Chapter references to the sale of property include the exchange of property.

(2) In this section—
  references to property include know-how, and
  references to the sale of property include the disposal of know-how.

(3) For the purposes of subsection (1), any provision of this Chapter referring to a sale has effect with the necessary modifications, including, in particular, those in subsections (4) and (5).

(4) References to the proceeds of sale and to the price include the consideration for the exchange.

(5) References to capital sums included in the proceeds of sale include references to so much of the consideration for the exchange as would have been a capital sum if it had been a money payment.

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606 Apportionment where property sold together

(1) Any reference in this Chapter to the sale of property includes the sale of that property together with other property.

(2) In this section—

references to property include know-how, and

references to the sale of property include the disposal of know-how.

(3) For the purposes of subsection (1), all property sold as a result of one bargain is to be 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.

(4) If an item of property is sold together with other property, then, for the purposes of the charges under sections 583 and 587—

(a) the net proceeds of the sale of that item 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 that item, and

(b) the expenditure incurred on the provision or purchase of that item is treated as being so much of the consideration given for all the property as, on a just and reasonable apportionment, is attributable to that item.

607 Questions about apportionments affecting two or more persons

(1) Any question about the way in which a sum is to be apportioned under section 606 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.

(2) For the purposes of subsection (1) 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.

608 Meaning of "capital sums" etc.

Section 4 of CAA 2001 (meaning of "capital sums" etc.) applies in relation to this Chapter as it applies in relation to that Act.

CHAPTER 3

FILMS AND SOUND RECORDINGS: NON-TRADE BUSINESSES

609 Charge to tax on films and sound recordings businesses

(1) Income tax is charged on income from a business involving the exploitation of films or sound recordings where the activities carried on do not amount to a trade.

Such a business is referred to in this Chapter as a "non-trade business".

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(2) Expressions which are used in this Chapter and in Chapter 9 of Part 2 (trade profits: films and sound recordings) have the same meaning in this Chapter as they do in that Chapter.

610 Income charged

(1) Tax is charged under this Chapter on the full amount of the income arising in the tax year.

(2) See sections 612 and 613 for provision about the calculation of the amount of income charged under this Chapter.

(3) This section is subject to Part 8 (foreign income: special rules).

611 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

612 Calculation of income

(1) This section applies for calculating the amount of income charged under this Chapter.

(2) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.

(3) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.

(4) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.

(5) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.

(6) Any relief given as a result of section 613 is additional to the relief under this section.

613 Application of trading income rules to non-trade businesses

The provisions of Chapter 9 of Part 2 apply in relation to non-trade businesses as they apply in relation to trades but as if—

(a) references to a basis period were to a tax year, and

(b) references to anything not constituting trading stock of a trade were omitted.

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CHAPTER 4

CERTAIN TELECOMMUNICATION RIGHTS: NON-TRADING INCOME

614 Charge to tax on certain telecommunication rights of a non-trader

(1) Income tax is charged on income derived from a relevant telecommunication right that is not used or held for the purposes of a trade, profession or vocation.

(2) "Relevant telecommunication right" has the same meaning as in Chapter 10 of Part 2 (see section 146).

615 Income charged

(1) Tax is charged under this Chapter on the full amount of the income arising in the tax year.

(2) See section 617 for provision about the calculation of the amount of certain income charged under this Chapter.

(3) This section is subject to Part 8 (foreign income: special rules).

616 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

617 Deductions in calculating certain income charged

(1) This section applies for calculating the amount of income charged under this Chapter other than annual payments.

(2) The following sections apply as they apply for the purpose of calculating the profits of a trade, profession or vocation—
   (a) section 147 (expenditure and receipts in respect of relevant telecommunication rights treated as revenue in nature), and
   (b) section 148 (credits or debits arising from revaluation in respect of relevant telecommunication rights).

(3) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.

(4) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.

(5) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.

(6) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.

(7) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of this Chapter.

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618 Payments received after deduction of tax

Income tax deducted under either of the following sections from an annual payment within this Chapter is treated as income tax paid by the recipient—

section 348(1)(b) of ICTA (under which income tax may be deducted from some payments by the payer), and

section 349(1)(a) of ICTA (under which income tax must be deducted from some payments by the payer).

CHAPTER 5

SETTLEMENTS: AMOUNTS TREATED AS INCOME OF SETTLOR

Charge to tax under Chapter 5

619 Charge to tax under Chapter 5

(1) Income tax is charged on—

(a) income which is treated as income of a settlor as a result of section 624 (income where settlor retains an interest),

(b) income which is treated as income of a settlor as a result of section 629 (income paid to unmarried minor children of settlor),

(c) capital sums which are treated as income of a settlor as a result of section 633 (capital sums paid to settlor by trustees of settlement), and

(d) capital sums which are treated as income of a settlor as a result of section 641 (capital sums paid to settlor by body connected with settlement).

(2) The charge on the settlor under subsection (1)(a) or (b) above operates on distribution income by treating the income as if it were income to which section 1A of ICTA (application of lower rate to income from savings and distributions) applies as a result of subsection (2)(b) of that section (income chargeable under Chapter 3, 5 or 6 of Part 4: dividends etc. from UK resident companies etc. and release of loan to participator in close company).

(3) In subsection (2) "distribution income" means income which represents income received by the trustees of the settlement, or any other person to whom it is payable, which is—

(a) income chargeable under Chapter 3 of Part 4 (dividends etc. from UK resident companies etc.),

(b) income chargeable under Chapter 4 of Part 4 (dividends from non-UK resident companies),

(c) income chargeable under Chapter 5 of Part 4 (stock dividends from UK resident companies),

(d) income chargeable under Chapter 6 of Part 4 (release of loan to participator in close company), or

(e) a relevant foreign distribution chargeable under Chapter 8 of this Part (income not otherwise charged).

(4) In subsection (3) "relevant foreign distribution" means any distribution of a non-UK resident company which—

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(a) is not chargeable under Chapter 4 of Part 4, but
(b) would be chargeable under Chapter 3 of that Part if the company were UK resident.

VALID FROM 06/04/2007

[F45 619A Income treated as highest part of settlor's total income

(1) This section applies to income which is treated as income of a settlor as a result of section 624 (income where settlor retains an interest) or 629 (income paid to unmarried minor children of settlor).

(2) The income is treated as the highest part of the settlor's total income for the purposes of section 619 (so far as it relates to the income).

(3) See section 1012 of ITA 2007 (relationship between highest part rules) for the relationship between—
(a) the rule in subsection (2), and
(b) other rules requiring particular income to be treated as the highest part of a person's total income.**]**

Textual Amendments

F45 S. 619A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 551** (with transitional provisions and savings in Sch. 2)

620 Meaning of "settlement" and "settlor"

(1) In this Chapter—

"settlement" includes any disposition, trust, covenant, agreement, arrangement or transfer of assets (except that it does not include a charitable loan arrangement), and

"settlor", in relation to a settlement, means any person by whom the settlement was made.

(2) A person is treated for the purposes of this Chapter as having made a settlement if the person has made or entered into the settlement directly or indirectly.

(3) A person is, in particular, treated as having made a settlement if the person—
(a) has provided funds directly or indirectly for the purpose of the settlement,
(b) has undertaken to provide funds directly or indirectly for the purpose of the settlement, or
(c) has made a reciprocal arrangement with another person for the other person to make or enter into the settlement.

(4) This Chapter applies to settlements wherever made.

(5) In this section—

"charitable loan arrangement" means any arrangement so far as it consists of a loan of money made by an individual to a charity either—

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(a) for no consideration, or
(b) for a consideration which consists only of interest, and

"charity" includes each of the bodies mentioned in section 507 of ICTA (the National Heritage Memorial Fund, the British Museum etc.).

Income charged and person liable

621 Income charged

Tax is charged under this Chapter on all income and capital sums to which section 619(1) applies.

622 Person liable

The person liable for any tax charged under this Chapter is the settlor.

Rules for calculating income

623 Calculation of income

(1) This section applies for the purpose of calculating the liability to tax of a settlor charged under this Chapter.

(2) The same deductions and reliefs are allowed as would have been allowed if the amount treated as the settlor's income as a result of this Chapter had been received by the settlor as income.

Income treated as income of settlor: retained interests

624 Income where settlor retains an interest

(1) Income which arises under a settlement is treated for income tax purposes as the income of the settlor and of the settlor alone if it arises—
(a) during the life of the settlor, and
(b) from property in which the settlor has an interest.

(2) For more on a settlor having an interest in property, see section 625.

(3) For exceptions to the rule in subsection (1), see—
section 626 (exception for outright gifts between spouses),
section 627 (exceptions for certain types of income), and
section 628 (exception for gifts to charities).

625 Settlor's retained interest

(1) A settlor is treated for the purposes of section 624 as having an interest in property if there are any circumstances in which the property or any related property—
(a) is payable to the settlor or the settlor's spouse,
(b) is applicable for the benefit of the settlor or the settlor's spouse, or
(c) will, or may, become so payable or applicable.

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(2) Subsection (1) does not apply if the only circumstances are one or more of—
- (a) the bankruptcy of a person who is, or may become, beneficially entitled to the property or any related property,
- (b) the assignment of the property or any related property by such a person,
- (c) the charging of (or, in Scotland, the granting of a right in security over) the property or any related property by such a person,
- (d) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, and
- (e) the death of a child of the settlor who had become beneficially entitled to the property or any related property at not more than 25 years old.

(3) Subsection (1) does not apply if—
- (a) there are no circumstances in which the property or any related property can become payable or applicable as mentioned in that subsection during the life of a person other than—
  - (i) the bankruptcy of the person, or
  - (ii) the assignment or charging of the person's interest in the property or any related property, and
- (b) the person is alive and under 25 years old.

(4) In subsection (1) "the settlor's spouse" does not include—
- (a) a spouse from whom the settlor is separated under an order of a court or a separation agreement,
- (b) a spouse from whom the settlor is separated where the separation is likely to be permanent,
- (c) the widow or widower of the settlor, or
- (d) a person to whom the settlor is not married but may later marry.

(5) In this section "related property", in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or of income from, that property or income from it.

626 Exception for outright gifts between spouses

(1) The rule in section 624(1) does not apply in respect of an outright gift—
- (a) of property from which income arises,
- (b) made by one spouse to the other, and
- (c) meeting conditions A and B.

(2) Condition A is that the gift carries a right to the whole of the income.

(3) Condition B is that the property is not wholly or substantially a right to income.

(4) A gift is not an outright gift for the purposes of this section if—
- (a) it is subject to conditions, or
- (b) there are any circumstances in which the property, or any related property—
  - (i) is payable to the giver,
  - (ii) is applicable for the benefit of the giver, or
  - (iii) will, or may become, so payable or applicable.

(5) "Related property" has the same meaning in this section as in section 625.

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627 Exceptions for certain types of income

(1) The rule in section 624(1) does not apply to income which—

(a) arises under a settlement made by one party to a marriage by way of provision for the other—

(i) after the dissolution or annulment of the marriage, or

(ii) while they are separated under an order of a court, or under a separation agreement, or where the separation is likely to be permanent, and

(b) is payable to, or applicable for the benefit of, the other party.

(2) The rule in section 624(1) does not apply to income which consists of—

(a) annual payments made by an individual for commercial reasons in connection with the individual's trade, profession or vocation,

(b) qualifying donations for the purposes of section 25 of FA 1990 (donations to charity by individuals), or

(c) a benefit under a relevant pension scheme.

(3) In subsection (2)(c) "relevant pension scheme" means—

(a) a registered pension scheme,

(b) a pension scheme established by a government outside the United Kingdom for the benefit, or primarily for the benefit, of its employees (or an annuity acquired using funds held for the purposes of such a pension scheme), or

(c) any pension arrangements of any description prescribed by regulations made under section 11(2)(h) of the Welfare Reform and Pensions Act 1999 (c. 30) or Article 12(2)(h) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).

628 Exception for gifts to charities

(1) The rule in section 624(1) does not apply to any qualifying income which arises under a UK trust if—

(a) it is given by the trustees to a charity in the tax year in which it arises, or

(b) it is income to which a charity is entitled under the terms of the trust.

(2) In this section "qualifying income" means—

(a) income which is to be accumulated,

(b) income which is payable at the discretion of the trustees or any other person (whether or not the trustees have power to accumulate it), or

(c) income which (before being distributed) is income of any person other than the trustees.

(3) Subsection (4) applies if in any tax year qualifying income which arises under a UK trust from different sources exceeds the total of—

(a) the amount of that income which falls within subsection (1), and

(b) the amount of that income which falls within section 630(1) (comparable exception for income of unmarried minor children of settlor).

(4) The amount of the qualifying income from different sources which falls within subsection (1) above is rateably apportioned between those sources.

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(5) This does not affect the operation of any requirement that the whole, or any specified part, of the income from a particular source is to be given to a charity.

(6) In this section—

"charity" includes each of the bodies mentioned in section 507 of ICTA (the National Heritage Memorial Fund, the British Museum etc.),

"resident", in relation to the trustees of a trust, is to be read in accordance with section 110 of FA 1989 (residence of trustees), and

"UK trust" means a trust whose trustees are UK resident.

Income treated as income of settlor: unmarried children

629 Income paid to unmarried minor children of settlor

(1) Income which arises under a settlement is treated for income tax purposes as the income of the settlor and of the settlor alone for a tax year if, in that year and during the life of the settlor, it—

(a) is paid to, or for the benefit of, an unmarried minor child of the settlor, or

(b) would otherwise be treated (apart from this section) as income of an unmarried minor child of the settlor.

(2) Subsection (1) does not apply to income which is treated as income of the settlor under section 624.

(3) Subsection (1) does not apply in relation to a child's relevant settlement income in any tax year if, in that year, the total amount of that income does not exceed £100.

(4) In subsection (3) a child's "relevant settlement income" means income—

(a) which is paid to or for the benefit of, or otherwise treated as income of, the child, and

(b) which (apart from subsection (3)) would be treated as income of the settlor under subsection (1).

(5) Subsection (1) does not apply so far as provided by section 630 (exception for gifts to charities).

(6) See—

section 631 for the treatment for the purposes of subsection (1) of retained or accumulated income, and

section 632 for the treatment for the purposes of this section and section 631 of certain deemed income connected to offshore income gains.

(7) In this section and sections 631 and 632—

(a) "child" includes a stepchild,

(b) "minor" means a person under the age of 18 years, and "minor child" is to be read accordingly, and

(c) references to payments include payments in money's worth.

630 Exception for gifts to charities

(1) The rule in section 629(1) does not apply to any qualifying income which arises under a UK trust if—

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(a) it is given by the trustees to a charity in the tax year in which it arises, or
(b) it is income to which a charity is entitled under the terms of the trust.

(2) Subsection (3) applies if in any tax year qualifying income which arises under a UK trust from different sources exceeds the total of—
(a) the amount of that income which falls within subsection (1), and
(b) the amount of that income which falls within section 628(1) (comparable exception for income where settlor retains an interest).

(3) The amount of the qualifying income from different sources which falls within subsection (1) above is rateably apportioned between those sources.

(4) This does not affect the operation of any requirement that the whole, or any specified part, of the income from a particular source is to be given to a charity.

(5) In this section "charity", "qualifying income" and "UK trust" have the same meaning as in section 628.

631 Retained and accumulated income

(1) This section applies if—
(a) the trustees of a settlement retain or accumulate income arising under the settlement, and
(b) a payment is subsequently made in connection with the settlement to, or for the benefit of, an unmarried child of the settlor.

(2) The payment is treated for the purposes of section 629(1) as a payment of income, but only so far as there is retained or accumulated income available.

(3) For the purposes of subsection (1) a payment is made in connection with a settlement if it is made by virtue of or in consequence of—
(a) the settlement, or
(b) any enactment relating to the settlement.

(4) For the purposes of subsection (2) retained or accumulated income is available at any time when—

$$A > B$$

where—

A is the total amount of the income which has arisen under the settlement since it was made, and

B is the total amount of disregarded income.

(5) In subsection (4) "disregarded income" means any income arising under the settlement since it was made which has been—
(a) treated as income of the settlor,
(b) paid (whether as income or capital) to, or for the benefit of, a beneficiary other than an unmarried minor child of the settlor,
(c) otherwise treated as the income of such a beneficiary,

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(d) treated as income of an unmarried minor child of the settlor, and subject to income tax, in any of the tax years 1995-96, 1996-97 and 1997-98, or

(e) applied in meeting expenses of the trustees which—

(i) were properly chargeable to income, or

(ii) would have been so chargeable but for any express provisions of the trust.

(6) For the purposes of subsection (5)(d), income arising under the settlement that is treated as income of the child is subject to income tax so far as it does not exceed the taxable amount.

(7) In subsection (6) "the taxable amount", in relation to a tax year, means the amount by which—

$$TI > TAD$$

where—

TI is the child's total income for income tax purposes, and

TAD is the total amount of allowances and deductions that may be set against the total income.

632 Offshore income gains

(1) This section applies if—

(a) an offshore income gain accrues in respect of a disposal by a trustee of assets held by the trustee for a minor, and

(b) the minor would be absolutely entitled as against the trustee but for being a minor.

(2) The income which, under section 761(1) of ICTA (charge to income tax of offshore income gain), is treated as arising by reference to that gain is treated for the purposes of sections 629 and 631 as paid to the minor.

(3) In this section "offshore income gain" has the same meaning as in Chapter 5 of Part 17 of ICTA (charge to tax of offshore income gains).

Capital sums treated as income of settlor: trustees' payments

633 Capital sums paid to settlor by trustees of settlement

(1) Any capital sum paid directly or indirectly in any tax year by the trustees of a settlement to the settlor is treated for income tax purposes as follows.

(2) The sum is treated as the income of the settlor for the tax year so far as the amount of the sum falls within the amount of income available up to the end of the year.

(3) The sum is treated as the income of the settlor for the following year so far as the amount of the sum—

(a) is not treated under subsection (2) as the settlor's income for the tax year in which it is paid, and

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(b) falls within the amount of the income available up to the end of the following year.

(4) Subsection (3) also applies for each subsequent year up to a maximum of 10 years subsequent to the tax year in which the sum is paid.

(5) For this purpose the reference in subsection (3)(a) to being treated under subsection (2) as the settlor's income for the tax year in which the capital sum is paid is a reference to being treated under subsection (2) or (3) as the settlor's income for that year and any other year before the subsequent year in question.

(6) For the meaning of certain expressions used in this section, see—
section 634 (meaning of "capital sum" and "sums paid to settlor"),
section 635 (amount of available income),
section 636 (calculation of undistributed income), and
section 637 (qualifications to section 636).

(7) For other provisions, see—
section 638 (capital sums paid by way of loan or repayment of loan),
section 639 (loans to participators in close companies), and
section 640 (grossing-up of deemed income).

634 Meaning of "capital sum" and "sums paid to settlor"

(1) In this Chapter "capital sum" means—
(a) any sum paid by way of loan or repayment of a loan, and
(b) any other sum which—
(i) is paid otherwise than as income, and
(ii) is not paid for full consideration in money or money's worth.

(2) But this is subject to subsections (3) to (6).

(3) It does not include any sum which could not have become payable to the settlor except—
(a) in one of the circumstances mentioned in subsection (2) of section 625, or
(b) on the death under the age of 25 of any person of the kind mentioned in subsection (3) of that section.

(4) It does include a sum treated as a capital sum by subsection (5) below.

(5) Any sum which—
(a) is paid by the trustees of a settlement to a third party—
(i) at the settlor's direction, or
(ii) as a result of the assignment by the settlor of the settlor's right to receive the sum, or
(b) is otherwise paid, or applied by, the trustees for the benefit of the settlor,
is treated as a capital sum paid to the settlor by the trustees.

(6) Subsection (5) does not apply to any sum which would, apart from that subsection, be treated as a capital sum paid to the settlor.

(7) References in sections 633 to 638 to sums paid to the settlor include references to sums paid to—

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(a) the spouse of the settlor, or
(b) the settlor (or the spouse of the settlor) jointly with another person.

635 Amount of available income

(1) For the purposes of section 633 the amount of income available up to the end of any tax year is, in relation to any capital sum paid as mentioned in subsection (1) of that section by the trustees of a settlement, calculated as follows.

(2) Add together the amount of income arising under the settlement in that year and any previous year which has not been distributed.

(3) Deduct from that figure—
(a) the amount of that income taken into account under section 633 in relation to that sum in any previous year or years,
(b) the amount of that income taken into account under section 633 in relation to any other capital sums paid to the settlor in any year before that sum was paid,
(c) any income arising under the settlement in that year or any previous year which has been treated as income of the settlor under section 624 or 629, and
(d) an amount equal to the sum of tax at the rate applicable to trusts on—
(i) the total amount of income arising under the settlement in that year and any previous year which has not been distributed, less
(ii) any income of the kind mentioned in paragraph (c).

(4) See sections 636 and 637 for how to calculate amounts of undistributed income.

636 Calculation of undistributed income

(1) For the purposes of section 635, income arising under a settlement in any tax year is treated as income which has not been distributed so far as it exceeds the total amount of—
(a) the sums to which subsection (2) applies,
(b) the expenses to which subsection (4) applies, and
(c) if the trustees of the settlement are trustees for charitable purposes, the amount to which subsection (6) applies.

(2) This subsection applies to such sums paid in the tax year to any persons by the trustees of the settlement as—
(a) are treated in that year (otherwise than under section 633) as the income of those persons for income tax purposes, or
(b) would be so treated if those persons were domiciled, resident and ordinarily resident in the United Kingdom and the sums had been paid to them there.

(3) Subsection (2) is subject to section 637(1).

(4) This subsection applies to any expenses of the trustees of the settlement paid in the tax year which, in the absence of any express provision of the settlement, would be properly chargeable to income.

(5) Subsection (4)—
(a) does not apply to expenses so far as they are included in the sums mentioned in subsection (2), and

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(b) is subject to section 637(2) to (7).

(6) This subsection applies to the amount by which—

$$A > B$$

where—

A is any income arising under the settlement in the tax year in respect of which exemption from tax may be granted under section 505 of ICTA (charities: general), and

B is the total amount of any such sums or expenses as are mentioned in subsections (2) and (4) paid in that year which are properly chargeable to the income.

637 Qualifications to section 636

(1) Section 636(2) does not apply—
- (a) to any interest paid by the trustees of the settlement, or
- (b) to any sums paid to—
  - (i) a body corporate connected with the settlement, or
  - (ii) the trustees of another settlement made by the settlor or by the trustees of the settlement.

(2) Section 636(4) applies to any interest paid by the trustees of the settlement subject to subsections (3) to (7).

(3) The whole of any interest paid by the trustees of the settlement is excluded from subsection (4) of section 636 if no sums within subsection (2) of that section were paid to any person other than the settlor or the spouse of the settlor.

(4) If any sum within section 636(2) was so paid, the relevant fraction of any interest paid by the trustees of the settlement is excluded from section 636(4).

(5) The relevant fraction is—

$$\frac{A - B}{A}$$

where—

A is the whole of the income arising under the settlement in the tax year, less the sums referred to in subsection (4) of section 636 apart from subsections (2), (3) and (6) of this section, and

B is so much of the sums within subsection (2) of that section as is paid to persons other than the settlor or the spouse of the settlor.

(6) Subsections (2) to (5) do not apply to—
- (a) interest in respect of which relief from tax is allowable under any provision of the Income Tax Acts, or
- (b) interest payable to the settlor or the spouse of the settlor if living with the settlor.

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(7) Nothing in subsections (2) to (6) affects the liability to tax of the person receiving or entitled to the interest.

(8) For the purposes of this Chapter, a body corporate is treated as connected with a settlement in any tax year if at any time in that year—
  (a) it is a close company (or only is not a close company because it is non-UK resident) and the participators then include the trustees of the settlement, or
  (b) it is controlled by a company falling within paragraph (a).

Trustees' payments: further provisions

638 Capital sums paid by way of loan or repayment of loan

(1) No part of a capital sum which is paid to a settlor by way of loan is treated under section 633 as the settlor's income for any tax year after the tax year in which the whole of the sum is repaid.

(2) Subsection (3) applies if—
  (a) a capital sum is paid to the settlor by way of loan, and
  (b) one or more capital sums have previously been paid to the settlor by way of loan and wholly repaid.

(3) The amount of the capital sum mentioned in subsection (2)(a) is treated for the purposes of section 633 as equal to the amount (if any) by which it exceeds so much of the capital sum or sums previously paid as has already been treated as the settlor's income under that section.

(4) Subsection (5) applies if—
  (a) a capital sum is paid to the settlor by way of complete repayment of a loan, and
  (b) an amount not less than the capital sum is subsequently lent by the settlor to the trustees of the settlement.

(5) No part of the capital sum is treated under section 633 as the settlor's income for any tax year after that in which the further loan is made.

639 Loans to participators in close companies

(1) This section applies if any amount has been included in a person's income under Chapter 6 of Part 4 (release of loan to participator in close company) in respect of any loan or advance.

(2) There is a corresponding reduction in the amount (if any) afterwards falling to be so included under section 633 in respect of the loan or advance.

640 Grossing-up of deemed income

(1) The whole or any part of a capital sum which is treated under section 633 as income of the settlor for any tax year is treated as income of an amount equal to the sum or the part of the sum, grossed up by reference to the rate applicable to trusts for that year.

(2) The deductible amount is to be set off against the amount of tax charged on any amount treated under section 633 as income of the settlor for any year.

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(3) In subsection (2) the "deductible amount" is an amount equal to—

(a) tax at the rate applicable to trusts for the year on the amount treated under section 633 as the settlor's income,

(b) so much of the amount of tax at that rate as is equal to the tax charged, or

(c) the amount of tax paid by the trustees on the grossed-up amount of so much of the amount of income available up to the end of the year, in relation to the capital sum, as is taken into account under section 633 in relation to that sum in that year (see subsections (4) to (7) below),

whichever is the least.

(4) For the purposes of subsection (3)(c)—

(a) any reduction falling to be made under section 635(3)(d) is treated as made against income arising under the settlement in an earlier tax year before income arising under the settlement in a later tax year, and

(b) income arising under the settlement in an earlier tax year is treated as taken into account under section 633 before income arising under the settlement in a later tax year.

(5) For the purposes of subsection (3)(c)—

(a) the grossed-up amount of any sum is an amount equal to the sum, grossed up by reference to the appropriate rate for each part of the sum, and

(b) the amount of tax paid by the trustees on that grossed-up amount is the difference between the grossed-up amount and the sum in question.

(6) For the purposes of subsection (5)—

(a) the appropriate rate for any part of a sum is 0% if—

(i) the income that falls to be treated in accordance with subsection (4) as representing that part of the sum is income from a source outside the United Kingdom, and

(ii) the trustees were non-UK resident for the relevant tax year, and

(b) the appropriate rate for any part of a sum in relation to which paragraph (a) does not apply is—

(i) 34%, if the relevant tax year is the year 2003-04 or any earlier tax year, and

(ii) 40%, if the relevant tax year is the year 2004-05 or any subsequent tax year.

(7) In subsection (6) "the relevant tax year", in relation to any part of a sum, means the tax year in which the income treated in accordance with subsection (4) as representing that part of the sum arose under the settlement.

Capital sums treated as income of settlor: connected bodies

641 Capital sums paid to settlor by body connected with settlement

(1) This section applies if—

(a) a capital sum is paid to the settlor in a tax year by any body corporate connected with the settlement in that year, and

(b) an associated payment has been, or is, made directly or indirectly to the body by the trustees of the settlement.

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(2) The capital sum is, in accordance with this section, treated for the purposes of section 633 as having been paid to the settlor by the trustees of the settlement.

(3) A capital sum to which subsection (2) applies is treated as having been paid to the settlor in the tax year in which it is paid so far as the amount of the sum falls within the total of the associated payment or payments made up to the end of the year.

(4) A capital sum to which subsection (2) applies is treated as having been paid to the settlor in the following year so far as the amount of the sum—
- (a) is not treated as paid to the settlor in the year mentioned in subsection (3), and
- (b) falls within the total of the associated payment or payments made up to the end of the following year (less what was taken into account under subsection (3) in relation to the sum in the previous year).

(5) Subsection (4) also applies for each subsequent year.

(6) In its application to a subsequent year—
- (a) the references to the following year are to the subsequent year,
- (b) the reference to the year mentioned in subsection (3) is to that year and any other year before the subsequent year, and
- (c) the reference to what was taken into account under subsection (3) in relation to the sum in the previous year is to what was taken into account under this section in relation to the sum in the previous years.

(7) See also—

section 642 (exception for certain loans or repayments of loans), and
section 643 (interpretation of sections 641 and 642).

642 Exception for certain loans or repayments of loans

(1) Section 641 does not apply to any sum paid to the settlor by way of loan or repayment of a loan if conditions A and B are met.

(2) Condition A is that the whole of the loan is repaid within 12 months of the date on which it was made.

(3) Condition B is that the period for which amounts are outstanding in respect of relevant loans in any period of 5 years is not more than 12 months.

(4) In subsection (3) "relevant loans" means loans made—
- (a) to the settlor by the body corporate connected with the settlement or by any other body corporate so connected, or
- (b) by the settlor to the body corporate connected with the settlement or to any other body corporate so connected.

643 Interpretation of sections 641 and 642

(1) Any question in section 641 or 642 whether a capital sum has been paid—
- (a) to the settlor by a body corporate, or
- (b) to a body corporate by the trustees,

is determined in the same way as any question under section 633 whether a capital sum has been paid to the settlor by the trustees.

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(2) For the circumstances in which a body corporate is treated for the purposes of this Chapter as connected with a settlement, see section 637(8).

(3) In section 641 and this section "associated payment", in relation to any capital sum paid to the settlor by a body corporate, means—
  (a) any capital sum paid to the body by the trustees of the settlement, and
  (b) any other sum paid, or asset transferred, to the body by the trustees which is not paid or transferred for full consideration in money or money's worth,

being any sum paid, or asset transferred, in the 5 years ending or beginning with the date on which the capital sum is paid to the settlor.

(4) For the purposes of sections 641 and 642 and this section any capital sum paid by a body corporate, and any associated payment made to a body corporate, at a time when it is (within the meaning of section 416 of ICTA) associated with another body corporate may be treated as paid by, or made to, the other body corporate.

Settlements by two or more settlors

644 Application to settlements by two or more settlors

(1) In the case of a settlement where there is more than one settlor, this Chapter has effect in relation to each settlor as if that settlor were the only settlor.

(2) This works as follows.

(3) In this Chapter, in relation to a settlor—
  (a) references to the property comprised in a settlement include only property originating from the settlor, and
  (b) references to income arising under the settlement include only income originating from the settlor.

(4) For the purposes of sections 629, 631 and 632 only the following are taken into account in relation to a child of the settlor—
  (a) income originating from the settlor, and
  (b) in a case in which section 631 applies, payments which under that section (as adapted by subsection (5) below) are treated as payments of income.

(5) In applying section 631 to a settlor—
  (a) the reference to income arising under the settlement includes only income originating from the settlor, and
  (b) the reference to any payment made in connection with the settlement includes only a payment made out of property originating from the settlor or income originating from the settlor.

(6) See section 645 for the meaning of references in this section to property or income originating from a settlor.

645 Property or income originating from settlor

(1) References in section 644 to property originating from a settlor are references to—
  (a) property which the settlor has provided directly or indirectly for the purposes of the settlement,

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(b) property representing property so provided, and
(c) so much of any property which represents both property so provided and other property as, on a just and reasonable apportionment, represents the property so provided.

(2) References in section 644 to income originating from a settlor are references to—
(a) income from property originating from the settlor, and
(b) income provided directly or indirectly by the settlor.

(3) In this section references to property or income which a settlor has provided directly or indirectly—
(a) include references to property or income which has been provided directly or indirectly by another person under reciprocal arrangements with the settlor, but
(b) do not include references to property or income which the settlor has provided directly or indirectly under reciprocal arrangements with another person.

(4) In this section references to property which represents other property include references to property which represents accumulated income from the other property.

Other supplementary provisions

646 Adjustments between settlor and trustees etc.

(1) A settlor is entitled to recover from—
(a) any trustee, or
(b) any other person to whom the income is payable in connection with the settlement,

the amount of any tax paid by the settlor which became chargeable on the settlor under section 624 or 629.

(2) For this purpose, the settlor may require the Inland Revenue to provide the settlor with a certificate specifying—
(a) the amount of income in respect of which the settlor has so paid tax, and
(b) the amount of tax so paid.

(3) A certificate provided under subsection (2) is conclusive evidence of the facts stated in it.

(4) Subsection (5) applies if—
(a) a settlor obtains a repayment of tax in respect of an allowance or relief, and
(b) the repayment is in excess of the amount of the repayment to which the settlor would have been entitled but for sections 624 to 632.

(5) The settlor must pay an amount equal to the excess to—
(a) the trustee, or
(b) the other person to whom the income is payable by virtue of or as a result of the settlement.

(6) If there are two or more such persons, the amount must be apportioned among them as the case may require.

(7) Any question as to—

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(a) the amount of a payment under subsection (5), or
(b) an apportionment to be made under subsection (6),

is to be decided by the General Commissioners whose decision is final.

(8) Nothing in sections 624 to 632 is to be read as excluding a charge to tax on the trustees as persons by whom any income is received.

VALID FROM 06/04/2007

[F46 646A Trustees' expenses to be rateably apportioned

(1) This section applies if—
(a) in a tax year qualifying income arises under a UK settlement, and
(b) the qualifying income consists of charitable income and non-charitable income.

(2) If expenses of the trustees are to be set against the charitable income by virtue of section 484 of ITA 2007, the amount of those expenses which can used for that purpose is limited to the amount allocated to the charitable income.

(3) If—
(a) Chapter 8 of Part 9 of ITA 2007 applies in relation to the charitable income, and
(b) expenses of the trustees are to be used to reduce the charitable income for income tax purposes,

the amount of those expenses which can used for that purpose is limited to the amount allocated to the charitable income.

(4) For the purposes of subsections and (3) the amount of the expenses allocated to the charitable income is determined by apportioning them rateably between the charitable income and the non-charitable income.

(5) In this section—

"charitable income" means income within section 628(1) or 630(1),

"non-charitable income" means income which is not charitable income, and

"qualifying income" and "UK settlement" have the same meaning as in section 628.**]**

Textual Amendments

F46 S. 646A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 560** (with transitional provisions and savings in Sch. 2)

647 Power to obtain information

(1) The Inland Revenue may by notice require any party to a settlement to provide them, within such period as they may direct, with such particulars as they consider necessary for the purposes of this Chapter.

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(2) The period concerned must be not less than 28 days.

648 Income arising under a settlement

(1) References in this Chapter to income arising under a settlement include—
- (a) any income chargeable to income tax by deduction or otherwise, and
- (b) any income which would have been so chargeable if it had been received in the United Kingdom by a person domiciled, resident and ordinarily resident there.

(2) But this is subject to the rule in subsection (3) which applies if, in a tax year, the settlor is—
- (a) not domiciled in the United Kingdom,
- (b) not UK resident, or
- (c) not ordinarily UK resident.

(3) The rule is that references in this Chapter to income arising under a settlement do not include income arising under the settlement in that tax year in respect of which the settlor, if the settlor were actually entitled to it, would not be chargeable to income tax by deduction or otherwise because of the settlor not being domiciled in the United Kingdom, UK resident or ordinarily UK resident.

(4) Subsection (5) qualifies the rule in subsection (3) if such income is remitted to the United Kingdom in circumstances such that, if the settlor were actually entitled to the income when remitted, the settlor would be chargeable to income tax because of being UK resident.

(5) The income is treated for the purposes of this Chapter as arising under the settlement in the year in which it is remitted.

CHAPTER 6

BENEFICIARIES' INCOME FROM ESTATES IN ADMINISTRATION

Charge to tax on estate income

649 Charge to tax on estate income

(1) Income tax is charged on estate income.

(2) In this Chapter—

"estate income" means the income treated under this Chapter as arising from an absolute, limited or discretionary interest in the whole or part of the residue of an estate, and

"estate" means the estate of a deceased person (whether a UK estate or a foreign estate).

(3) Estate income is treated as income for income tax purposes.

(4) If different parts of an estate are subject to different residuary dispositions, those parts are treated for the purposes of this Chapter as if they were separate estates.

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650 Absolute, limited and discretionary interests

(1) A person has an absolute interest in the whole or part of the residue of an estate for the purposes of this Chapter if—
  (a) the capital of the residue or that part is properly payable to the person, or
  (b) it would be so payable, if the residue had been ascertained.

(2) A person has a limited interest in the whole or part of the residue of an estate during any period for the purposes of this Chapter if—
  (a) the person does not have an absolute interest in it, and
  (b) the income from it would be properly payable to the person if the residue had been ascertained at the beginning of that period.

(3) A person has a discretionary interest in the whole or part of the residue of an estate for the purposes of this Chapter if—
  (a) a discretion may be exercised in the person's favour, and
  (b) on its exercise in the person's favour any of the income of the residue during the whole or part of the administration period (see section 653) would be properly payable to the person if the residue had been ascertained at the beginning of that period.

(4) For the purposes of this section, an amount is only treated as properly payable to a person if it is properly payable to the person, or to another in the person's right, for the person's benefit, except where subsection (5) applies.

(5) The personal representatives of a deceased person (“A”) are to be treated as having an absolute or limited interest in the whole or part of the residue of the estate of another deceased person (“B”) if—
  (a) they have a right in their capacity as A's personal representatives, and
  (b) were the right vested in them for their own benefit, they would have that interest in B's estate.

(6) For the purposes of subsection (4), it does not matter whether the amount is payable directly by the personal representatives or through a trustee or other person.

651 Meaning of “UK estate” and “foreign estate”

(1) In this Chapter—

“UK estate”, in relation to a tax year, means an estate which meets conditions A and B, or condition C, for that year, and

“foreign estate”, in relation to a tax year, means an estate which is not a UK estate in relation to that year.

(2) Condition A is that all the income of the estate either—
  (a) has borne United Kingdom income tax by deduction, or
  (b) is income in respect of which the personal representatives are directly assessable to United Kingdom income tax for the tax year.

(3) Condition B is that none of the income of the estate is income for which the personal representatives are not liable to United Kingdom income tax for the tax year because they are not UK resident or not ordinarily UK resident.

(4) For the purposes of conditions A and B sums within section 680(3) or (4) (sums treated as bearing tax) are ignored.

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(5) Condition C is that the aggregate income of the estate for the tax year consists only of sums within section 680(3) or (4).

Types of estate income

652 Estate income: absolute interests in residue

(1) Income is treated as arising in a tax year from a person's absolute interest in the whole or part of the residue of an estate if—
  (a) the person has an assumed income entitlement for the tax year in respect of the interest (see sections 665 to 670), and
  (b) condition A or B is met.

(2) Condition A is that a payment is made in respect of the interest in the tax year and before the end of the administration period (see section 653).

(3) Condition B is that the tax year is the final tax year (see section 653).

(4) Income treated as arising as a result of this section is estate income for the purposes of this Chapter.

653 Meaning of "the administration period" and "the final tax year"

(1) In this Chapter "the administration period", in relation to the estate of a deceased person, means the period beginning with the deceased's death and ending with the completion of the administration of the estate.

(2) In the application of subsection (1) to Scotland, the reference to the completion of the administration is to be taken as a reference to the date at which, after discharge of, or provision for, liabilities falling to be met out of the deceased's estate, the free balance held in trust for the residuary legatees or for the persons with the right to the intestate estate has been ascertained.

(3) In this Chapter "the final tax year" means the tax year in which the administration period ends.

654 Estate income: limited interests in residue

(1) Income is treated as arising in a tax year from a person's limited interest in the whole or part of the residue of an estate in cases A, B and C.

(2) Case A is where—
  (a) the interest has not ceased before the beginning of the tax year, and
  (b) a sum is paid in respect of the interest in that year and before the end of the administration period.

(3) Case B is where—
  (a) the tax year is the final tax year,
  (b) the interest has not ceased before the beginning of that year, and
  (c) a sum remains payable in respect of the interest at the end of the administration period.

(4) Case C is where—

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(a) the tax year is a year before the final tax year,
(b) the interest ceases in the tax year, and
(c) a sum is paid in respect of the interest in a later tax year but before the end of the administration period, or remains payable in respect of it at the end of that period.

(5) This section does not apply to limited interests to which section 674 (successive interests: holders of limited interests) applies.

(6) Income treated as arising as a result of this section or section 674 is estate income for the purposes of this Chapter.

655 Estate income: discretionary interests in residue

(1) Income is treated as arising in a tax year from a person's discretionary interest in the whole or part of the residue of an estate if a payment is made in the tax year in exercise of the discretion in that person's favour.

(2) Income treated as arising as a result of this section is estate income for the purposes of this Chapter.

Income charged and person liable

656 Income charged: UK estates

(1) In the case of a UK estate, tax is charged under section 649 on the amount of estate income treated as arising in the tax year.

(2) That amount is the basic amount of that income for the tax year (see subsection (4)) grossed up by reference to the applicable rate for that year (see section 663).

(3) The gross amount is treated as having borne income tax at that rate.

(4) In this Chapter "the basic amount", in relation to estate income, has the meaning given by—
(a) section 660 (basic amount of estate income: absolute interests),
(b) section 661 (basic amount of estate income: limited interests),
(c) section 662 (basic amount of estate income: discretionary interests), and
(d) section 675 (basic amount of estate income: successive limited interests).

657 Income charged: foreign estates

(1) In the case of a foreign estate, tax is charged under section 649 on the full amount of estate income treated as arising in the tax year.

(2) That amount depends on whether the estate income arising in the tax year is paid from sums within section 680(3) or (4) (sums treated as bearing income tax).

(3) So far as the estate income is paid from such sums, that amount is the basic amount of that income for the tax year grossed up by reference to the applicable rate for that year (see section 663).

(4) That gross amount is treated as having borne income tax at that rate.

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(5) So far as the estate income is not paid from sums within section 680(3) or (4), the amount of estate income treated as arising in the tax year is the basic amount of that income for that year.

658 Special rules for foreign income

(1) The charge to tax under section 649 on the amount of income arising in a tax year is subject to Part 8 (foreign income: special rules).

(2) For the purposes of section 830(1) (meaning of "relevant foreign income") amounts charged to tax under section 649—
  (a) are treated as arising from a source outside the United Kingdom if the estate is a foreign estate, and
  (b) are treated as not arising from such a source if the estate is a UK estate.

659 Person liable

(1) If the estate income is from a person's absolute interest or limited interest, that person is liable for any tax charged under section 649 unless subsection (3) or (4) provides that another person is liable.

(2) If the estate income is from a discretionary interest, the person in whose favour the discretion is exercised in making the payment in question is liable for any tax charged under section 649.

(3) If, in a case where the estate income is from an absolute interest—
  (a) section 671 (successive absolute interests) applies, or
  (b) section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest) applies and the income is treated as arising because of that section,

  the person by reference to whose assumed income entitlement the estate income is determined is liable for any tax charged under section 649.

(4) If, in a case where the estate income is from a limited interest—
  (a) section 673(1) applies and the income is treated as arising because of section 673(2) (payment in respect of a previous limited interest), or
  (b) section 674 (successive interests: holders of limited interests) applies,

  the person entitled to receive the payment in question is liable for any tax charged under section 649.

Basic amount of estate income: general calculation rules

660 Basic amount of estate income: absolute interests

(1) The basic amount of estate income relating to a person's absolute interest in the whole or part of the residue of an estate for a tax year before the final tax year is the lower of—
  (a) the total of all sums paid in the tax year in respect of that interest, and
  (b) the amount of the person's assumed income entitlement for the tax year in respect of it.

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(2) The basic amount for the final tax year is equal to the amount of the person's assumed income entitlement for that year in respect of that interest.

(3) But if the residuary income of the estate for the final tax year is nil because the allowable estate deductions exceed the aggregate income of the estate, the basic amount for that year is reduced—
  (a) where the person has an absolute interest in the whole of the residue of the estate, by an amount equal to the excess, and
  (b) in any other case, by an amount equal to such part of the excess as is just and reasonable.

(4) See sections 665 to 670 for the meaning of references to assumed income entitlement and residuary income of an estate.

(5) See sections 664 and 666(2) for the meaning of aggregate income of an estate and allowable estate deductions respectively.

(6) This section is subject to sections 671 to 673 (successive interests).

661 Basic amount of estate income: limited interests

(1) The basic amount of estate income relating to a person's limited interest in the whole or part of the residue of an estate for a tax year is the total of the sums within section 654(2)(b), (3)(c) and (4)(c) for that year.

(2) This does not apply, and section 675 applies instead, if the limited interest is one to which section 674 (successive interests: holders of limited interests) applies.

662 Basic amount of estate income: discretionary interests

The basic amount of estate income relating to a person's discretionary interest in the whole or part of the residue of an estate for a tax year is the total of the payments made in the tax year in exercise of the discretion in favour of the person.

663 The applicable rate for grossing up basic amounts of estate income

(1) The applicable rate by reference to which a basic amount of estate income is grossed up for the purposes of sections 656 and 657 depends on the rate at which income tax is borne for the tax year by the aggregate income of the estate.

(2) If the aggregate income of the estate all bears income tax at the same rate, the applicable rate is that rate.

(3) If—
  (a) different parts of the aggregate income of the estate bear income tax at different rates, and
  (b) the same rate applies to all the income from which section 679 treats the basic amount as having been paid,

the applicable rate is that rate.

(4) If—
  (a) different parts of the aggregate income of the estate bear income tax at different rates, and

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(b) different rates apply to different parts of the income from which section 679 treats the basic amount as having been paid,

each of those rates is the applicable rate by reference to which the corresponding part of the basic amount is grossed up.

664 The aggregate income of the estate

(1) For the purposes of this Chapter the aggregate income of the estate for a tax year is the total of the income and amounts specified in subsection (2), but excluding the income specified in subsection (5).

(2) The income and amounts are—

(a) the income of the deceased's personal representatives in that capacity which is charged to United Kingdom income tax for the tax year,

(b) the income of the deceased's personal representatives in that capacity on which such tax would have been charged for the tax year if—

(i) it was income of a UK resident who was ordinarily UK resident, and

(ii) it was income from a source in the United Kingdom,

(c) any amount of income treated as arising to the personal representatives under section 410(4) (stock dividends) that would be charged to income tax under Chapter 5 of Part 4 if income arising to personal representatives were so charged (see section 411),

(d) in a case where section 419(2) applies (release of loans to participator in close company: loans and advances to persons who die), the amount that would be charged to income tax under Chapter 6 of Part 4 apart from that section, and

(e) any amount that would have been treated as income of the personal representatives in that capacity under section 466 if the condition in section 466(2) had been met (gains from contracts for life insurance).

(3) In calculating the amount of the income within subsection (2)(a), any allowable deductions are to be taken into account.

(4) In calculating the amount of the income within subsection (2)(b), any deductions which would be allowable if the income had been charged to United Kingdom income tax are to be deducted from the full amount of the income actually arising in the tax year.

(5) The excluded income is—

(a) income to which any person is or may become entitled under a specific disposition, and

(b) income from property devolving on the personal representatives otherwise than as assets for payment of the deceased's debts.

(6) In subsection (5)(a) “specific disposition” means a gift of specific property under a will, including—

(a) the disposition of personal chattels by section 46 of the Administration of Estates Act 1925 (c. 23) (succession on intestacy), and

(b) any disposition which under the law of another country has a similar effect to a gift of specific property by will under the law of England and Wales,

but excluding real property included in a residuary gift made by will by a specific or general description of it or, in Scotland, heritable estate included in such a gift.

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Further provisions for calculating estate income relating to absolute interests

665 Assumed income entitlement

(1) Whether a person has an assumed income entitlement for a tax year in respect of an absolute interest in the whole or part of the residue of an estate depends on the results of the following steps.

Step 1

Find the amount of the person's share of the residuary income of the estate that is attributable to that interest for that tax year and each previous tax year during which the person had that interest (see sections 666 to 669).

Step 2

If the estate is a UK estate in relation to any tax year for which an amount has been found under step 1, deduct from that amount income tax on that amount at the applicable rate for that year (see section 670).

Step 3

Add together the amounts found under step 1 after making any deductions necessary under step 2.

Step 4

Add together the basic amounts relating to the person's absolute interest in respect of which the person was liable for income tax for all previous tax years (or would have been so liable if the person had been a person liable for income tax for those years).

(2) For the purposes of this Chapter the person has an assumed income entitlement for the tax year if the amount resulting from step 3 exceeds the amount resulting from step 4.

(3) The assumed income entitlement is equal to the excess.

(4) This section is subject to—

section 671 (successive absolute interests), and

section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest).

666 The residuary income of the estate

(1) For the purposes of this Chapter the residuary income of an estate for a tax year is the aggregate income of the estate for that year, less the allowable estate deductions for that year.

This is subject to section 669 (reduction in residuary income: inheritance tax on accrued income).

(2) The allowable estate deductions for a tax year are—

(a) all interest paid in that year by the personal representatives in that capacity (but see section 233 of IHTA 1984: exclusion of interest on unpaid inheritance tax),

(b) all annual payments for that year which are properly payable out of residue,

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(c) all payments made in that year in respect of expenses incurred by the personal representatives in that capacity in the management of the assets of the estate, and

(d) any excess deductions from the previous tax year.

This is subject to subsections (3) to (5).

(3) No sum is to be treated as an allowable estate deduction if it is allowable in calculating the aggregate income of the estate.

(4) No sum is to be counted twice as an allowable estate deduction.

(5) Payments in respect of expenses are only allowable estate deductions if they are properly chargeable to income (ignoring any specific direction in a will).

(6) In this section "excess deductions from the previous tax year" means so much of the allowable deductions for the previous tax year as exceeded the aggregate income of the estate for that year.

667 Shares of residuary income of estate

(1) In the case of a person who has an absolute interest in the whole of the residue of an estate for a whole tax year, the person's share of the residuary income of the estate in respect of that interest for that year is equal to the whole of that income for that year.

(2) In the case of a person who—

(a) has an absolute interest in the whole of the residue of an estate for part of the tax year, or

(b) an absolute interest in part of the residue of an estate for the whole or part of the tax year,

the person's share of the residuary income of the estate is a proportionate part of that income for that year.

(3) This section is subject to section 668 (reduction in share of residuary income of estate).

668 Reduction in share of residuary income of estate

(1) This section applies if a person has an absolute interest in the whole or part of the residue of an estate at the end of the administration period and—

(a) the total of the person's shares of the residuary income of the estate in respect of that interest for all tax years (apart from this section), exceeds

(b) the total of all sums paid during or payable at the end of the administration period in respect of that interest to any person (grossed up where subsection (5) applies).

(2) In the final tax year the person's share of the residuary income of the estate is to be reduced by that excess.

(3) If that excess is greater than the person's share of that income for the final tax year, that person's share of that income for the previous tax year is to be reduced, and so on.

(4) If subsection (3) applies all necessary adjustments and repayments of income tax are to be made.

(5) For the purposes of calculating the total mentioned in subsection (1)(b)—

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(a) if the estate is a UK estate in relation to a tax year in which a sum is paid, the sum is to be grossed up by reference to the basic rate for that year, and
(b) if the estate is a UK estate in relation to the final tax year, a sum payable at the end of the administration period is to be grossed up by reference to the basic rate for that year.

(6) For the application of this section where two or more absolute interests in the whole or the same part of the residue are held successively by different persons, see section 671(5) and (6).

669 Reduction in residuary income: inheritance tax on accrued income

(1) This section applies if on the death of a person ("D") income which accrued before D's death ("pre-death income") is taken into account both—
(a) in determining the value of D's estate for the purposes of inheritance tax charged on D's death, and
(b) in calculating the residuary income of D's estate for a tax year.

(2) A reduction is made in the residuary income of D's estate for that tax year in ascertaining the extra liability, if any, of a person with an absolute interest in the whole or part of the residue of D's estate or any other estate to which that residuary income is relevant.

(3) A person's extra liability is the amount by which the person's liability to income tax exceeds the amount it would be if—
(a) income charged at the higher rate were charged—
(i) in the case of income within section 1A(1A)(c) of ICTA (income chargeable at the lower rate instead of the starting rate or the basic rate), at the lower rate, and
(ii) in any other case, at the basic rate, and
(b) income charged at the dividend upper rate were charged at the dividend ordinary rate.

(4) The amount of the reduction under subsection (2) is calculated as follows:

Step 1

Calculate the net pre-death income by subtracting from the pre-death income any liabilities which have been taken account both—
(a) in determining the value of D's estate for the purposes of inheritance tax, and
(b) in calculating the residuary income of D's estate for the tax year.

Step 2

Calculate the inheritance tax attributable to net pre-death income by multiplying the inheritance tax to be charged by—

$$\frac{NPDI}{VE}$$

where—

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NPDI is the net pre-death income, and

VE is the value of D's estate.

Step 3

Gross up the inheritance tax attributable to net pre-death income by reference to the basic rate for the tax year.

(5) The amount of pre-death income taken into account in determining the value of D's estate is taken to be the actual amount of income accruing before D's death, less income tax at the basic rate for the tax year in which D died.

(6) Subsection (5) applies even if the income so accruing was not valued separately or its amount was not known at the date of D's death.

(7) For the purposes of this section, the amounts agreed between the persons liable for inheritance tax and the Inland Revenue, or determined in proceedings between them, as the value of the estate and the amount of inheritance tax to be charged are conclusive.

(8) Evidence of those amounts and of any facts relevant to their calculation may be given by the production of a document that appears to be a certificate from the Inland Revenue.

670 Applicable rate for determining assumed income entitlement (UK estates)

(1) The applicable rate by reference to which income tax on a person's share of the residuary income of the estate for a tax year is calculated for the purposes of step 2 of the calculation in section 665(1) depends on the rate at which income tax is borne by the aggregate income of the estate for the year.

(2) If the aggregate income of the estate all bears income tax at the same rate, the applicable rate is that rate.

(3) If different parts of the aggregate income of the estate bear income tax at different rates, the applicable rate is the rate that applies to the income to which the person's share of the residuary income of the estate relates.

(4) If different rates apply to different parts of that income, each of those rates is the applicable rate that applies to the corresponding part of the income to which the person's share of the residuary income of the estate relates.

(5) For the purposes of this section, if there is more than one person with an absolute interest in the residue of the estate, such apportionments of parts of the aggregate income of the estate bearing income tax at different rates are to be made as are just and reasonable for their different interests.

Special rules for successive interests

671 Successive absolute interests

(1) This section applies if two or more absolute interests in the whole or the same part of the residue of an estate are held successively during the administration period by different persons.

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(2) In determining whether a person with a later such interest ("the later holder") has an assumed income entitlement in respect of that interest and, if so, its amount—
  (a) the later holder's share of the residuary income of the estate in respect of that interest for any tax year is to be treated as including the share of any person with a previous such interest ("a previous holder"), and
  (b) the basic amounts relating to the later holder's interest are to be treated as including the basic amounts relating to any previous such interest.

(3) In applying subsection (2), all determinations under that subsection or section 672(2) that fall to be made in relation to a person with an earlier interest are to be made before determinations under those provisions relating to a person with a later interest.

(4) A person who is a previous holder in the final tax year is to be taxed in that year, in relation to the interest as to which that person is a previous holder, as if that year were not the final tax year, and the later holder's assumed income entitlement in that year is to be calculated accordingly.

(5) The calculation under section 668(1)(a) and (b) (amount of reduction in the share of the residuary income of the person with an absolute interest at the end of the administration period) is to be made by reference to all the absolute interests taken together.

(6) If the amount resulting from that calculation is greater than the total amount of the reductions which can be made under section 668(2) and (3), the share of the residuary income of the estate of the last previous holder of the interest for the last tax year in which that last holder had that interest is to be reduced, and so on.

(7) For the purposes of this section and sections 672 to 676, two interests are held successively even where one is not held immediately before or after the other.

(8) It is assumed for those purposes that each of the persons holding the interests in question is a person liable to income tax.

672 Successive interests: assumed income entitlement of holder of absolute interest following limited interest

(1) This section applies if—
  (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
  (b) each later interest arises or is created on the cessation of the previous interest otherwise than by death,
  (c) at least one of the interests is an absolute interest, and
  (d) at least one of the interests preceding that interest is a limited interest.

(2) Rules A and B apply to determine in relation to such an absolute interest—
  (a) whether the person with the interest has an assumed income entitlement in respect of the interest, and
  (b) if so, its amount.

(3) Rule A is that the person's share of the residuary income of the estate in respect of the absolute interest for any tax year is treated as including any amount which would be included in it if—
  (a) the interest had subsisted throughout the period when any such limited interest subsisted, and

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(b) no such limited interest had ever subsisted.

(4) Rule B is that the basic amounts relating to the absolute interest are treated as including the basic amounts relating to any such limited interest.

673 Successive interests: payments in respect of limited interests followed by absolute interests

(1) This section applies if—
- (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
- (b) each later interest arises or is created on the cessation of the previous interest otherwise than by death,
- (c) at least one of the interests is an absolute interest, and
- (d) at least one of the interests preceding that interest is a limited interest.

(2) A sum to which a person ("P") with such an absolute interest is entitled in respect of any such limited interest which is paid while P has the absolute interest is treated as paid in respect of the absolute interest (and not the limited interest).

(3) Subsection (4) applies if—
- (a) P's absolute interest ceases during the administration period, and
- (b) a sum to which P is entitled in respect of any such limited interest—
  - (i) is paid after the absolute interest ceases but before the end of the administration period, or
  - (ii) remains payable at the end of it.

(4) This Chapter applies as respects any such sum as if the limited interest had continued to subsist while that absolute interest subsisted and had been held by P.

(5) Subsection (4) is subject to subsection (6).

(6) For the purposes only of section 668 (reduction in share of residuary income of estate), any such sum is treated as paid or payable in respect of the absolute interest.

674 Successive interests: holders of limited interests

(1) This section applies if—
- (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
- (b) the earlier or, if there are more than two, the earliest of the interests is a limited interest, and
- (c) each later interest arises or is created on the cessation of the previous interest otherwise than by death.

(2) Income is treated as arising from a limited interest in the whole or part of the residue of the estate in a tax year in cases A, B and C.

(3) Case A is where—
- (a) one of the successive interests subsists at the beginning of the tax year,
- (b) a sum is paid in respect of one of the interests in that year and before the end of the administration period, and

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(c) a person who has or has had one of the interests which is a limited interest ("a limited holder") is entitled to receive the payment.

(4) Case B is where—

(a) the tax year is the final tax year,

(b) one of the successive interests subsists at the beginning of that year,

(c) a sum remains payable in respect of one of the interests at the end of the administration period, and

(d) a limited holder is entitled to receive the payment.

(5) Case C is where—

(a) the tax year is a year before the final tax year,

(b) the last of the successive interests ceases in the tax year,

(c) a sum is either—

(i) paid in respect of one of the interests in a later tax year but before the end of the administration period, or

(ii) remains payable in respect of it at the end of that period, and

(d) a limited holder is entitled to receive the payment.

675 Basic amount of estate income: successive limited interests

The basic amount of estate income relating to a limited interest within section 674 for a tax year is the total of the sums within section 674(3)(b), (4)(c) and (5)(c) for that year.

676 Apportionments

(1) Such apportionments as are just and reasonable are to be made for the purposes of this Chapter if—

(a) the part of a residuary estate in which an interest within any of the provisions specified in subsection (2) subsists does not wholly correspond with the part in which another such interest held successively subsists, or

(b) one of those interests is in the whole of the residuary estate and the other is only in part of it.

(2) The provisions are—

section 671 (successive absolute interests),

section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest),

section 673 (successive interests: payments in respect of limited interests followed by absolute interests),

section 674 (successive interests: holders of limited interest), and

section 675 (basic amount of estate income: successive limited interests).

Relief where foreign estates have borne UK income tax

677 Relief where UK income tax borne by foreign estate: absolute interests

(1) This section applies if—

(a) an estate is a foreign estate in relation to a tax year,

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(b) United Kingdom income tax has been charged on a person for the tax year on estate income treated as arising from the estate under section 652 (estate income: absolute interests in residue), and

(c) United Kingdom income tax has already been borne by part of the aggregate income of the estate for the tax year.

(2) If the person makes a claim under this section, the income tax charged on the person on that estate income is to be reduced by an amount equal to—

$$T \times \frac{A}{B}$$

where—

T is the income tax charged on the person,

A is so much of the aggregate income of the estate as has already borne United Kingdom income tax for the tax year, and

B is the aggregate income of the estate for the tax year.

678 Relief where UK income tax borne by foreign estate: limited and discretionary interests

(1) This section applies if—

(a) an estate is a foreign estate in relation to a tax year,

(b) United Kingdom income tax has been charged on a person for the tax year on estate income from the estate treated as arising under—

(i) section 654 (estate income: limited interests in residue), or

(ii) section 655 (estate income: discretionary interests in residue), and

(c) United Kingdom income tax has already been borne by part of the aggregate income of the estate for the tax year.

(2) If the person makes a claim under this section, the income tax charged on the person on that estate income is to be reduced by an amount equal to—

$$T \times \frac{A - C}{B - C}$$

where—

T is the income tax charged on the person,

A is so much of the aggregate income of the estate as has already borne United Kingdom income tax for the tax year,

B is the aggregate income of the estate for the tax year, and

C is the amount of United Kingdom income tax already borne by the aggregate income of the estate for the tax year.

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General

679 Income from which basic amounts are treated as paid

(1) The part of the aggregate income of the estate from which a basic amount is treated as paid is determined by applying assumptions A and B in that order.

(2) Assumption A is that if there are different persons with interests in the residue of the estate, payments in respect of their basic amounts are paid out of the different parts of the aggregate income of the estate in such proportions as are just and reasonable for their different interests.

(3) Assumption B is that payments are made from those parts in the following order—
- (a) income bearing income tax at the basic rate,
- (b) income bearing income tax at the lower rate, and
- (c) income bearing income tax at the dividend ordinary rate.

(4) If some, but not all, of the aggregate income of the estate is income treated under section 680 as bearing income tax, assumption C is applied before assumptions A and B.

(5) Assumption C is that the basic amount is paid from income that is not within section 680 before it is paid from income within that section.

(6) Assumptions A and B then apply—
- (a) first to determine the part of the income not within that section from which the basic amount is paid, and
- (b) then to determine the part of the income within that section from which the basic amount is paid.

680 Income treated as bearing income tax

(1) This section has effect for the purposes of—

section 663 (the applicable rate for grossing up basic amounts of estate income),

section 670 (applicable rate for determining assumed income entitlement (UK estates)), and

section 679 (income from which basic amounts are treated as paid).

(2) If the aggregate income of the estate includes a sum within subsection (3) or (4), the sum is treated as bearing income tax at the rate specified for it in that subsection.

(3) The following sums are treated as bearing income tax at the dividend ordinary rate—
- (a) a sum charged under Chapter 3 of Part 4 (dividends etc. from UK resident companies etc.), or
- (b) a sum that is part of the aggregate income of the estate because of falling within—
  - (i) section 664(2)(c) (stock dividends), or
  - (ii) section 664(2)(d) (release of loan to participator in close company where debt due from personal representatives).

(4) A sum that is part of the aggregate income of the estate because of falling within section 664(2)(e) (gains from life insurance contracts etc.) is treated as bearing income tax at the lower rate.

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(5) Income tax treated as borne under section 656(3) or 657(4) (gross amount of estate income treated as bearing tax at the applicable rate) is not repayable so far as the basic amount of the estate income in question is paid from sums within this section.

VALID FROM 06/04/2007

[F47 680A Income treated as savings income or dividend income

(1) Subsections (2) and (3) apply to income if it—
  (a) is treated under section 656(3) or 657(4) (gross amount of estate income treated as bearing tax at the applicable rate) as bearing tax at the savings rate or the dividend ordinary rate, and
  (b) is not paid through a trustee.

(2) So far as the income is treated as bearing tax at the savings rate, it is treated as savings income.

(3) So far as the income is treated as bearing tax at the dividend ordinary rate, it is treated as dividend income.

(4) Subsections (5) and (6) apply to income if it—
  (a) is treated by section 662, read with section 656(3) or 657(4), as bearing tax at the savings rate or the dividend ordinary rate, and
  (b) is paid through a trustee.

(5) So far as the income is treated as bearing tax at the savings rate, it is treated as savings income of the trustee.

(6) So far as the income is treated as bearing tax at the dividend ordinary rate, it is treated as dividend income of the trustee.**]**

Textual Amendments

F47 S. 680A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 566** (with transitional provisions and savings in Sch. 2)

681 Transfers of assets etc. treated as payments

(1) For the purposes of this Chapter—
  (a) a transfer of assets, or
  (b) the appropriation of assets by personal representatives to themselves,

is treated as the payment of an amount equal to the assets' value at the date of transfer or appropriation.

(2) The set off or release of a debt is treated for the purposes of this Chapter as the payment of an amount equal to it.

(3) If at the end of the administration period—
  (a) there is an obligation to transfer assets to any person, or
  (b) personal representatives are entitled to appropriate assets to themselves,

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an amount equal to the assets' value at that time is treated as payable then for the purposes of this Chapter.

(4) If at the end of the administration period—
  (a) there is an obligation to release or set off a debt owed by any person, or
  (b) personal representatives are entitled to release or set off a debt in their own favour,

a sum equal to the debt is treated as payable then for the purposes of this Chapter.

682 Assessments, adjustments and claims after the administration period

(1) This subsection applies if after the administration period ends it is apparent that a person is liable for income tax on estate income for any tax year who previously appeared not to be so liable or to be liable for tax on a lesser amount.

(2) If subsection (1) applies—
  (a) the person may be assessed and taxed for the tax year, and
  (b) any relief or additional relief to which the person may be entitled for the tax year is to be allowed if a claim is made.

(3) This subsection applies if after the administration period ends it is apparent that a person who previously appeared to be liable for income tax on estate income for any tax year is not so liable or is liable for tax on a lesser amount.

(4) If subsection (3) applies—
  (a) all necessary adjustments and repayments of income tax for the tax year are to be made, and
  (b) if the person has been allowed relief which exceeds the relief that could have been given by reference to the amount actually charged for the tax year, income tax is charged on the person for that year under this subsection on the excess.

(5) An assessment or adjustment made for the purposes of this Chapter or a claim made as a result of this Chapter may be made after the end of the period otherwise allowed if it is made on or before the third anniversary of the normal self-assessment filing date for the tax year in which the administration period ends.

CHAPTER 7

ANNUAL PAYMENTS NOT OTHERWISE CHARGED

683 Charge to tax on annual payments not otherwise charged

(1) Income tax is charged under this Chapter on annual payments that are not charged to income tax under or as a result of any other provision of this Act or any other Act.

(2) Subsection (1) does not apply to annual payments that would be charged to income tax under or as a result of another provision but for an exemption.

(3) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of this Chapter.

(4) For exemptions, see in particular—

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(a) sections 727 to 730 (certain annual payments by individuals),
(b) section 731 (periodical payments of personal injury damages),
(c) section 732 (compensation awards),
(d) section 734 (payments from trusts for injured persons),
(e) sections 735 to 743 (health and employment insurance payments),
(f) sections 744 to 747 (payments to adopters),
(g) section 748 (payments by persons liable to pool betting duty),
(h) sections 757 to 767 (interest and royalty payments), and
(i) section 776 (scholarship income).

684 Income charged

(1) Tax is charged under this Chapter on the full amount of the annual payments arising in the tax year.

(2) Subsection (1) is subject to Part 8 (foreign income: special rules).

(3) The amount charged under this Chapter in the case of certain payments made by trustees in the exercise of a discretion is subject to section 687 of ICTA (grossing up of discretionary payments from trusts).

685 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the annual payments.

VALID FROM 19/07/2006

[F48 685A Settlor-interested settlements

(1) This section applies if—
(a) a person receives an annual payment in respect of income from the trustees of a settlement,
(b) the payment is made in the exercise of a discretion (whether of the trustees of the settlement or any other person), and
(c) a settlor is charged to tax under section 619(1) on the income arising to the trustees of the settlement (whether in the current year of assessment or in a previous year of assessment) out of which the annual payment is made.

(2) This section applies only in respect of that proportion of the annual payment which corresponds to the proportion of the total income arising to the trustees of the settlement in respect of which a settlor is chargeable to tax under section 619(1).

(3) If and in so far as this section applies, the recipient of the annual payment shall be treated for the purposes of this Chapter as having paid income tax at the higher rate in respect of the annual payment.

(4) But—
(a) tax which the recipient is treated by virtue of this section as having paid is not repayable,

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(b) tax which the recipient is treated by virtue of this section as having paid may not be taken into account in relation to a tax liability of the recipient in respect of any other income of his, and

(c) the annual payment shall be treated for the purposes of sections 348 and 349(1) of ICTA as payable wholly out of profits or gains not brought into charge to income tax.

(5) If the recipient of the annual payment is a settlor in relation to the settlement, if and in so far as this section applies the annual payment shall not be treated as his income for the purposes of the Income Tax Acts (and subsection (3) does not apply).

(6) Section 687 of ICTA shall not apply in relation to an annual payment if and in so far as this section applies.**]**

Textual Amendments

F48 S. 685A inserted (19.7.2006 with effect as mentioned in Sch. 13 para. 6(2) of the amending Act) by Finance Act 2006 (c. 25), s. 89, **Sch. 13 para. 6(1)**

686 Payments received after deduction of tax

(1) Income tax deducted under either of the following sections from an annual payment within this Chapter is treated as income tax paid by the recipient—

section 348(1)(b) of ICTA (under which income tax may be deducted from some payments by the payer), and

section 349(1)(a) of that Act (under which income tax must be deducted from some payments by the payer).

(2) See also section 687(2) of that Act (sum treated as deducted from payments made under a discretionary trust treated as income tax paid by the person to whom the payment is made or the settlor).

CHAPTER 8

INCOME NOT OTHERWISE CHARGED

687 Charge to tax on income not otherwise charged

(1) Income tax is charged under this Chapter on income from any source that is not charged to income tax under or as a result of any other provision of this Act or any other Act.

(2) Subsection (1) does not apply to annual payments.

(3) Subsection (1) does not apply to income that would be charged to income tax under or as a result of another provision but for an exemption.

(4) The definition of "income" in section 878(1) does not apply for the purposes of this section.

(5) For exemptions from the charge under this Chapter, see in particular—

section 768 (commercial occupation of woodlands), and

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section 779 (gains on commodity and financial futures).

688 Income charged

(1) Tax is charged under this Chapter on the full amount of the income arising in the tax year.

(2) Subsection (1) is subject to—
- (a) Chapter 1 of Part 7 (which provides relief on income from the use of furnished accommodation in an individual's only or main residence: see, in particular, sections 794 and 798),
- (b) Chapter 2 of that Part (which provides relief on income from the provision by an individual of foster care: see, in particular, sections 814 and 817), and
- (c) Part 8 (foreign income: special rules).

689 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

PART 6

EXEMPT INCOME

CHAPTER 1

INTRODUCTION

690 Overview of Part 6

(1) This Part provides for certain exemptions from charges to income tax under this Act.

(2) The exemptions are dealt with in—
- (a) Chapter 2 (national savings income),
- (b) Chapter 3 (income from individual investment plans),
- (c) Chapter 4 (SAYE interest),
- (d) Chapter 5 (venture capital trust dividends),
- (e) Chapter 6 (income from FOTRA securities),
- (f) Chapter 7 (purchased life annuity payments),
- (g) Chapter 8 (other annual payments), and
- (h) Chapter 9 (other income).

(3) Chapter 10 explains that, in general, the effect of the exemptions is that the exempt amounts are ignored for other income tax purposes.

(4) Other exemptions, such as exemptions relating to particular categories of persons, may also be relevant to the charges to income tax under this Act.

(5) And the exemptions dealt with in this Part may themselves be relevant to charges to income tax outside this Act.

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CHAPTER 2

NATIONAL SAVINGS INCOME

691 National Savings Bank ordinary account interest

(1) No liability to income tax arises for an individual in respect of interest on deposits in ordinary accounts with the National Savings Bank if the interest for the tax year does not exceed £70.

(2) If the interest for the tax year exceeds £70, the individual is only liable to income tax on the excess.

692 Income from savings certificates

(1) No liability to income tax arises in respect of income from authorised savings certificates.

(2) A savings certificate is authorised so far as its acquisition was not prohibited by regulations made by the Treasury limiting a person's holding.

(3) In this section "savings certificates" means—
- (a) savings certificates issued under—
  - (i) section 12 of the National Loans Act 1968 (c. 13) (power of Treasury to borrow),
  - (ii) section 7 of the National Debt Act 1958 (c. 6) (power of Treasury to issue national savings certificates), or
  - (iii) section 59 of FA 1920 (power to borrow on national savings certificates),
- (b) war savings certificates, as defined in section 9(3) of the National Debt Act 1972 (c. 65), or
- (c) savings certificates issued under any enactment forming part of the law of Northern Ireland and corresponding to section 12 of the National Loans Act 1968.

(4) But subsection (3)(c) does not include Ulster Savings Certificates (for which there are special rules in section 693).

693 Income from Ulster Savings Certificates

(1) No liability to income tax arises in respect of income from authorised Ulster Savings Certificates if condition A, B or C is met.

(2) Condition A is that —
- (a) the holder purchased them, and
- (b) at the time of the purchase the holder was resident and ordinarily resident in Northern Ireland.

(3) Condition B is that the holder is so resident and ordinarily resident when they are repaid.

(4) Condition C is that—
- (a) they are repaid after the holder's death, and

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(b) at the time of the purchase the holder was so resident and ordinarily resident.

(5) An Ulster Savings Certificate is authorised so far as its acquisition was not prohibited by regulations made by the Department of Finance and Personnel limiting a person's holding.

(6) The exemption under this section requires a claim.

(7) In this Act "Ulster Savings Certificates" means savings certificates issued or treated as issued under section 15 of the Exchequer and Financial Provisions Act (Northern Ireland) 1950 (c. 3 (N.I.)).

CHAPTER 3

INCOME FROM INDIVIDUAL INVESTMENT PLANS

694 Income from individual investment plans

(1) The Treasury may by regulations provide that income of an individual from investments under a plan—
(a) is exempt from income tax, or
(b) is exempt from income tax to such extent as is specified in the regulations.

(2) In this Chapter such regulations are referred to as "investment plan regulations".

(3) Investment plan regulations may, in particular, specify—
(a) the description of individuals who may invest, and
(b) maximum investment limits.

(4) They may provide for investment by an individual under more than one plan in the same tax year.

(5) They must set out conditions subject to which plans are to operate.

(6) The following provisions of this Chapter contain more particular provisions about the scope of investment plan regulations.

695 Investment plans

(1) Investment plan regulations may specify the kind of investments which may be made under a plan or which may be made by particular descriptions of individuals under a plan.

(2) They may—
(a) provide for a plan in the form of an account, and
(b) authorise the ways in which the subscriptions to an account are to be invested.

(3) They may—
(a) provide that plans are to be such as are approved by the Board of Inland Revenue, and
(b) specify the circumstances in which approval may be granted and withdrawn.

(4) They may—

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(a) provide for plans to be treated as being of different kinds, according to criteria set out in the regulations,
(b) provide for the Board to register a plan as being of a particular kind, and
(c) make different provision about different kinds of plan.

696 Plan managers

(1) Investment plan regulations may provide that investments are to be held by persons on behalf of investors.

(2) In this Chapter those persons, including the managers of any such account as is specified in section 695(2), are referred to as "plan managers", and references to "plan managers" in any other enactment are to be read accordingly.

(3) Investment plan regulations may—
(a) provide that plan managers are to be such as are approved by the Board of Inland Revenue, and
(b) specify the circumstances in which approval may be granted and withdrawn.

697 Special requirements for certain foreign managers

(1) Investment plan regulations may provide that a foreign institution may only be a plan manager if one of the requirements set out in section 698(2), (3) and (4) about the discharge of such of the institution's duties as are specified in the regulations is met.

(2) In this section "foreign institution" means—
(a) an EEA firm of the kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to FISMA 2000 which is an authorised person for the purposes of that Act as a result of qualifying for authorisation under paragraph 12 of that Schedule,
(b) a firm which is an authorised person for those purposes as a result of qualifying for authorisation under paragraph 2 of Schedule 4 to that Act, or
(c) an insurance company which is non-UK resident.

(3) Different duties may be specified under subsection (1) for different institutions or different descriptions of institution.

(4) In this section—

"insurance company" means an undertaking carrying on the business of effecting or carrying out contracts of insurance, and

"contract of insurance" has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).

698 Requirements for discharge of foreign institution's duties

(1) The requirements about the discharge of an institution's duties which are referred to in section 697(1) (one of which may be imposed in the case of certain foreign managers) are requirements A, B and C.

(2) Requirement A is that—
(a) a person is currently appointed by the institution to be responsible for securing the discharge of the duties,

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(b) that person either—
(i) is an individual who is a UK resident, or
(ii) is not an individual and has a business establishment in the United Kingdom, and
(c) the institution has notified the Board of Inland Revenue of that person's identity and appointment.

(3) Requirement B is that there are other current arrangements with the Board for a person other than the institution to secure the discharge of the duties.

(4) Requirement C is that there are other current arrangements with the Board designed to secure the discharge of the duties.

(5) Investment plan regulations may provide—
(a) that requirement A or B is only met if the person concerned is of a description specified in the regulations as respects that requirement,
(b) that appointments made for the purposes of requirement A or arrangements made for the purposes of requirement B are treated as terminated in circumstances specified in the regulations as respects that requirement.

(6) Investment plan regulations may provide that a person currently appointed as mentioned in subsection (2) or as to whom there is a current arrangement within subsection (3)—
(a) may act on the institution's behalf for any of the purposes of the provisions relating to the duties,
(b) is to secure the institution's compliance with, and discharge of, the duties, where appropriate by acting on its behalf,
(c) is personally liable for the institution's failure to comply with or discharge any of the duties, as if they were imposed on the person and the institution jointly and severally.

699 Non-entitlement to exemption

(1) Investment plan regulations may—
(a) provide that in circumstances specified in the regulations an investor ceases to be entitled to the exemption given by regulations made under section 694(1) and is treated as not having been entitled to it,
(b) adapt or modify the effect of any enactment relating to income tax for that purpose, and
(c) provide that in those circumstances the investor or the plan manager (depending on the terms of the regulations) is to account to the Board of Inland Revenue for income tax from which exemption has already been given on the basis that the investor was entitled to the exemption.

(2) They may provide that an investor or the plan manager (depending on the terms of the regulations) is to account to the Board—
(a) for income tax from which the exemption has been given in circumstances where the investor was not entitled to it, or
(b) for an amount determined in accordance with the regulations to be the amount to be taken as representing that tax.

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(3) They may modify the effect of or adapt any enactment relating to income tax for the purposes of securing that investors or plan managers account for the tax and other amounts mentioned in subsections (1) and (2).

(4) They may also modify the provisions of or adapt Chapter 9 of Part 4 of this Act (gains from contracts for life insurance etc.) or Chapter 2 of Part 13 of ICTA (life policies, life annuities and capital redemption policies) for cases where an investor—
  (a) ceases to be entitled to the exemption given by regulations made under section 694(1) and is treated as not having been entitled to it, or
  (b) has been given the exemption on the basis of an entitlement to it when there was no such entitlement.

(5) They may provide for plan managers (as well as investors) to be liable to account for amounts becoming due from investors as a result of regulations made under subsection (4).

(6) They may provide that, instead of having to account as mentioned in subsection (2) or (5), an investor or a plan manager is liable to a penalty of an amount specified in the regulations if—
  (a) an exemption has been given to which there was no entitlement, and
  (b) the circumstances are such as are specified in the regulations.

(7) They may provide that liabilities are imposed in cases which—
  (a) are not cases in which liabilities may be imposed under subsections (1) to (6) where relief has been given to which there was no entitlement, but
  (b) are cases where—
    (i) a contravention or failure to comply with investment plan regulations that is specified in the regulations, or
    (ii) the existence of such other circumstances as are so specified,

  would have the effect of excluding or limiting an entitlement to exemption, apart from the regulations under this subsection.

(8) Regulations under subsection (7)—
  (a) may only provide for the imposition of liabilities equivalent to those which may be imposed under subsections (1) to (6), and
  (b) must provide for those liabilities to replace the liabilities to tax which would otherwise arise.

700 Information

(1) Investment plan regulations may impose a duty on any current or former investor or plan manager—
  (a) to comply within the period specified by the regulations with any documents notice served by the Board of Inland Revenue, or
  (b) to comply within the period specified by the regulations with any information request made by the Board.

(2) In this section "documents notice" means a notice requiring a person to make available for the Board's inspection documents relating to a plan or investments held or formerly held under it.

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(3) The regulations must specify the kind of documents to which a documents notice may relate.

(4) A documents notice must specify the period for compliance with it.

(5) In this section "information request" means a request to give the Board information about a plan or investments held or formerly held under it.

(6) The regulations must specify—
  (a) the kind of information to which an information request may relate, and
  (b) the period from the making of the request for compliance with it.

701 General and supplementary powers

(1) Investment plan regulations may make provision generally for the purpose of—
  (a) the establishment and administration of plans, and
  (b) the administration of income tax in relation to them.

(2) They may adapt or modify the effect of any enactment relating to income tax for the purpose of securing that investors are entitled to exemption from income tax in respect of investments.

(3) They may specify how exemption from tax is to be claimed by, and granted to, investors or plan managers on behalf of investors.

CHAPTER 4

SAYE INTEREST

702 Interest under certified SAYE savings arrangements

(1) No liability to income tax arises in respect of interest payable under a certified SAYE savings arrangement.

(2) In this section "certified SAYE savings arrangement" has the meaning given in section 703(1).

(3) Subsection (1) is subject to—
  (a) section 707(1) (which requires the providers of certain arrangements to be authorised), and
  (b) paragraph 7 of Schedule 12 to FA 1988 (application of exemption on change of status of building society).

(4) In this Chapter "interest" includes any bonus.

703 Meaning of "certified SAYE savings arrangement"

(1) In this Chapter "certified SAYE savings arrangement" means a linked savings arrangement which is certified under section 705.

(2) In this Chapter "linked savings arrangement" means an arrangement—
  (a) which is of a kind specified in section 704(1), and

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(b) under which an individual who is eligible to participate in an approved SAYE option scheme enters into a contract to make periodical contributions for a specified period for the purpose of being able to participate in that scheme.

(3) In subsection (2)—

"to participate" means to obtain and exercise rights under the scheme, and

"SAYE option scheme" has the meaning given by section 516(4) of ITEPA 2003, and such a scheme is "approved" if it is approved under Schedule 3 to ITEPA 2003.

704 Types of arrangements and providers

(1) A linked savings arrangement may be—

(a) a national savings arrangement, or

(b) an institutional arrangement.

(2) In this Chapter "national savings arrangement" means an arrangement which—

(a) provides for contributions to be paid to raise money under section 12 of the National Loans Act 1968 (c. 13) (power of Treasury to borrow),

(b) is governed by regulations made under section 11 of the National Debt Act 1972 (c. 65) (power of Treasury to make regulations as to raising of money under auspices of Director of Savings), and

(c) provides for the repayment of those contributions, together with interest, in accordance with those regulations.

(3) In this Chapter "institutional arrangement" means—

(a) a bank arrangement,

(b) a building society arrangement, or

(c) a European authorised institution arrangement.

(4) In this Chapter—

(a) "bank arrangement" means an arrangement which provides for contributions to be paid to a person within section 840A(1)(b) of ICTA (banks), and

(b) "provider", in relation to such an arrangement, means that person.

(5) In this Chapter—

(a) "building society arrangement" means an arrangement which provides for contributions to be paid by way of investment in shares in a building society, and

(b) "provider", in relation to such an arrangement, means that society.

(6) In this Chapter—

"European authorised institution" means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits,

"European authorised institution arrangement" means an arrangement which provides for contributions to be paid to such a firm, and

"provider", in relation to such an arrangement, means that firm.

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705 Certification of arrangements

(1) A linked savings arrangement is certified under this section if it is certified by the Treasury—
  (a) as a linked savings arrangement, and
  (b) in the case of an institutional arrangement, as meeting such requirements as the Treasury may specify for the purposes of this Chapter.

(2) The requirements which may be specified under subsection (1)(b) are such requirements as the Treasury consider appropriate.

(3) They may, in particular, relate to—
  (a) the descriptions of individuals who may enter into contracts under an arrangement,
  (b) the contributions to be paid by them, and
  (c) the sums to be paid or repaid to them.

(4) Different requirements may be specified for—
  (a) bank arrangements,
  (b) building society arrangements, and
  (c) European authorised institution arrangements.

706 Withdrawal and variation of certifications and connected requirements

(1) The Treasury may—
  (a) withdraw the requirements specified under section 705(1)(b) for any description of arrangements and any certification made by reference to those requirements, or
  (b) vary those requirements and withdraw any certification made by reference to them.

(2) The withdrawal, or variation and withdrawal, is only effective if the Treasury—
  (a) specify the date on which it is to take effect, and
  (b) give notice of it by post at least 28 days before that date to the provider authorised under section 707 to enter into contracts under the arrangement concerned.

(3) The withdrawal, or variation and withdrawal, does not affect the operation of the arrangement concerned before that date or contracts made under that arrangement before it.

707 Authorisation of providers

(1) In the case of an institutional arrangement, section 702(1) (exemption of interest payable under certified SAYE savings arrangements) only applies if, at the time the contract under the arrangement is made, the provider is authorised by the Treasury to enter into contracts under it.

(2) If the authorisation is conditional, the conditions must be met at that time.

(3) Authorisation may be given for arrangements generally or a particular arrangement.

(4) More than one authorisation may be given to the same provider.

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708 Withdrawal and variation of authorisations

(1) The Treasury may withdraw the authorisation of a provider or vary it by imposing, varying or removing conditions.

(2) The withdrawal or variation is only effective if the Treasury—
- (a) specify the date on which it is to take effect, and
- (b) except in the case of a variation removing all conditions, give notice of it by post to the provider at least 28 days before that date.

(3) The withdrawal or variation does not affect contracts made before that date.

(4) The fact that a provider has had its authorisation withdrawn or varied does not affect the later exercise by the Treasury of its powers under section 707 or this section as respects the provider.

CHAPTER 5

VENTURE CAPITAL TRUST DIVIDENDS

709 Venture capital trust dividends

(1) No liability to income tax arises in respect of a venture capital trust dividend if—
- (a) conditions A and B are met, and
- (b) where the dividend is paid in respect of shares acquired after 8th March 1999, condition C is met.

(2) In subsection (1) a "venture capital trust dividend" means a dividend paid in respect of ordinary shares in a company which—
- (a) is a venture capital trust—
  - (i) at the end of the accounting period in which the profits or gains in respect of which it is paid arose or accrued, and
  - (ii) when the dividend is paid, and
- (b) was such a trust when the person to whom it is paid acquired the shares.

(3) Condition A is that the person beneficially entitled to the dividend—
- (a) is an individual of at least 18 years, and
- (b) is beneficially entitled to it as the holder of the shares or as the person for whom, or for whose benefit, they are held by a nominee.

(4) Condition B is that—
- (a) in the tax year in which the shares were acquired the market value of all the shares acquired by the individual or any nominee of the individual in companies which were venture capital trusts at the time of acquisition did not exceed £200,000, or
- (b) in that year that market value exceeded £200,000, but the shares are treated under section 710 as having been acquired within that limit.

(5) For the purposes of subsection (4), the market value of a share is determined as at the time of its acquisition.

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(6) Condition C is that the shares were acquired for genuine commercial reasons and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, was the avoidance of tax.

(7) Shares that were not so acquired are ignored for the purposes of subsection (4) and section 710 (whether or not they were acquired after 8th March 1999).

(8) In this section and in sections 710 and 711—

"market value" has the same meaning as in TCGA 1992 (see sections 272 and 273),

"nominee", in relation to an individual, includes the trustees of a bare trust of which the individual is the only beneficiary, and

"ordinary shares" means shares forming part of the company's ordinary share capital.

710 Treatment of shares where annual acquisition limit exceeded

(1) This section sets out the rules for determining which shares whose market value is relevant for the limit in section 709(4) are treated as shares acquired within that limit ("exempt shares") where that limit is exceeded in a tax year.

(2) Shares are treated as exempt shares so far as their acquisition does not cause the limit to be exceeded at the time they are acquired.

(3) Subsection (2) is subject to subsection (4).

(4) If shares of different descriptions acquired on the same day cause the limit to be exceeded on that day, shares of each description are treated as exempt shares so far as their market value does not exceed the appropriate proportion of the available value.

(5) In subsection (4)—

"the appropriate proportion", in relation to shares of a particular description, means the proportion which their market value bears to the market value of all the shares acquired on that day, and

"available value" means the maximum value of shares which could be acquired on that day without exceeding the limit.

711 Identification of shares after disposals

(1) In determining whether a disposal relates to shares in a company which were acquired when it was a venture capital trust or others, it is assumed that the others are disposed of first.

(2) In determining whether a disposal of shares in a company which were acquired when it was a venture capital trust relates to shares which meet the condition in section 709(4) (annual acquisition limit) or others ("excess shares"), assumptions A and B are to be made.

(3) Assumption A is that shares acquired on an earlier day are disposed of before those acquired on a later day.

(4) Assumption B is that where the shares were acquired on the same day, excess shares are disposed of first.

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(5) For the purposes of this section, acquisitions and disposals by an individual's nominee are treated as made by the individual, and acquisitions and disposals between them are ignored.

712 Identification of shares after reorganisations etc.

(1) This section applies if shares ("the new shares") are treated under Chapter 2 of Part 4 of TCGA 1992 (reorganisations etc.) as the same assets as other shares ("the old shares").

(2) If all the old shares met—
  (a) the condition in section 709(4) (annual acquisition limit), and
  (b) if it applied to the old shares, the condition in section 709(6) (acquisition for genuine commercial reasons),

  the new shares are treated as doing so.

(3) If only some of the old shares met those conditions, the corresponding proportion of the new shares are treated as meeting them and the remainder are treated as not doing so.

(4) In the tax year in which the new shares are acquired the value of the new shares is ignored in determining whether other shares acquired in the same tax year meet the condition in section 709(4).

CHAPTER 6

INCOME FROM FOTRA SECURITIES

713 Introduction: securities free of tax to residents abroad ("FOTRA securities")

(1) This Chapter provides for exemptions from income tax in respect of FOTRA securities.

(2) In this Chapter "FOTRA security" means—
  (a) a security issued with a condition about exemption from taxation authorised by section 22 of F(No.2)A 1931,
  (b) a gilt-edged security which was issued before 6th April 1998 and without any such condition (other than 3½% War Loan 1952 Or After), or
  (c) 3½% War Loan 1952 Or After.

(3) In this Chapter "the exemption condition" has the meaning given by subsections (4) to (6), according to the kind of FOTRA security involved.

(4) In relation to a security within subsection (2)(a), it means the condition authorised by section 22 of F(No.2)A 1931.

(5) In relation to a security within subsection (2)(b), it means a condition with which 7.25% Treasury Stock 2007 was first issued, being a condition treated by section 161(1) of FA 1998 (non-FOTRA securities)—
  (a) as a condition with which the security within subsection (2)(b) was issued, and
  (b) as a condition authorised in relation to its issue by section 22 of F(No.2)A 1931.

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(6) In relation to 3½% War Loan 1952 Or After, it means a condition of its issue authorised by section 47 of F(No.2)A 1915.

714 Exemption of profits from FOTRA securities

(1) No liability to income tax arises in respect of profits from a FOTRA security if conditions A and B are met.

(2) Subsection (1) is subject to subsection (5).

(3) Condition A is that the profits are stated in the exemption condition to be exempt from income tax.

(4) Condition B is that any requirements for obtaining the exemption imposed by the security's conditions of issue are met.

(5) Whatever the exemption condition provides, amounts charged under the provisions specified in subsection (6) are not exempted by subsection (1).

(6) The provisions are—

Chapter 5 of Part 5 (settlements: amounts treated as income of settlor) so far as it applies to income within section 619(1)(a) or (b), and

Chapter 3 of Part 17 of ICTA (anti-avoidance provisions: transfer of assets abroad).

(7) This section does not affect the need to claim repayment of tax within the time limit applicable for a claim.

715 Interest from FOTRA securities held on trust

(1) This section applies if—

(a) a FOTRA security is held on trust, and

(b) apart from this section, interest payable on the security would not be exempt from income tax under section 714 because of the security not being in the beneficial ownership of a person not ordinarily UK resident.

(2) For the purposes of determining whether the interest is exempt under section 714 it is to be assumed that the security is in the beneficial ownership of a person not ordinarily UK resident if none of the beneficiaries of the trust is ordinarily UK resident at the time when the interest arises.

(3) In subsection (2) “beneficiaries of the trust” includes any person known to the trustees as a person—

(a) who is, or will or may become, entitled under the terms of the trust to receive income under the trust, or

(b) to whom or for whose benefit such income may be paid or applied.

(4) In subsection (3) “income under the trust” includes any property held on the terms of the trust and falling to be treated as capital so far as it is or represents amounts received by the trustees as income.

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716 Restriction on deductions etc. relating to FOTRA securities

(1) A person who meets conditions A and B may not bring into account for income tax purposes—
  (a) any amount relating to changes in the value of a FOTRA security, or
  (b) expenses related to holding it or to any transaction concerning it.

(2) Condition A is that the person is the beneficial owner of the security.

(3) Condition B is that the person is a person who would be exempt from tax on the security under this Chapter.

CHAPTER 7

PURCHASED LIFE ANNUITY PAYMENTS

Partial exemption for purchased life annuity payments

717 Exemption for part of purchased life annuity payments

(1) No liability to income tax arises under Chapter 7 of Part 4 in respect of so much of an annuity payment made under a purchased life annuity as is within this subsection in accordance with section 719 (extent of exemption).

(2) Subsection (1) is subject to section 718.

(3) The exemption under this section requires a claim.

(4) In this Chapter "purchased life annuity" has the same meaning as in Chapter 7 of Part 4 (see section 423).

718 Excluded annuities

(1) The exemption in section 717(1) does not apply to payments made under the annuities specified in subsection (2).

(2) The annuities are—
  (a) an annuity the whole or part of the consideration for which consisted of sums satisfying the conditions for relief under section 266 of ICTA (life assurance premiums),
  (b) an annuity purchased following a direction in a will, and
  (c) an annuity purchased to provide for an annuity payable as a result of a will or settlement out of income of property disposed of by the will or settlement.

(3) For the purposes of subsection (2)(c), it does not matter whether or not capital could also be used to pay the annuity.

719 Extent of exemption under section 717

(1) This section sets out the rules for determining the extent to which an annuity payment is within the exemption in section 717(1).

(2) The rules depend on—

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(a) whether or not the amount of the annuity payments under the annuity depends solely on the duration of a human life or lives (see subsections (3) to (5)), and

(b) whether or not the annuity's term depends solely on the duration of a human life or lives (see subsections (6) to (8)).

(3) If the amount of the annuity payments depends solely on the duration of a human life or lives, the same proportion of each payment ("the exempt proportion") is exempt.

(4) But if the amount of the annuity payments also depends on another contingency, each payment is exempt so far as it does not exceed a fixed sum ("the exempt sum").

(5) If an annuity payment within subsection (4) is less than the exempt sum, the shortfall is added to the exempt sum for the next payment (and so on).

(6) The ways to determine the exempt proportion and the exempt sum differ according to whether or not the annuity's term depends solely on the duration of a human life or lives.

(7) If the annuity's term depends solely on the duration of a human life or lives—

(a) the exempt proportion is determined as set out in section 720, and

(b) the exempt sum is determined as set out in section 721.

(8) If the annuity's term also depends on another contingency—

(a) the exempt proportion is the proportion which is just and reasonable, having regard to the contingencies affecting the annuity and to section 720, and

(b) the exempt sum is the amount which is just and reasonable, having regard to the contingencies affecting the annuity and to section 721.

720 Exempt proportion: term dependent solely on duration of life

(1) In the case of an annuity within section 719(7) (term dependent solely on duration of life), the exempt proportion is —

$$AP \times \frac{PP}{AV}$$

where—

AP is the annuity payment,

PP is the purchase price of the annuity, and

AV is the actuarial value of the annuity payments.

(2) The purchase price of the annuity is the total amount or value of the consideration given for the annuity.

(3) The actuarial value of the annuity payments is their value at the date when the first of the payments starts to accrue.

(4) That value is determined—

(a) by reference to tables of mortality prescribed under section 724,

(b) taking the age at that date of a person during whose life the annuity is payable as that person's age in whole years on that date, and

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(c) without discounting any payment for the time to elapse before it is payable.

(5) But if it is not possible to determine that actuarial value by reference to the tables mentioned in subsection (4)(a), it is such amount as may be certified by the Government Actuary or the Deputy Government Actuary.

721 Exempt sum: term dependent solely on duration of life

(1) In the case of an annuity within section 719(7) (term dependent solely on duration of life), the exempt sum is —

$$PP \times \frac{1}{TY} \times \frac{PM}{12}$$

where—

PP is the purchase price of the annuity,

TY is the expected term of the annuity in years (and any odd fraction of a year), and

PM is the period in months (and any odd fraction of a month) in respect of which the annuity payment is made.

(2) The purchase price of the annuity is the total amount or value of the consideration given for the annuity.

(3) The expected term of the annuity is the period from the date when the first annuity payment starts to accrue to the date when it is expected that the last payment will become payable.

(4) The expected term of the annuity is determined—
- (a) as at the date when the first annuity payment starts to accrue,
- (b) by reference to tables of mortality prescribed under section 724, and
- (c) taking the age at that date of a person during whose life the annuity is payable as that person's age in whole years on that date.

(5) But if it is not possible to determine that term by reference to the tables mentioned in subsection (4)(b), it is such period as may be certified by the Government Actuary or the Deputy Government Actuary.

722 Consideration for the grant of annuities

(1) This section applies if the amount or value given for an annuity is to be determined for the purposes of sections 720(2) or 721(2) and either—
- (a) consideration is not given solely for the annuity, or
- (b) it appears that the amount or value of the consideration nominally given for it affected, or was affected by, the consideration given for something else.

(2) For the purposes of subsection (1), consideration given for a right to a return of premiums or of other consideration for an annuity is treated as given solely for the annuity.

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(3) If subsection (1)(a) applies, the consideration is to be apportioned in such way as is just and reasonable.

(4) If subsection (1)(b) applies, the total amount or value of the considerations given is to be apportioned in such way as is just and reasonable.

723 Determinations

(1) Any question—
  (a) whether an annuity is a purchased life annuity for the purposes of section 717, or
  (b) how much of an annuity payment is exempt,
  is to be determined by the Inland Revenue.

(2) A person aggrieved by the Inland Revenue's determination may appeal to the Special Commissioners.

(3) If a person making a payment under an annuity—
  (a) has been given notice of such a determination in the way prescribed under section 724, and
  (b) has not been notified of any alteration of it,
  the determination is conclusive for determining the amount of income tax the person may or must deduct from it or for which the person is liable in respect of it.

(4) A notification of an alteration of a previous determination of any question is itself a determination for the purposes of this Chapter.

(5) Subsection (6) applies if a person making an annuity payment to which the exemption in section 717(1) applies has not been given notice in the way prescribed under section 724 of the amount which is exempt.

(6) The amount of income tax the person may or must deduct, or for which the person is liable, is the amount it would be if none of the payment were exempt.

(7) A person who knowingly makes any false statement or false representation for the purpose of obtaining any exemption from or repayment of tax for any person under sections 717 to 722, this section or section 724 is liable to a penalty not exceeding £3,000.

724 Regulations

(1) The Board of Inland Revenue may by regulations—
  (a) prescribe the procedure to be used in giving effect to sections 717 to 723 and this section where no provision is made in those provisions,
  (b) apply any provision of the Income Tax Acts, with or without modifications, for the purposes of those provisions or the regulations,
  (c) prescribe tables of mortality for the purposes of sections 720(4) and 721(4).

(2) The regulations may, in particular, make provision about—
  (a) the time limit for making a claim for exemption from tax under section 717(1) or any consequential repayment of tax,

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(b) the information to be provided in connection with the determination of the questions mentioned in section 723(1) and the persons who may be required to provide it,

(c) the way in which such a determination is to be notified to the person making the annuity payments,

(d) the way in which such a determination is to be given effect and the making of assessments for that purpose on the person entitled to the annuity,

(e) the extent to which such a determination is to be binding and the circumstances in which it may be reviewed, and

(f) the time limit for appealing against such a determination.

(3) Subsection (2)(d) applies despite anything in section 348 of ICTA (charges on income).

Immediate needs annuities

725 Annual payments under immediate needs annuities

(1) No liability to income tax arises under Chapter 7 of Part 4 in respect of so much of an annual payment made under an immediate needs annuity as is made—

(a) for the benefit of the person protected under that annuity, and

(b) to a care provider or a local authority in respect of the provision of care for that person.

(2) In this section "immediate needs annuity" means a contract for a purchased life annuity—

(a) the purpose or one of the purposes of which is to protect a person against the consequences of the person being unable, at the time the contract is made, to live independently without assistance because of a condition to which subsection (3) applies, and

(b) under which benefits are payable in respect of the provision of care for the person protected.

(3) This subsection applies to—

(a) mental or physical impairment, or

(b) injury, sickness or other infirmity,

which is expected to be permanent.

(4) In this section and section 726 "care" means accommodation, goods or services which it is necessary or desirable to provide to a person because of a condition to which subsection (3) applies.

(5) In this section—

"care provider" has the meaning given in section 726, and

"purchased life annuity" has the same meaning as in Chapter 7 of Part 4 (see section 423).

(6) The Treasury may by order amend—

(a) subsection (2), and

(b) subsection (3), so far as it applies for the purposes of subsection (2).

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726 Meaning of "care provider"

(1) In section 725 "care provider" means a person who—
- (a) carries on a trade, profession or vocation which consists of or includes the provision of care, and
- (b) meets the care registration requirement.

(2) A person meets the care registration requirement in relation to care provided in England and Wales if the person is registered under Part 2 of the Care Standards Act 2000 (c. 14) in respect of the provision of care.

(3) A person meets the care registration requirement in relation to care provided in Scotland if the person provides care as, or as part of, a service which is registered under Part 1 of the Regulation of Care (Scotland) Act 2001 (asp 8).

(4) A person meets the care registration requirement in relation to care provided in Northern Ireland if the person is registered in respect of the provision of care under—
- (a) Part 2 or 3 of the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20)), or
- (b) Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)).

(5) A person meets the care registration requirement in relation to care provided in a territory outside the United Kingdom if the person meets requirements under the law of that territory relating to the provision of care that are comparable to those mentioned in subsections (2) to (4).

(6) The Treasury may by order amend this section.

CHAPTER 8

OTHER ANNUAL PAYMENTS

Certain annual payments by individuals

727 Certain annual payments by individuals

(1) No liability to income tax arises under Part 5 in respect of an annual payment if it—
- (a) is made by an individual, and
- (b) arises in the United Kingdom.

(2) Subsection (1) is subject to—
section 728 (commercial payments), and
section 729 (payments for non-taxable consideration).

(3) Subsection (1) also applies to a payment made by an individual's personal representatives if—
- (a) the individual would have been liable to make it, and
- (b) that subsection would have applied if the individual had made it.

(4) For the purposes of subsection (1) and section 728, "individual" includes a Scottish partnership if at least one partner is an individual.

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728 Commercial payments

A payment by an individual is not exempt from income tax under section 727(1) if it is made for commercial reasons in connection with the individual's trade, profession or vocation.

729 Payments for non-taxable consideration

(1) A payment that meets condition A is only exempt from income tax under section 727(1) if condition B or C is met.

(2) Condition A is that—
- (a) the payment is made under a liability incurred at any time for consideration in money or money's worth, and
- (b) some or all of the consideration is not required to be brought into account in calculating the payer's income for income tax purposes.

(3) Condition B is that the payment is income within section 627(1) (payments on divorce or separation) in the recipient's hands.

(4) Condition C is that the payment is made to an individual under a liability incurred at any time in consideration of the individual surrendering, assigning or releasing an interest in settled property to or in favour of a person with a subsequent interest.

(5) In the application of subsection (4) to Scotland, the reference to settled property is to be read as a reference to property held in trust.

730 Foreign maintenance payments

(1) No liability to income tax arises under Part 5 in respect of an annual payment if—
- (a) it is a maintenance payment,
- (b) it arises outside the United Kingdom, and
- (c) had it arisen in the United Kingdom it would be exempt from income tax under section 727 (certain annual payments by individuals).

(2) In subsection (1) “maintenance payment” means a periodical payment which meets conditions A and B.

(3) Condition A is that the payment is made under a court order or a written or oral agreement.

(4) Condition B is that the payment is made by a person—
- (a) as one of the parties to a marriage to, or for the benefit of, and for the maintenance of, the other party,
- (b) to any person under 21 for that person's own benefit, maintenance or education, or
- (c) to any person for the benefit, maintenance or education of a person under 21.

(5) In subsection (4) “marriage” includes a marriage that has been dissolved or annulled.

(6) Subsection (1) also applies to a payment made by an individual's personal representatives if—
- (a) the individual would have been liable to make it, and
- (b) that subsection would have applied if the individual had made it.

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Periodical payments of personal injury damages etc.

731 Periodical payments of personal injury damages

(1) No liability to income tax arises for the persons specified in section 733 in respect of periodical payments to which subsection (2) applies or annuity payments to which subsection (3) applies.

(2) This subsection applies to periodical payments made pursuant to—
- (a) an order of the court, so far as it is made in reliance on section 2 of the Damages Act 1996 (c. 48) (periodical payments) (including an order as varied),
- (b) an order of a court outside the United Kingdom which is similar to an order made in reliance on that section (including an order as varied),
- (c) an agreement, so far as it settles a claim or action for damages in respect of personal injury (including an agreement as varied),
- (d) an agreement, so far as it relates to making payments on account of damages that may be awarded in such a claim or action (including an agreement as varied), or
- (e) a Motor Insurers' Bureau undertaking in relation to a claim or action in respect of personal injury (including an undertaking as varied).

(3) This subsection applies to annuity payments made under an annuity purchased or provided—
- (a) by the person by whom payments to which subsection (2) applies would otherwise fall to be made, and
- (b) in accordance with such an order, agreement or undertaking as is mentioned in subsection (2) or a varying order, agreement or undertaking.

(4) In this section "damages in respect of personal injury" includes damages in respect of a person's death from personal injury.

(5) In this section "personal injury" includes disease and impairment of physical or mental condition.

(6) In this section "a Motor Insurers' Bureau undertaking" means an undertaking given by —
- (a) the Motor Insurers' Bureau (being the company of that name incorporated on 14th June 1946 under the Companies Act 1929 (c. 23)), or
- (b) an Article 75 insurer under the Bureau's Articles of Association.

732 Compensation awards

(1) No liability to income tax arises for the persons specified in section 733 in respect of annuity payments if they are made under an annuity purchased or provided under an award of compensation made under the Criminal Injuries Compensation Scheme.

(2) The Treasury may by order provide for sections 731, 733 and 734 to apply, with such modifications as they consider necessary, to periodical payments by way of compensation for personal injury for which provision is made under a scheme or arrangement other than the Criminal Injuries Compensation Scheme.

(3) In this section—

"the Criminal Injuries Compensation Scheme" means—

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(a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995 (c. 53),
(b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, or
(c) the scheme established under the Criminal Injuries (Northern Ireland) Order 2002 (S.I. 2002/796) (N.I.1), and

"personal injury" includes disease and impairment of physical or mental condition.

733 Persons entitled to exemptions for personal injury payments etc.

The persons entitled to the exemptions given by sections 731(1) and 732(1) for payments are—
(a) the person entitled to the damages under the order, agreement, undertaking or to the compensation under the award in question ("A"),
(b) a person who receives the payment in question on behalf of A, and
(c) a trustee who receives the payment in question on trust for the benefit of A under a trust under which A is, while alive, the only person who may benefit.

734 Payments from trusts for injured persons

(1) No liability to income tax arises for the persons specified in subsection (2) in respect of sums paid under a lifetime trust—
(a) to the person ("A") who is entitled to—
(i) a payment under an order, agreement or undertaking within section 731(2) or an annuity purchased or provided as mentioned in section 731(3), or
(ii) compensation under an award within section 732(1), or
(b) for the benefit of A.

(2) The persons are—
(a) A, and
(b) if subsection (1)(b) applies, a person who receives the sum on behalf of A.

(3) For the purposes of subsection (1), sums are paid under a lifetime trust if they are paid—
(a) by the trustees of a trust under which A is, while alive, the only person who may benefit, and
(b) out of payments within section 731(2) or (3) or 732(1) which are received by them on trust for A.

Health and employment insurance payments

735 Health and employment insurance payments

(1) No liability to income tax arises under this Act in respect of an annual payment under an insurance policy if—
(a) the payment is a benefit provided under so much of the policy as insures against a health or employment risk (see section 736),

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(b) no part of any premiums under the policy has been deductible in calculating the income of the insured for income tax purposes, and

(c) the conditions in sections 737 and 738 and, so far as applicable, those in sections 739 and 740 are met in relation to the policy.

(2) Subsection (1)(b) is subject to section 743.

(3) For the meaning of "the insured", see sections 742 and 743(2).

736 Health and employment risks and benefits

(1) For the purposes of sections 735 and 737 to 743, a policy insures against a health risk if it insures against the insured becoming, or becoming in any specified way, subject—

(a) to any physical or mental illness, disability, infirmity or defect, or

(b) to any deterioration in a condition resulting from any such illness, disability, infirmity or defect.

(2) For the purposes of sections 735 and 737 to 743, a policy insures against an employment risk if it insures against circumstances arising as a result of which the insured ceases—

(a) to be employed or hold office, or

(b) to carry on any trade, profession or vocation.

(3) For the purposes of section 735, this section and sections 737 to 743, references to insurance against a risk include insurance providing for benefits payable otherwise than by way of indemnity if the circumstances insured against occur.

737 Period for which payments may be made

(1) The condition in this section is that the only annual payments provided for by the policy which relate to the health or employment risk it insures against ("the insured risk") are payments in respect of one or more of the following periods.

(2) They are—

(a) a period throughout which an illness, disability, infirmity or defect insured against by the part of the policy relating to the insured risk continues,

(b) a period throughout which, in circumstances insured against by the part of the policy relating to the insured risk, the insured is unemployed, does not hold an office or is not carrying on a trade, profession or vocation,

(c) a period throughout which, in circumstances insured against by the part of the policy relating to the insured risk, the insured's income is less than it would otherwise have been, and

(d) where a period within paragraph (a), (b) or (c) ends with the death of the insured, a period immediately following that period.

(3) For the purposes of subsection (2)(a), an illness, disability, infirmity or defect is treated as continuing during a period of convalescence or rehabilitation related to it.

(4) For the purposes of subsection (2)(c), income from the policy is ignored.

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738 Risk of significant loss

(1) The condition in this section is that throughout the period that the policy has contained provisions relating to the health or employment risk those provisions have been such that any policy of insurance which only contained those provisions would involve the possibility that the insurer would make a significant loss on the premiums.

(2) In determining whether a policy would involve that possibility, any return on the investment of the premiums is to be taken into account.

(3) For this purpose reinsurance is ignored.

739 Conditions to be met by policies also providing other benefits

(1) The conditions in this section only apply if the policy provides for the payment of benefits which do not all relate to the health or employment risk.

(2) The conditions are that so far as the policy's terms relate to the health or employment risk—
  (a) they do not differ significantly from what they would have been if the only benefits had been those relating to that risk, and
  (b) the way in which they are given effect does not differ significantly from the way in which they would have been given effect in that case.

(3) A difference relating only to the reduction of benefits payable to or in respect of a person because of other benefits being payable to or in respect of the person is to be ignored.

(4) For the purposes of this section, all the persons for whose benefit the policy provides insurance against the health or employment risk are to be considered.

740 Conditions to be met where policies are linked

(1) The conditions in this section only apply if—
  (a) the insured is or has been the insured under one or more other policies ("connected policies"), and
  (b) each of the connected policies has been in force either—
    (i) at a time when the policy in question was in force, or
    (ii) at the time immediately before it was entered into.

(2) The conditions are that so far as the terms of the policy relate to the health or employment risk—
  (a) they do not differ significantly from what they would have been if no connected policies had been entered into, and
  (b) the way in which they are given effect does not differ significantly from the way in which they would have been given effect in that case.

(3) A difference relating only to the reduction of benefits payable to or in respect of a person under the policy because of benefits being payable to or in respect of the person under any of the connected policies is to be ignored.

(4) For the purposes of this section, all the persons for whose benefit the policy provides insurance against the health or employment risk are to be considered.

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741 Aggregation of policies where employment ends for health reasons

(1) This section applies if—

(a) payments are made to or in respect of a person who has left employment because of the occurrence of something insured against by an employment policy as a health risk,

(b) the payments are made under another policy ("the replacement policy") which was entered into under, or in accordance with, provisions contained in the employment policy,

(c) the employment policy has ceased to apply to the person, and

(d) the rights in accordance with which the payments are made under the replacement policy superseded rights under the employment policy with effect from the time when that policy ceased to apply to the person.

(2) The employment policy and the replacement policy are to be treated as a single policy for the purposes of sections 735 to 738, this section and section 743.

(3) In this section—

"employment" includes an office, and "employees" and "employer" are to be read accordingly, and

"employment policy" means a policy entered into wholly or partly for the benefit of the employees of an employer against a health risk.

742 Meaning of "the insured"

In sections 735 to 737 "the insured" includes—

(a) the insured's spouse,

(b) any child under 21 of the insured or the insured's spouse, and

(c) any person on whom any liabilities arising from an actual or proposed transaction identified in the policy will fall jointly with the insured or the insured's spouse.

743 Policies for the benefit of others who contribute to premiums

(1) This section applies if—

(a) a policy of insurance is taken out by one person ("A") wholly or partly for the benefit of another ("B"),

(b) B makes payments or contributions in respect of the premiums, and

(c) annual payments under the policy are wholly or partly attributable, on a just and reasonable basis, to the payments or contributions made by B.

(2) So far as those benefits are so attributable, B is to be treated as the insured in relation to that policy for the purposes of sections 735 to 742.

(3) So far as those benefits are so attributable, payments or contributions not made by B are ignored for the purposes of section 735(1)(b) (no part of the premiums to have been deductible in calculating the insured's income).

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Payments to adopters

744 Payments to adopters: England and Wales

No liability to income tax arises in respect of the following payments—

(a) any payment or reward falling within section 57(3) of the Adoption Act 1976 (c. 36) (payments authorised by the court) which is made to a person who has adopted or intends to adopt a child,

(b) payments under section 57(3A)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt),

(c) payments of allowances under regulations under section 57A of that Act (permitted allowances to persons who have adopted or intend to adopt children),

(d) payments of financial support made in the course of providing adoption support services within the meaning of the Adoption and Children Act 2002 (c. 38) (see section 2(6) and (7) of that Act), and

(e) payments made under regulations under paragraph 3(1) of Schedule 4 to that Act (transitional and transitory provisions: adoption support services).

745 Payments to adopters: Scotland

No liability to income tax arises in respect of the following payments—

(a) any payment or reward falling within section 51(3) of the Adoption (Scotland) Act 1978 (c. 28) (payments authorised by the court) which is made to a person who has adopted or intends to adopt a child,

(b) payments under section 51(4)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt),

(c) payments of allowances by virtue of section 51B of that Act (transitional provisions) in accordance with a scheme approved under section 51(5) of that Act (schemes for payment of allowances to persons who have adopted or intend to adopt a child), and

(d) payments of allowances in accordance with an adoption allowances scheme under section 51A of that Act.

746 Payments to adopters: Northern Ireland

No liability to income tax arises in respect of the following payments—

(a) any payment or reward falling within Article 59(2)(b) of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)) (payments authorised by the court) which is made to a person who has adopted or intends to adopt a child,

(b) any payment under Article 59(2)(c) of that Order (payments by registered adoption societies) which is made to a person who has adopted or intends to adopt a child, and

(c) payments of allowances under regulations under Article 59A of that Order (permitted allowances to persons who have adopted or intend to adopt children).

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747 Power to amend sections 744 to 746

The Treasury may by order amend section 744, 745 or 746 for the purposes of—

(a) adding a description of payment, or

(b) removing a description of payment if the power to make a payment of that description has been repealed or revoked or has otherwise ceased to be exercisable.

Payments by persons liable to pool betting duty

748 Payments by persons liable to pool betting duty

(1) No liability to income tax arises in respect of a payment which meets condition A and either condition B or C.

(2) Condition A is that the payment is made, in consequence of a reduction in pool betting duty, by a person liable to that duty.

(3) Condition B is that the payment is in order to meet (directly or indirectly) capital expenditure incurred in improving the safety or comfort of spectators at a ground to be used for the playing of association football.

(4) Condition C is that the payment is to trustees established mainly for the support of athletic sports or athletic games but with power to support the arts.

CHAPTER 9

OTHER INCOME

Interest only income

749 Interest paid under repayment supplements

No liability to income tax arises in respect of interest paid under—

(a) section 824 of ICTA (repayment supplements: individuals and others), or

(b) section 283 of TCGA 1992 (repayment supplements).

750 Interest from tax reserve certificates

No liability to income tax arises in respect of interest from tax reserve certificates issued by the Treasury.

751 Interest on damages for personal injury

(1) No liability to income tax arises in respect of interest on damages for personal injury or death if—

(a) it is included in a sum awarded by a court,

(b) it does not relate to the period between the making and satisfaction of the award, and

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(c) in the case of an award by a court in a country outside the United Kingdom, it is exempt from any charge to tax in that place.

(2) No liability to income tax arises in respect of interest if—

(a) it is included in a payment in satisfaction of a cause of action (including a payment into court), and

(b) it would fall within subsection (1) if it were included in a sum awarded by a court in respect of a cause of action.

(3) In subsection (1)—

"damages" in Scotland includes solatium, and

"personal injury" includes disease and impairment of physical or mental condition.

752 Interest under employees' share schemes

(1) This section applies if—

(a) a scheme is set up to comply with section 153(4)(b) of the Companies Act 1985 (c. 6) or Article 163(4)(b) of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) (financial assistance for the purposes of an employees' share scheme), and

(b) under the scheme the trustees receive interest from a participant in the scheme.

(2) So far as the scheme requires the trustees to pay to the company an equivalent amount as interest, no liability to income tax arises under Chapter 2 of Part 4 for the trustees in respect of the interest they receive.

753 Interest on repayment of student loan

(1) No liability to income tax arises in respect of interest if—

(a) it is paid to a person to whom a student loan has been made, and

(b) it relates to an amount repaid to the person after being recovered from the person in respect of the loan.

(2) In this section "student loan" means a loan made under—

section 22 of the Teaching and Higher Education Act 1998 (c. 30),

section 73(f) of the Education (Scotland) Act 1980 (c. 44), or

Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760 (N.I. 14)).

754 Redemption of funding bonds

(1) The redemption of funding bonds is not treated as the payment of interest on a debt for income tax purposes if their issue was treated under section 380 of this Act or section 582(1) of ICTA as the payment of interest on the debt.

(2) In this section "funding bonds" includes any bonds, stocks, shares, securities or certificates of indebtedness.

755 Interest on foreign currency securities etc. owned by non-UK residents

(1) This section applies to interest on—

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(a) such foreign currency securities issued by a local authority or a statutory corporation as the Treasury direct, and

(b) such foreign currency loans made to a statutory corporation as the Treasury direct.

(2) No liability to income tax arises in respect of interest to which this section applies if—

(a) in the case of interest on a security, its beneficial owner is a non-UK resident, and

(b) in the case of interest on a loan, the person for the time being entitled to repayment or eventual repayment is a non-UK resident.

(3) But interest is not exempt under subsection (2) because a person is a non-UK resident if it is treated as another person's income under—

Chapter 5 of Part 5 (settlements: amounts treated as income of settlor), or

Chapter 3 of Part 17 of ICTA (anti-avoidance provisions: transfer of assets abroad).

(4) In this section—

"company" means a company, as defined in section 735(1)(a) of the Companies Act 1985 (c. 6) or Article 3(1)(a) of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)),

"foreign currency", in relation to loans and securities, has the meaning given by section 756, and

"statutory corporation" means—

(a) a corporation incorporated by an Act (other than a company), or

(b) any other corporation on which functions connected with carrying on an undertaking are conferred by an Act or by an order made under or confirmed by an Act.

756 Which securities and loans are foreign currency ones for section 755

(1) For the purposes of section 755, a security or loan is a foreign currency one if under its terms the currency to be used for repayment is not sterling.

(2) Subsection (1) is subject to the following qualifications.

(3) A security issued before 6th April 1982 is a foreign currency one if under its terms the currency to be used for repayment is not that of a country specified in Schedule 1 to the Exchange Control Act 1947 (c. 14) at the time of the issue of the security.

(4) A loan made before that date is a foreign currency one if under its terms the currency to be used for repayment is not that of a country specified in that Schedule at the time the loan was made.

(5) If in the case of a security there is an option as to the currency to be used for repayment, the security is only to be treated as a foreign currency one if the option is exercisable only by its holder.

(6) If in the case of a loan there is an option as to the currency to be used for repayment, the loan is only to be treated as a foreign currency one if the option is exercisable only by the person for the time being entitled to repayment or eventual repayment.

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VALID FROM 19/07/2006

[F49 756A Interest on certain deposits of victims of National-Socialist persecution

(1) No liability to income tax arises in respect of interest which is paid—
- (a) to or in respect of a victim of National-Socialist persecution,
- (b) under a qualifying compensation scheme, and
- (c) for a qualifying purpose in respect of a qualifying deposit of the victim.

(2) A scheme is a qualifying compensation scheme if—
- (a) it is constituted (whether under the law of any part of the United Kingdom or elsewhere) by an instrument in writing, and
- (b) the purpose of the scheme, or one of its purposes, is to make payments of interest to or in respect of victims of National-Socialist persecution for qualifying purposes in respect of qualifying deposits.

(3) Interest is paid for a qualifying purpose in respect of a deposit if—
- (a) it is paid for meeting a liability in respect of interest on the deposit, or
- (b) it is paid for compensating for the effects of inflation on the deposit.

(4) In relation to a victim of National-Socialist persecution, a deposit is a qualifying deposit if it was made—
- (a) by, or on behalf of, the victim, and
- (b) on or before 5th June 1945.

(5) In this section "deposit" has the meaning given by section 481(3) of ICTA.**]**

Textual Amendments

F49 S. 756A inserted (with effect as mentioned in s. 64(7) of the amending Act) by Finance Act 2006 (c. 25), **s. 64(2)** (with s. 64(9)-(12))

Interest and royalty payments

757 Interest and royalty payments: introduction

(1) Sections 758 to 767 make provision for an exemption from income tax in respect of certain interest and royalty payments.

(2) They give effect to Council Directive 2003/49/EC of 3rd June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different member States ("the Directive").

(3) Specifically—
- (a) section 758 sets out the conditions to be met for the exemption to apply,
- (b) sections 759 to 761 explain certain terms used in those conditions,
- (c) section 762 confers powers on the Board to make regulations about exemption notices,

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(d) sections 763 and 764 make provision for limiting the exemption in the case of certain special relationships,

(e) section 765 contains anti-avoidance provisions,

(f) section 766 contains interpretation provisions, and

(g) section 767 confers power on the Treasury to amend references in sections 757 to 766 to the Directive.

758 Exemption for certain interest and royalty payments

(1) No liability to income tax arises in respect of a payment of interest or a payment of a royalty if, at the time the payment is made, conditions A to D are met.

(2) Condition A is that the person making the payment is—

(a) a UK company, but not such a company's permanent establishment in a territory other than the United Kingdom, or

(b) a UK permanent establishment of an EU company.

See section 759 as to when a permanent establishment is to be treated as the person making the payment.

(3) Condition B is that the person beneficially entitled to the income in respect of which the payment is made is an EU company, but not such a company's UK permanent establishment or non-EU permanent establishment.

See section 760 as to when a permanent establishment is to be treated as the person beneficially entitled to the income in respect of which the payment is made.

(4) Condition C is that the company in condition A and the company in condition B are 25% associates (see section 761).

(5) Condition D is that, if the payment is a payment of interest, the Board of Inland Revenue has issued an exemption notice in accordance with regulations under section 762.

(6) This section is subject to—

sections 763 and 764 (special relationships), and

section 765 (anti-avoidance).

759 The person making the payment

(1) This section supplements condition A in section 758.

(2) It applies in a case where a company is resident in one territory and has a permanent establishment in another territory.

(3) The permanent establishment (and not the company) is to be treated as the person making the payment so far as (within the meaning of Article 1(3) of the Directive) the payment represents a tax-deductible expense for the permanent establishment in the territory in which it is situated.

760 The person beneficially entitled to the payment

(1) This section supplements condition B in section 758.

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(2) It applies in a case where an EU company has a UK permanent establishment or a non-EU permanent establishment.

(3) The permanent establishment (and not the company) is to be treated as the person beneficially entitled to the income in respect of which the payment is made so far as subsections (4) and (5) apply to the payment.

(4) This subsection applies to the payment if (within the meaning of Article 1(5) of the Directive) it arises in respect of a debt-claim, right or use of information which is effectively connected with the permanent establishment.

(5) This subsection applies to the payment if (within the meaning of Article 1(5) of the Directive) it represents income in respect of which the permanent establishment is subject in the territory in which it is situated to United Kingdom corporation tax or a tax corresponding to that tax.

761 Meaning of "25% associates"

For the purposes of condition C in section 758, two companies are 25% associates if—

(a) one holds directly—
  (i) 25% or more of the capital in the other, or
  (ii) 25% or more of the voting rights in the other, or

(b) a third company holds directly—
  (i) 25% or more of the capital in each of them, or
  (ii) 25% or more of the voting rights in each of them.

762 Interest payments: exemption notices

(1) The Board of Inland Revenue may make regulations about exemption notices under section 758(5).

(2) The regulations may in particular make provision for or in connection with—

(a) enabling an exemption notice to be issued only on the request of a person of a prescribed description,

(b) requiring a person requesting the issue of an exemption notice to certify that conditions A to C in section 758 are met and that section 765 (anti-avoidance) does not apply,

(c) the information to be provided in the certificate,

(d) the person to whom an exemption notice is to be given,

(e) in a case where section 763 (special relationships) applies or may apply to a payment of interest, requiring an exemption notice to specify—
  (i) the amount of the payment in relation to which the notice has effect, or
  (ii) the method to be used for determining that amount,

(f) imposing a time limit for the issue of an exemption notice,

(g) imposing notification requirements,

(h) the cancellation of exemption notices by the Board,

(i) prescribing circumstances in which exemption notices are to become ineffective,

(j) the making of appeals (for example, against a refusal to grant, or the cancellation of, an exemption notice),

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(k) authorising, in cases where—
(i) an exemption notice has been issued,
(ii) tax has not been deducted from a payment of interest, and
(iii) any of the conditions in section 758 were not met in the case of the payment,
the recovery of that tax by assessment or by deduction from subsequent payments.

763 Special relationships

(1) This section applies if—
(a) apart from this section, section 758 would apply in relation to a payment of interest or of a royalty,
(b) at the time the payment is made there is a special relationship (within the meaning of Article 4(2) of the Directive)—
(i) between the company in condition A of section 758 and the company in condition B of that section, or
(ii) between one of those companies and another person, and
(c) owing to the special relationship, the amount of the payment exceeds the amount which would have been paid in the absence of the relationship ("the arm's length amount").

(2) Sections 757 to 767, apart from this section and section 764, have effect in relation to only so much of the payment as does not exceed the arm's length amount (which may be nil).

(3) Nothing in this section or section 764 affects any relief which may be allowed under any arrangements having effect under section 788 of ICTA (double taxation relief by agreement with other territories).

764 Application of ICTA provisions about special relationships

(1) The provisions in ICTA mentioned in subsections (2) and (3) apply in relation to section 763 as if that section were a special relationship provision within the meaning of those provisions.

(2) In the case of a payment of interest, those provisions are subsections (2) to (4) of section 808A of ICTA (interest: special relationship).

(3) In the case of a payment of a royalty, those provisions are subsections (2) to (7) and (9) of section 808B of ICTA (royalties: special relationship).

(4) In those provisions as applied in relation to section 763, expressions also used in sections 757 to 767 have the same meaning as in those sections.

765 Anti-avoidance

(1) Section 758 does not apply in relation to a payment of interest if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of that section by means of that creation or assignment.

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(2) Section 758 does not apply in relation to a payment of a royalty if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the right in respect of which the royalty is paid to take advantage of that section by means of that creation or assignment.

766 Interest and royalty payments: interpretation

In sections 757 to 767—

"company" has the same meaning as the expression "company of a member State" has for the purposes of the Directive (see Article 3(a) of the Directive),

"debt-claim" has the same meaning as in the Directive,

"the Directive" has the meaning given by section 757(2),

"EU company" means a company resident in a member State other than the United Kingdom,

"interest" and "royalties" have the meaning given by Article 2 of the Directive,

"non-EU permanent establishment" means a permanent establishment in a territory other than a member State,

"UK company" means a company resident in the United Kingdom, and

"UK permanent establishment" means a permanent establishment in the United Kingdom.

767 Power to amend references to the Directive by order

(1) The Treasury may by order make such provision amending any reference in sections 757 to 766 to, or to a provision of,—

(a) the Directive, or

(b) any instrument referred to in those sections by virtue of an order made under this section,

as appears to them appropriate for the purpose of giving effect to any Council Directive adopted after 8th April 2004 amending or replacing the Directive.

(2) This includes a power to make provision amending any such reference as it applies to section 101 of FA 2004 (payment of royalties without deduction of tax) as a result of subsection (9) of that section.

Income from commercial occupation of woodlands

768 Commercial occupation of woodlands

(1) No liability to income tax arises under Chapter 8 of Part 5 (income not otherwise charged) in respect of income arising from the commercial occupation of woodlands in the United Kingdom.

(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.

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Housing grants

769 Housing grants

(1) No liability to income tax arises in respect of a payment if it is made—

(a) under an enactment relating to the giving of financial assistance for the provision, maintenance or improvement of housing accommodation or other residential accommodation, and

(b) by way of grant or other contribution towards expenses.

(2) It does not matter whether—

(a) the payment is made to the person who incurs the expenses, or

(b) the expenses have been, or are to be, incurred.

(3) Subsection (1) does not apply so far as the payment is made towards an expense which is deductible in calculating income for any income or corporation tax purpose.

Approved share incentive plan distributions

770 Amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment

(1) This section applies if—

(a) shares are awarded to a participant under an approved share incentive plan, and

(b) the condition in section 392(3) or (5) is met at the time the shares in question are so awarded (earnings within ITEPA 2003).

This is subject to subsection (4).

(2) No liability to income tax arises for the participant in respect of—

(a) the amount applied by the trustees in acquiring dividend shares on behalf of the participant, or

(b) any amount retained under paragraph 68(2) of Schedule 2 to ITEPA 2003 (amount of cash dividend not reinvested).

(3) Subsection (2) does not affect any liability arising as a result of—

(a) the retained amount later being paid out (see sections 393 and 406), or

(b) the dividend shares ceasing to be subject to the plan (see sections 394 and 407).

(4) This section does not apply if the main purpose or one of the main purposes of the arrangements under which the shares are awarded or acquired is the avoidance of tax or national insurance contributions.

(5) This section forms part of the SIP code (see section 488 of ITEPA 2003: approved share incentive plans).

(6) Accordingly, expressions used in this section and contained in the index in paragraph 100 of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.

(7) In particular—

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(a) for the meaning of "dividend shares" see paragraph 62(3)(b) of that Schedule,
(b) for the meaning of "participant" see paragraph 5(4) of that Schedule, and
(c) for the meaning of "the trustees" see paragraphs 2(2) and 71(1) of that Schedule.

Foreign income of consular officers and employees

771 Relevant foreign income of consular officers and employees

(1) No liability to income tax arises in respect of relevant foreign income of a consular officer or employee in the United Kingdom for a foreign state if—
(a) Her Majesty by Order in Council directs that this section applies to the foreign state for the purpose of giving effect to a reciprocal arrangement with that state, and
(b) the officer or employee meets conditions A to C.

(2) Condition A is that the officer or employee is not—
(a) a British citizen,
(b) a British overseas territories citizen,
(c) a British National (Overseas), or
(d) a British Overseas citizen.

(3) Condition B is that the officer or employee is not engaged in any trade, profession, vocation or employment in the United Kingdom, otherwise than as a consular officer or employee of the state in question.

(4) Condition C is that the officer or employee—
(a) is a permanent employee of that state, or
(b) was not ordinarily UK resident immediately before becoming a consular officer or employee in the United Kingdom of that state.

(5) In this section and section 772—

"consular officer or employee" includes any person employed for the purposes of the official business of a consular officer at—
(a) any consulate,
(b) any consular establishment, or
(c) any other premises used for those purposes, and

"reciprocal arrangement" means a consular convention or other arrangement with a foreign state, making similar provision to that made by this section and sections 302, 646A and 681A of ITEPA 2003 in the case of Her Majesty's consular officers or employees in that state.

772 Further provisions about Orders under section 771

(1) An Order in Council under section 771 may limit the operation of that section in relation to a state in any way appearing to Her Majesty appropriate having regard to the reciprocal arrangement with the state.

(2) An Order under that section may be made so as to have effect from a date earlier than that on which it is made, but not earlier than the reciprocal arrangement in question comes into force.

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(3) An Order under that section may contain such transitional provisions as appear to Her Majesty appropriate.

(4) A statutory instrument containing an Order under that section is subject to annulment in pursuance of a resolution of the House of Commons.

Income of non-UK residents from certain securities

773 Income from Inter-American Development Bank securities

(1) No liability to income tax arises for a non-UK resident in respect of income from a security issued by the Inter-American Development Bank if the liability only arises because one or more of circumstances A to C apply.

(2) Circumstance A is that the security is issued in the United Kingdom or in sterling.

(3) Circumstance B is that the income is made payable or paid in the United Kingdom or in sterling.

(4) Circumstance C is that the Bank maintains an office or other place of business in the United Kingdom.

774 Income from securities issued by designated international organisations

(1) No liability to income tax arises for a non-UK resident in respect of income from a security issued by an organisation if—
  (a) the organisation has been designated by the Treasury for the purposes of this section, and
  (b) the liability only arises because one or more of circumstances A to C apply.

(2) Circumstance A is that the security is issued in the United Kingdom or in sterling.

(3) Circumstance B is that the income is made payable or paid in the United Kingdom or in sterling.

(4) Circumstance C is that the organisation maintains an office or other place of business in the United Kingdom.

(5) The Treasury may by order designate for the purposes of this section—
  (a) any of the Communities,
  (b) the European Investment Bank,
  (c) any international organisation that meets conditions A and B.

(6) Condition A is that one of its members is the United Kingdom or any of the Communities.

(7) Condition B is that the agreement under which that member became a member provides for the same kind of exemption from tax for income from securities issued by the organisation as this section provides.

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Other

775 Income towards reducing the national debt

(1) This section applies if property is held on trust in accordance with directions which are valid and effective under section 9 of the Superannuation and other Trust Funds (Validation) Act 1927 (c. 41) (validation of trust funds for the reduction of the national debt).

(2) No liability to income tax arises in respect of any of the following—
- (a) income arising from the property,
- (b) income arising from the accumulation of that income, and
- (c) profits of any description otherwise accruing to the property and liable to be accumulated under the trust.

776 Scholarship income

(1) No liability to income tax arises in respect of income from a scholarship held by an individual in full-time education at a university, college, school or other educational establishment.

(2) This exemption is subject to section 215 of ITEPA 2003 (under which only the scholarship holder is entitled to the exemption if the scholarship is provided by reason of another person's employment).

(3) In this section “scholarship” includes a bursary, exhibition or other similar educational endowment.

777 VAT repayment supplements

No liability to income tax arises in respect of a sum paid by way of supplement under section 79 of VATA 1994 (VAT repayment supplements).

778 Incentives to use electronic communications

No liability to income tax arises in respect of anything received by way of incentive under any regulations made in accordance with Schedule 38 to FA 2000 (regulations for providing incentives for electronic communications).

779 Gains on commodity and financial futures

(1) No liability to income tax arises as a result of Chapter 8 of Part 5 (income not otherwise charged) in respect of a gain arising to a person in the course of dealing in—
- (a) commodity or financial futures,
- (b) traded options, or
- (c) financial options.

(2) The reference in subsection (1) to a gain arising in the course of dealing in commodity or financial futures includes a gain regarded as so arising under section 143(3) of TCGA 1992 (gains arising from transactions otherwise than in the course of dealing on a recognised futures exchange, involving authorised persons).

(3) In this section—

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"commodity or financial futures" means commodity futures or financial futures that are for the time being dealt in on a recognised futures exchange,

"financial option" has the meaning given by section 144(8)(c) of TCGA 1992, and

"traded option" has the meaning given by section 144(8)(b) of that Act.

780 Disabled person's vehicle maintenance grant

(1) No liability to income tax arises in respect of a disabled person's vehicle maintenance grant.

(2) For this purpose a "disabled person's vehicle maintenance grant" means a grant to any person owning a vehicle that is made under—

(a) paragraph 2 of Schedule 2 to the National Health Service Act 1977 (c. 49),

(b) section 46(3) of the National Health Service (Scotland) Act 1978 (c. 29), or

(c) Article 30 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)).

781 Payments under New Deal 50plus

(1) No liability to income tax arises in respect of a payment that is made—

(a) by way of training grant under the "New Deal 50plus" scheme, and

(b) to a person as a participant in that scheme.

(2) For this purpose the "New Deal 50plus" scheme means —

(a) the scheme under section 2(2) of the Employment and Training Act 1973 (c. 50) known as "New Deal 50plus", or

(b) the corresponding scheme under section 1 of the Employment and Training Act (Northern Ireland) 1950 (c. 29 (N.I.)).

782 Payments under employment zone programme

(1) No liability to income tax arises in respect of a payment that is made to a person as a participant in an employment zone programme.

(2) For this purpose an "employment zone programme" means an employment zone programme established for an area or areas designated under section 60 of the Welfare Reform and Pensions Act 1999 (c. 30).

VALID FROM 19/07/2007

[F50 782A Domestic microgeneration

(1) No liability to income tax arises in respect of income arising to an individual from the sale of electricity generated by a microgeneration system if—

(a) the system is installed at or near domestic premises occupied by the individual, and

(b) the individual intends that the amount of electricity generated by it will not significantly exceed the amount of electricity consumed in those premises.

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(2) In subsection (1)—

"domestic premises" means premises used wholly or mainly as a separate private dwelling, and

"microgeneration system" has the same meaning as in section 4 of the Climate Change and Sustainable Energy Act 2006.**]**

Textual Amendments

F50 S. 782A inserted (19.7.2007 with effect as stated in s. 20(2) of the amending Act) by Finance Act 2007 (c. 11), **s. 20(1)**

VALID FROM 19/07/2007

[F51 782B Renewables obligation certificates for domestic microgeneration

(1) No liability to income tax arises in respect of the receipt by an individual of a renewables obligation certificate if—

(a) the individual receives the certificate in connection with the generation of electricity by a microgeneration system,

(b) the system is installed at or near domestic premises occupied by the individual, and

(c) the individual intends that the amount of electricity generated by it will not significantly exceed the amount of electricity consumed in those premises.

(2) In subsection (1)—

"domestic premises" and "microgeneration system" have the same meaning as in section 782A, and

"renewables obligation certificate" means a certificate issued under section 32B of the Electricity Act 1989 or Article 54 of the Energy (Northern Ireland) Order 2003.**]**

Textual Amendments

F51 S. 782B inserted (19.7.2007 with effect as stated in s. 21(3) of the amending Act) by Finance Act 2007 (c. 11), **s. 21(1)**

CHAPTER 10

GENERAL

783 General disregard of exempt income for income tax purposes

(1) Amounts of income which are exempt from income tax as a result of this Part (whether because the type of income concerned is exempt from every charge to income tax or because it is exempt from every charge that is relevant to those particular amounts) are accordingly to be ignored for all other income tax purposes.

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(2) An exception to this is that interest on deposits in ordinary accounts with the National Savings Bank which is exempt under this Part from every charge to income tax is not to be ignored for the purpose of providing information.

(3) This express exception to subsection (1) is without prejudice to the existence of any other implied or express exception to that subsection (whether in connection with the provision of information or otherwise).

PART 7

INCOME CHARGED UNDER THIS ACT: RENT-A-ROOM AND FOSTER-CARE RELIEF

CHAPTER 1

RENT-A-ROOM RELIEF

Introduction

784 Overview of Chapter 1

(1) This Chapter provides relief on income from the use of furnished accommodation in an individual's only or main residence.

The relief is referred to in this Chapter as “rent-a-room relief”.

(2) The form of relief depends on whether the individual's total rent-a-room amount exceeds the individual's limit (see sections 788 to 790).

(3) If it does not, the income is not charged to income tax unless the individual elects otherwise (see sections 791 to 794).

(4) If it does, the individual may elect for alternative methods of calculating the income (see sections 795 to 798).

785 Person who qualifies for relief

(1) An individual qualifies for rent-a-room relief for a tax year if the individual—
  (a) has rent-a-room receipts for the tax year (see section 786), and
  (b) does not derive any taxable income other than rent-a-room receipts from a relevant trade, letting or agreement.

(2) “Taxable income” means receipts or other income in respect of which the individual is liable to income tax for the tax year.

(3) A relevant trade, letting or agreement is one from which the individual derives rent-a-room receipts for the tax year.

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Basic definitions

786 Meaning of "rent-a-room receipts"

(1) For the purposes of this Chapter an individual has rent-a-room receipts for a tax year if—

(a) the receipts are in respect of the use of furnished accommodation in a residence in the United Kingdom or in respect of goods or services supplied in connection with that use,

(b) they accrue to the individual during the income period for those receipts (see subsections (3) and (4)),

(c) for some or all of that period the residence is the individual's only or main residence, and

(d) the receipts would otherwise be brought into account in calculating the profits of a trade or UK property business or chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).

(2) Meals, cleaning and laundry are examples of goods or services supplied in connection with the use of furnished accommodation in a residence.

(3) If the receipts would otherwise be brought into account in calculating the profits of a trade, the income period is the basis period for the tax year (see Chapter 15 of Part 2).

(4) Otherwise the income period is the period which—

(a) begins at the beginning of the tax year or, if later, the beginning of the letting in respect of which the receipts arise, and

(b) ends at the end of the tax year or, if earlier, the end of that letting.

787 Meaning of "residence"

(1) In this Chapter "residence" means—

(a) a building, or part of a building, occupied or intended to be occupied as a separate residence, or

(b) a caravan or houseboat.

(2) If a building, or part of a building, designed for permanent use as a single residence is temporarily divided into two or more separate residences, it is still treated as a single residence.

788 Meaning of "total rent-a-room amount"

(1) For the purposes of this Chapter an individual's "total rent-a-room amount" for a tax year is the total of—

(a) the individual's rent-a-room receipts for the tax year, and

(b) any relevant balancing charges for the tax year (see section 802).

(2) In calculating the total rent-a-room amount, no deduction is allowed for expenses or any other matter.

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Individual's limit

789 The individual's limit

(1) For the purposes of this Chapter an individual's limit for a tax year depends on whether the individual meets the exclusive receipts condition for the tax year (see section 790).

(2) If the individual does, the individual's limit for the tax year is the basic amount for the tax year.

(3) If the individual does not, the individual's limit for the tax year is half that amount.

(4) The basic amount for a tax year is £4250.

(5) The Treasury may by order amend the sum for the time being specified in subsection (4).

790 Exclusive receipts condition

(1) An individual meets the exclusive receipts condition for a tax year if, for each rent-a-room residence of the individual, no receipts accrue to any other person during any relevant period in respect of—
   (a) the use of residential accommodation (whether furnished or not) in the residence, or
   (b) goods or services supplied in connection with that use (such as meals, cleaning or laundry),

   at a time when the residence is the individual's only or main residence.

(2) Each of the following periods is a relevant period—
   (a) any income period specified in section 786 for any rent-a-room receipts of the individual for the tax year,
   (b) the period of 12 months which begins at the same time as any such income period begins, and
   (c) the period of 12 months which ends at the same time as any such income period ends.

(3) A "rent-a-room residence of the individual" means a residence in respect of which the individual derives rent-a-room receipts for the tax year.

Relief if amount does not exceed limit

791 Full rent-a-room relief: introduction

Sections 792 to 794 (which give the full form of rent-a-room relief) apply if—
   (a) an individual qualifies for rent-a-room relief for a tax year,
   (b) the individual's total rent-a-room amount for the tax year does not exceed the individual's limit for the tax year, and
   (c) no election by the individual under section 799 has effect to disapply the full relief for the tax year.

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792 Full rent-a-room relief: trading income

(1) This section applies if the individual has any rent-a-room receipts for the tax year which would otherwise be brought into account in calculating the profits of a trade.

(2) The profits or losses of the trade for the tax year are treated as nil.

793 Full rent-a-room relief: property income

(1) This section applies if the individual has any rent-a-room receipts for the tax year which would otherwise be brought into account in calculating the profits of a UK property business.

(2) In calculating those profits—
  (a) those receipts for the tax year, and
  (b) any expenses associated with them,
  are not brought into account.

(3) No relevant balancing charge or relevant allowance (see section 802) is made in calculating those profits for the tax year.

794 Full rent-a-room relief: income chargeable under Chapter 8 of Part 5

(1) This section applies if the individual has any rent-a-room receipts for the tax year which would otherwise be chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).

(2) For each agreement from which those receipts arise, the amount of—
  (a) those receipts arising in the tax year from the agreement, less
  (b) any expenses associated with them,
  is treated as nil.

Alternative calculation of profits if amount exceeds limit

795 Alternative calculation of profits: introduction

Sections 796 to 798 (which provide for alternative methods of calculating profits) apply if—
  (a) an individual qualifies for rent-a-room relief for a tax year,
  (b) the individual's total rent-a-room amount for the tax year exceeds the individual's limit for the tax year, and
  (c) an election by the individual under section 800 has effect to apply the alternative method of calculating profits for the tax year.

796 Alternative calculation of profits: trading income

(1) This section applies if the individual has any rent-a-room receipts for the tax year which are the receipts of a trade.

(2) The profits of the trade for the tax year are—
  (a) the sum of the amount of the rent-a-room receipts for the tax year arising from the trade and the amount of any relevant balancing charge, less

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(b) the deductible amount.

(3) The deductible amount—

(a) is L if all the individual's rent-a-room receipts for the tax year arise from the trade, and

(b) otherwise, is—

$$\frac{L \times T}{R}$$

but, in either case, subject to a maximum of T.

(4) In subsection (3)—

L is the individual's limit for the tax year,

T is the individual's rent-a-room receipts for the tax year arising from the trade, and

R is all the individual's rent-a-room receipts for the tax year.

(5) In calculating the amount of any rent-a-room receipts for the purposes of this section, no deduction is allowed for expenses or any other matter.

797 Alternative calculation of profits: property income

(1) This section applies if the individual has any rent-a-room receipts for the tax year ("Part 3 rent-a-room receipts") which are to be brought into account in calculating the profits of a UK property business.

(2) In calculating those profits for the tax year—

(a) the Part 3 rent-a-room receipts for the tax year are brought into account only in calculating the profits of the business for the tax year, and

(b) any expenses associated with those receipts are not brought into account.

(3) In calculating those profits for the tax year—

(a) a deduction is allowed, and

(b) no relevant allowance, but any relevant balancing charge, is made.

(4) The amount of the deduction—

(a) is L if all the individual's rent-a-room receipts for the tax year are Part 3 rent-a-room receipts, and

(b) otherwise, is—

$$\frac{L \times P}{R}$$

but, in either case, subject to a maximum of P.

(5) In subsection (4)—

L is the individual's limit for the tax year,

P is the individual's Part 3 rent-a-room receipts for the tax year, and

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R is all the individual's rent-a-room receipts for the tax year.

798 Alternative calculation of profits: income chargeable under Chapter 8 of Part 5

(1) This section applies if the individual has any rent-a-room receipts for the tax year which are chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).

(2) The amount charged for the tax year arising from all the agreements from which the receipts are derived is—
  (a) the amount of the receipts for the tax year so arising, less
  (b) the deductible amount.

(3) The deductible amount is—

$$\frac{L \times I}{R}$$

subject to a maximum of I.

(4) In subsection (3)—
  L is the individual's limit for the tax year,
  I is the amount of the receipts for the tax year arising from the agreements, and
  R is all the individual's rent-a-room receipts for the tax year.

(5) In calculating the amount of any rent-a-room receipts for the purposes of this section, no deduction is allowed for expenses or any other matter.

Elections

799 Election not to apply full relief

(1) An individual may elect for sections 792 to 794 (full relief) not to apply.

(2) The election—
  (a) must specify the tax year for which it is made, and
  (b) has effect for that year (unless withdrawn by notice given by the individual).

(3) An election or notice of withdrawal must be made or given to the Inland Revenue on or before—
  (a) the first anniversary of the normal self-assessment filing date for the tax year for which the election is made, or
  (b) such later date as the Inland Revenue may, in a particular case, allow.

800 Election for alternative methodof calculating profits

(1) An individual may elect for the alternative method of calculating profits given in sections 796 to 798 to apply if—
  (a) the individual qualifies for rent-a-room relief for a tax year, and

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(b) the individual's total rent-a-room amount for the tax year exceeds the individual's limit for the tax year.

(2) The election—

(a) must specify the tax year for which it is made, and

(b) has effect for that year and subsequent tax years (unless withdrawn by notice given by the individual).

(3) A notice of withdrawal of an election must specify the tax year for which it is given.

The election ceases to have effect for that tax year and subsequent tax years.

(4) Withdrawal of an election does not prevent a fresh election from being made for a subsequent tax year.

(5) An election or notice of withdrawal must be made or given to the Inland Revenue on or before—

(a) the first anniversary of the normal self-assessment filing date for the tax year specified in the election or notice of withdrawal, or

(b) such later date as the Inland Revenue may, in a particular case, allow.

(6) If—

(a) an election would otherwise have effect for a tax year, but

(b) the individual's total rent-a-room amount for the tax year does not exceed the individual's limit for the tax year,

the individual is treated as giving a notice of withdrawal of the election which specifies that tax year as the one for which it is given (and the election, therefore, ceases to have effect for that tax year and subsequent tax years).

801 Time limit on adjustment of assessment

(1) This section applies if it is necessary to make an adjustment by way of assessment to give effect to an election or notice of withdrawal under section 799 or 800.

(2) The assessment is not out of time if it is made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the election was made or notice was given (or treated as given).

Interpretation

802 Minor definitions

In this Chapter—

"letting" includes a licence to occupy,

"relevant allowance", for a tax year, means a capital allowance falling to be made for the tax year under Part 2 of CAA 2001 in respect of plant or machinery provided for the purposes of a trade or letting from which rent-a-room receipts are derived, and

"relevant balancing charge", for a tax year, means a balancing charge falling to be made for the tax year under Part 2 of CAA 2001 in respect of plant or machinery provided for the purposes of a trade or letting from which rent-a-room receipts are derived.

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CHAPTER 2

FOSTER-CARE RELIEF

Introduction

803 Overview of Chapter 2

(1) This Chapter provides relief on income from the provision by an individual of foster care.

The relief is referred to in this Chapter as "foster-care relief".

(2) The form of relief depends on whether the individual's total foster-care receipts exceed the individual's limit (see sections 807 to 811).

(3) If they do not, the income is not charged to income tax (see sections 812 to 814).

(4) If they do, the individual may elect for an alternative method of calculating the income (see sections 815 to 819).

(5) If the foster-care receipts are the receipts of a trade, special rules apply —
- (a) if the period of account of the trade does not end on 5th April (see sections 820 to 823), and
- (b) in relation to capital allowances (see sections 824 to 827).

(6) The provisions of this Chapter which are expressed to apply in relation to trades also apply in relation to professions and vocations.

804 Person who qualifies for relief

(1) An individual qualifies for foster-care relief for a tax year if the individual—
- (a) has foster-care receipts for the tax year (see section 805), and
- (b) does not derive any taxable income other than foster-care receipts from a relevant trade or arrangement.

(2) "Taxable income" means receipts or other income in respect of which the individual is liable to income tax for the tax year.

(3) A relevant trade or arrangement is one from which the individual derives foster-care receipts for the tax year.

Basic definitions

805 Meaning of "foster-care receipts"

(1) For the purposes of this Chapter an individual has foster-care receipts for a tax year if —
- (a) the receipts are in respect of the provision of foster care,
- (b) they accrue to the individual during the income period for those receipts (see subsections (2) and (3)), and

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(c) the receipts would otherwise be brought into account in calculating the profits of a trade or chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).

(2) If the receipts would otherwise be brought into account in calculating the profits of a trade, the income period is the basis period for the tax year (see Chapter 15 of Part 2).

(3) Otherwise the income period is the tax year.

806 Meaning of providing foster care

(1) For the purposes of this Chapter foster care is provided if an individual—

(a) provides accommodation and maintenance for a child, and

(b) does so as a foster carer.

(2) An individual is a foster carer if the child is placed with the individual under any of the following enactments, unless the individual is excluded by subsection (5).

(3) The enactments are—

(a) section 23(2)(a) or 59(1)(a) of the Children Act 1989 (c. 41) (provision of accommodation for children by local authorities or voluntary organisations),

(b) regulations under section 5 of the Social Work (Scotland) Act 1968 (c. 49),

(c) section 70 of the Children (Scotland) Act 1995 (c. 36), and

(d) Article 27(2)(a) or 75(1)(a) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) (provision of accommodation for children by authorities or voluntary organisations).

(4) An individual is also a foster carer if—

(a) the individual is approved as a foster carer by a local authority or a voluntary organisation in accordance with regulations under section 5 of the Social Work (Scotland) Act 1968 (c. 49), and

(b) the child in respect of whom the accommodation is provided is being "looked after" by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c. 36),

unless the individual is excluded by subsection (5).

(5) The following are excluded individuals—

(a) a parent of the child,

(b) an individual who is not a parent of the child but who has parental responsibility (or, in Scotland, parental responsibilities) in relation to the child,

(c) if the child is in care and there was a residence order in force with respect to the child immediately before the care order was made, an individual in whose favour the residence order was made, and

(d) (in Scotland) if the child is in care and there was a residence order or contact order in force with respect to the child immediately before the child was placed in care, an individual in whose favour the residence order or contact order was made.

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807 Calculation of "total foster-care receipts"

For the purposes of this Chapter, in calculating an individual's "total foster-care receipts" for a tax year, no deduction is allowed for expenses or any other matter.

Individual's limit

808 The individual's limit

(1) For the purposes of this Chapter an individual's limit for a tax year is the total of—
- (a) the fixed amount for the tax year or, if section 809 or 810 applies, the individual's share of that amount, and
- (b) each amount per child for the individual for the tax year (see section 811).

(2) For the purposes of this Chapter the fixed amount for a tax year is £10,000.

(3) The Treasury may by order amend the sum for the time being specified in subsection (2).

809 Share of fixed amount: residence used by more than one foster carer

(1) This section applies if in a tax year—
- (a) the residence used to provide the foster care from which an individual's foster-care receipts for the tax year are derived is also used by another individual to provide foster care, and
- (b) the other individual also has foster-care receipts for the tax year.

(2) Each individual's share of the fixed amount for the tax year is the fixed amount divided by the total number of individuals who—
- (a) use the residence in the tax year to provide foster care, and
- (b) have foster-care receipts for the tax year.

(3) In this section "residence" means—
- (a) a building, or part of a building, occupied or intended to be occupied as a separate residence, or
- (b) a caravan or houseboat.

(4) If a building, or part of a building, designed for permanent use as a single residence is temporarily divided into two or more separate residences, it is still treated as a single residence.

810 Share of fixed amount: income period not a year

(1) This section applies if in a tax year an individual's income period for the individual's foster-care receipts is a period other than a year.

(2) The individual's share of the fixed amount for the tax year is—

$$\frac{\text{AS} \times D}{365}$$

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where—

AS is the fixed amount or (if section 809 applies) the individual's share of the fixed amount, and

D is the number of days in the individual's income period.

811 The amount per child

(1) An individual's amount per child for a tax year is found by multiplying—
  (a) the number of weeks during the income period for the tax year in which the individual provides foster care for the child, by
  (b) the weekly amount for the child.

(2) The weekly amount for a child is—
  (a) £200 for a week throughout which the child is under 11 years old, and
  (b) £250 for other weeks.

(3) The Treasury may by order amend any amount for the time being specified in subsection (2).

(4) If an individual provides foster care for a child during an income period for only part of a week, the part is treated as a whole week.

(5) If an income period begins or ends during a week, the week is treated as falling within the income period ending during the week.

But if there is no such income period, the week is treated as falling within the income period beginning during the week.

(6) A week is a period of 7 days beginning with a Monday.

Relief if amount does not exceed limit

812 Full foster-care relief: introduction

Sections 813 and 814 (which give the full form of foster-care relief) apply if—
  (a) an individual qualifies for foster-care relief for a tax year,
  (b) the individual's total foster-care receipts for the tax year do not exceed the individual's limit for the tax year, and
  (c) sections 822 and 823 do not apply (accounting date for trade not 5th April).

813 Full foster-care relief: trading income

(1) This section applies if the individual's foster-care receipts for the tax year would otherwise be brought into account in calculating the profits of a trade.

(2) The profits or losses of the trade for the tax year are treated as nil.

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814 Full foster-care relief: income chargeable under Chapter 8 of Part 5

(1) This section applies if the individual's foster-care receipts for the tax year would otherwise be chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).

(2) For each arrangement from which those receipts arise, the amount of—
  (a) those receipts arising in the tax year from the arrangement, less
  (b) any expenses associated with them,
  is treated as nil.

Alternative calculation of profits if amount exceeds limit

815 Alternative calculation of profits: introduction

Sections 816 and 817 (which provide for an alternative method of calculating profits) apply if—
  (a) an individual qualifies for foster-care relief for a tax year,
  (b) the individual's total foster-care receipts for the tax year exceed the individual's limit for the tax year,
  (c) sections 822 and 823 do not apply (accounting date for trade not 5th April), and
  (d) an election by the individual has effect to apply the alternative method of calculating profits for the tax year (see sections 818 and 819).

816 Alternative calculation of profits: trading income

(1) This section applies if the individual's foster-care receipts for the tax year are the receipts of a trade.

(2) The profits of the trade for the tax year are—
  (a) the individual's total foster-care receipts for the tax year, less
  (b) the individual's limit for the tax year.

817 Alternative calculation of profits: income chargeable under Chapter 8 of Part 5

(1) This section applies if the individual has foster-care receipts for the tax year which are chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).

(2) The amount charged for the tax year arising from all the arrangements from which the receipts are derived is—
  (a) the individual's total foster-care receipts for the tax year, less
  (b) the individual's limit for the year.

818 Election for alternative methodof calculating profits

(1) An individual may elect for the alternative method of calculating profits given in sections 816 and 817 to apply if—
  (a) the individual qualifies for foster-care relief for a tax year,
  (b) the individual's total foster-care receipts for the tax year exceed the individual's limit for the tax year, and

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(c) sections 822 and 823 do not apply (accounting date for trade not 5th April).

(2) An election under this section—
(a) must specify the tax year for which it is made, and
(b) has effect for that year (unless withdrawn by notice given by the individual).

(3) An election or notice of withdrawal under this section must be made or given to the Inland Revenue on or before—
(a) the first anniversary of the normal self-assessment filing date for the tax year for which the election is made, or
(b) such later date as the Inland Revenue may, in a particular case, allow.

819 Adjustment of assessment

(1) This section applies if—
(a) an individual does not make an election under section 818 for a tax year on or before the date for making the election, and
(b) an adjustment is made after that date to the profits from the individual's provision of foster care on which the individual is liable to tax for the tax year.

(2) The individual may make an election under this section to apply the alternative method of calculating profits given in sections 816 and 817 for the tax year.

(3) The election—
(a) must specify that tax year, and
(b) has effect for that tax year (unless withdrawn by notice given by the individual).

(4) An election or notice of withdrawal under this section must be made or given to the Inland Revenue on or before—
(a) the first anniversary of the normal self-assessment filing date for the tax year in which the adjustment is made, or
(b) such later date as the Inland Revenue may, in a particular case, allow.

Periods of account not ending on 5th April

820 Periods of account not ending on 5th April

Sections 822 and 823 (which deal with the period of account of a trade not ending on 5th April) apply if—
(a) an individual qualifies for foster-care relief for a tax year,
(b) the individual's foster-care receipts for the tax year are the receipts of a trade, and
(c) the period of account in which those receipts accrue does not end on 5th April in the tax year.

821 Meaning of “relevant limit”

(1) For the purposes of sections 822 and 823 the “relevant limit” for a period of account in which the individual's foster-care receipts accrue is found by adding—

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(a) the fixed amount for the tax year in which that period ends or (as the case may be) the individual's share of the fixed amount for that year (found in accordance with sections 808 to 810), and

(b) for each of the tax years in which the period of account falls, each amount per child for the individual for each part of the period of account falling in that tax year.

(2) For this purpose an individual's amount per child for a part of the period of account is each amount that would be the individual's amount per child under section 811 for the tax year in which the part falls if that part were the income period for that year.

822 Full relief

(1) This section applies if the individual's total foster-care receipts for the period of account do not exceed the individual's relevant limit for the period.

(2) The profits or losses of the trade for the tax year are treated as nil.

823 Alternative method of calculating profits

(1) This section applies if—

(a) the individual's total foster-care receipts for the period of account exceed the individual's relevant limit for the period, and

(b) the individual makes an election under this section.

(2) The profits of the trade for the tax year are—

(a) the individual's total foster-care receipts for the period of account, less

(b) the individual's relevant limit for the period.

(3) Sections 818(2) and (3) and 819 (adjustment of assessment) apply for the purposes of an election under this section as they apply for the purposes of an election under those sections.

Capital allowances for foster carers carrying on trade

824 Capital allowances: introduction

(1) In this group of sections (that is, this section and sections 825 to 827) an individual is a "relevant individual" if in a tax year—

(a) the full foster-care relief in section 813 or 822 (trading income), or

(b) the alternative method of calculating profits under section 816 or 823 (trading income),

applies to the individual for the tax year.

(2) In this group of sections a period is a "relevant chargeable period" of a relevant individual if—

(a) it is a chargeable period of the individual, and

(b) it corresponds to the income period for the individual's foster-care receipts in the tax year for which the individual is a relevant individual.

(3) Expressions—

(a) which are used in CAA 2001 and in this group of sections, but

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(b) which are not otherwise defined in this Chapter,

have the same meaning in this group of sections as in CAA 2001.

825 Carried forward unrelieved qualifying expenditure

(1) This section applies if—

(a) there is available qualifying expenditure in a relevant pool for a relevant chargeable period of a relevant individual,

(b) the expenditure is unrelieved qualifying expenditure carried forward in the pool from the previous chargeable period under section 59 of CAA 2001, and

(c) the previous chargeable period was not a relevant chargeable period.

(2) "Relevant pool" means a pool containing expenditure incurred on the provision of plant or machinery wholly or partly for the provision of foster care by the relevant individual.

(3) CAA 2001 applies in relation to the relevant individual's available qualifying expenditure in the pool for the relevant chargeable period as if—

(a) a disposal event occurred immediately after the beginning of the period,

(b) disposal receipts fall to be brought into account in the pool for the period because of that event, and

(c) the total of the receipts equals the amount of the unrelieved qualifying expenditure carried forward.

(4) Section 13 of CAA 2001 (use for qualifying activity of plant or machinery provided for other purposes) applies as if, on the first day of the first subsequent chargeable period which is not a relevant chargeable period—

(a) the relevant individual brings into use for the provision of foster care such of the plant or machinery on which the unrelieved qualifying expenditure was incurred as the individual still owns on that day, and

(b) the individual owns the plant or machinery as a result of incurring capital expenditure on its provision for other purposes.

826 Excluded capital expenditure

Capital expenditure ("excluded capital expenditure") does not constitute qualifying expenditure for the purposes of CAA 2001 if it is—

(a) incurred by a relevant individual in a relevant chargeable period, and

(b) incurred on the provision of plant or machinery wholly or partly for the provision of foster care by the individual.

827 Excluded capital expenditure: subsequent treatment of asset

If a relevant individual incurs excluded capital expenditure in a relevant chargeable period, section 13 of CAA 2001 applies as if, on the first day of the first subsequent chargeable period which is not a relevant chargeable period—

(a) the individual brings into use for the provision of foster care such of the plant or machinery on which the expenditure was incurred as the individual still owns on that day, and

(b) the individual owns the plant or machinery as a result of incurring capital expenditure on its provision for other purposes.

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Overlap profit

828 Overlap profit

(1) This section applies if the profits or losses of a trade for a tax year are calculated in accordance with section 813, 816, 822 or 823.

(2) Nothing in this Chapter is to be read—
- (a) as preventing a deduction for overlap profit under section 205 or 220 in calculating the profits or losses of the trade for the tax year, or
- (b) as preventing overlap profit from arising by reference to profits of the trade calculated for the tax year in accordance with section 816 or 823 (alternative calculation of profits).

(3) "Overlap profit" has the same meaning in this section as it has in Chapter 15 of Part 2 (see section 204).

PART 8

FOREIGN INCOME: SPECIAL RULES

CHAPTER 1

INTRODUCTION

829 Overview of Part 8

This Part provides for—
- (a) an alternative basis for calculating the amount charged for certain relevant foreign income (see Chapter 2),
- (b) certain deductions in calculating relevant foreign income where that basis does not apply (see Chapter 3), and
- (c) relief where a person is prevented from transferring income to the United Kingdom (see Chapter 4).

830 Meaning of "relevant foreign income"

(1) In this Act "relevant foreign income" means income which arises from a source outside the United Kingdom and is chargeable under any of the provisions specified in subsection (2).

(2) The provisions are—
- (a) Chapter 2 of Part 2 (trade profits),
- (b) Chapter 17 of Part 2 (adjustment income),
- (c) Chapter 3 of Part 3 (profits of property business),
- (d) Chapter 11 of Part 3 (overseas property income),
- (e) Chapter 2 of Part 4 (interest),
- (f) Chapter 4 of Part 4 (dividends from non-UK resident companies),
- (g) Chapter 7 of Part 4 (purchased life annuity payments),

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(h) Chapter 8 of Part 4 (profits from deeply discounted securities),
(i) Chapter 13 of Part 4 (sales of foreign dividend coupons),
(j) section 579 (royalties and other income from intellectual property),
(k) Chapter 3 of Part 5 (films and sound recordings: non-trading businesses),
(l) Chapter 4 of Part 5 (certain telecommunication rights: non-trading income),
(m) section 649 (estate income),
(n) Chapter 7 of Part 5 (annual payments not otherwise charged), and
(o) Chapter 8 of Part 5 (income not otherwise charged).

(3) But "relevant foreign income" does not include income chargeable as a result of section 844 (unremittable income: income charged on withdrawal of relief after source ceases).

(4) For the treatment of other income as relevant foreign income, see—
(a) section 857(3) (a partner's share of a firm's trading income),
(b) paragraph 6(3) of Schedule 3 to the Commonwealth Development Corporation Act 1999 (c. 20) (distributions by the Commonwealth Development Corporation),
(c) section 575(3) of ITEPA 2003 (taxable pension income: foreign pensions),
(d) section 613(4) of that Act (taxable pension income: foreign annuities),
(e) section 631(3) of that Act (pre-1973 pensions paid under the Overseas Pensions Act 1973 (c. 21)),
(f) section 635(4) of that Act (taxable pension income: foreign voluntary annual payments), and
(g) section 679(2) of that Act (taxable social security income: foreign benefits).

CHAPTER 2

RELEVANT FOREIGN INCOME CHARGED ON REMITTANCE BASIS

Remittance basis

831 Claims for relevant foreign income to be charged on the remittance basis

(1) A person may make a claim for a tax year for the person's relevant foreign income to be charged for that year in accordance with section 832.

(2) The claim must state that condition A or B is met.

(3) Condition A is that the person is not domiciled in the United Kingdom.

(4) Condition B is that the person is not ordinarily UK resident.

(5) This section does not apply to relevant foreign income arising in the Republic of Ireland.

Status: *Point in time view as at 06/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Income Tax (Trading and Other Income) Act 2005 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

832 Relevant foreign income charged on the remittance basis

(1) If a person makes a claim under section 831(1) for a tax year in respect of relevant foreign income, income tax is charged on the full amount of the sums received in the United Kingdom in the tax year in respect of the income.

(2) For the purposes of subsection (1), it does not matter whether the income arises in the year for which the claim is made or arose in an earlier year in which the person was UK resident.

(3) The only case in which deductions are allowed is where the income is from a trade, profession or vocation carried on outside the United Kingdom.

(4) In that case the same deductions are allowed as are allowed under the Income Tax Acts where the trade, profession or vocation is carried on in the United Kingdom.

(5) This section is subject to section 835 (relief for delayed remittances).

833 Income treated as remitted: repayment of UK-linked debts

(1) For the purposes of section 832, if a person who is ordinarily resident, but is not domiciled, in the United Kingdom uses relevant foreign income outside the United Kingdom to satisfy a UK-linked debt, the person is treated as receiving the income in the United Kingdom at the time when it is so used.

(2) Subsection (1) is subject to subsection (5).

(3) In subsection (1) "UK-linked debt", in relation to a person, means—
- (a) a debt for money lent to the person in the United Kingdom, or for interest on money so lent,
- (b) a debt for money lent to the person outside the United Kingdom and received in the United Kingdom, or
- (c) a debt incurred for satisfying—
  - (i) a debt falling within paragraph (a) or (b), or
  - (ii) another debt falling within this paragraph.

(4) In the case of a debt (within subsection (3)(b) or (c)) for money lent to the person outside the United Kingdom, it does not matter whether the money lent is received in the United Kingdom before or after the income is used to satisfy the debt.

(5) But in the case of such a debt if the money lent is not received in the United Kingdom until after the income is so used, the person is treated as receiving the income in the United Kingdom when the money lent is received there (instead of at the time provided in subsection (1)).

(6) For the purposes of this section, if any of the money lent is used to satisfy a debt, the debt for the money so used is treated as incurred for satisfying that other debt.

(7) In subsections (3) to (5) any reference to money lent being received in the United Kingdom includes a reference to its being brought there.

(8) Section 834 sets out circumstances in which a person is treated as using income to satisfy a debt for the purposes of this section.

(9) In this section and that section "satisfy", in relation to a debt, means satisfy wholly or in part.

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Modifications etc. (not altering text)

C38 S. 833 applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 735(6)**, 1034 (with transitional provisions and savings in Sch. 2)

834 Arrangements treated as repayment of UK-linked debts

(1) A person to whom money has been lent ("the borrower") is treated for the purposes of section 833 as using relevant foreign income to satisfy a debt if conditions A and B are met.

(2) Condition A is that the borrower uses the income in such a way that the lender holds money or property representing the income on behalf or on account of the borrower in such circumstances that it is available to the lender to satisfy the debt (by set-off or otherwise).

(3) Condition B is that under an arrangement between the borrower and the lender—

(a) the amount for the time being owed by the borrower to the lender, or

(b) the time at which the debt is to be satisfied,

depends in any respect, directly or indirectly, on the amount or value the lender holds on behalf or on account of the borrower as mentioned in subsection (2).

(4) In this section "lender", in relation to money lent, includes any person for the time being entitled to repayment.

Modifications etc. (not altering text)

C39 S. 834 applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 735(6)**, 1034 (with transitional provisions and savings in Sch. 2)

Relief for delayed remittances

835 Relief for delayed remittances

(1) If section 832 (relevant foreign income charged on the remittance basis) applies to income for a tax year, the person liable for the tax may make a claim for relief under this section in respect of any of the income which meets conditions A and B ("delayed income").

(2) Condition A is that the income arose before the tax year for which relief is claimed.

(3) Condition B is that the income could not have been transferred by the person to the United Kingdom before the tax year because of—

(a) the laws of the territory where the income arose,

(b) executive action of its government, or

(c) the impossibility of obtaining there currency that could be transferred to the United Kingdom.

(4) If a person claims relief for a tax year in respect of delayed income, that income is to be deducted from the income charged to tax for that year in accordance with section 832.

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(5) The delayed income is to be treated as if it were income received in the United Kingdom in the tax year in which it arose.

836 Relief for delayed remittances: backdated pensions

(1) This section applies if—
- (a) section 832 applies to a pension or annuity, or an increase in a pension or annuity, that is treated as relevant foreign income as a result of section 575(3), 613(4) or 635(4) of ITEPA 2003,
- (b) the pension, annuity or increase was granted retrospectively, and
- (c) an amount of pension, annuity or increase is paid in respect of a tax year ("the earlier year") before the tax year in which it was granted.

(2) For the purposes of section 835 that amount of pension, annuity or increase is treated as income arising in the earlier year from a source that the person liable for the tax possessed in the earlier year.

(3) The condition in section 835(3) only applies to the pension, annuity or increase in the period after it becomes payable.

837 Claims for relief on delayed remittances

(1) A claim under section 835 must be made on or before the fifth anniversary of the normal self-assessment filing date for the tax year for which the relief is claimed.

(2) All adjustments (by way of repayment of tax, assessment or otherwise) are to be made which are necessary to give effect to section 835.

(3) Those adjustments may be made at any time, despite anything to the contrary in the Income Tax Acts.

(4) A person's personal representatives may make any claim under section 835 which the person might have made.

(5) If a person dies—
- (a) any tax paid by the person and repayable because of a claim under section 835 is to be repaid to the personal representatives, and
- (b) the person's personal representatives are liable for any additional tax which arises because of a claim under that section.

(6) If subsection (5)(b) applies, the additional tax—
- (a) is to be assessed on the personal representatives, and
- (b) is a debt due from and payable out of the estate.

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CHAPTER 3

RELEVANT FOREIGN INCOME CHARGED ON ARISING BASIS: DEDUCTIONS AND RELIEFS

838 Expenses attributable to collection or payment of relevant foreign income

(1) In calculating the amount of relevant foreign income to be charged to income tax for a tax year, a deduction is allowed for expenses incurred outside the United Kingdom that are attributable to the collection or payment of the income.

(2) Subsection (1) does not apply to income charged for the tax year in accordance with section 832 (relevant foreign income charged on the remittance basis).

839 Annual payments payable out of relevant foreign income

(1) In calculating the amount of relevant foreign income to be charged to income tax for a tax year, a deduction is to be allowed for an annual payment other than interest if it meets conditions A to C.

(2) Condition A is that the payment is payable out of the relevant foreign income.

(3) Condition B is that, had the payment arisen in the United Kingdom, it would have been chargeable to income tax under one of the following provisions or to corporation tax under Case III of Schedule D—

Chapter 10 of Part 4 (distributions from unauthorised unit trusts),

section 579 (charge to tax on royalties and other income from intellectual property),

Chapter 4 of Part 5 (certain telecommunication rights: non-trading income), or

Chapter 7 of Part 5 (annual payments not otherwise charged).

(4) Condition C is that the payment is made to a non-UK resident.

(5) Subsection (1) does not apply if—

(a) the relevant foreign income is received in the United Kingdom, or

(b) it is charged for the tax year in accordance with section 832 (relevant foreign income charged on remittance basis).

(6) In the case of relevant foreign income chargeable under Chapter 2 or 17 of Part 2 (trading income) that arises in the Republic of Ireland, this section applies with the omission of condition B and subsection (5)(a).

840 Relief for backdated pensions charged on the arising basis

(1) This section applies if—

(a) as a result of section 575(3), 613(4) or 635(4) of ITEPA 2003 a pension or annuity or an increase in a pension or annuity is treated as relevant foreign income,

(b) the pension, annuity or increase is paid in respect of a tax year ("the earlier year") before the tax year in which the pension, annuity or increase arose, and

(c) the income is not charged in accordance with section 832 (relevant foreign income charged on the remittance basis).

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(2) If the person liable for the income tax makes a claim for relief under this section for the tax year in which the pension, annuity or increase paid in respect of the earlier year arises, that pension, annuity or increase is treated as income arising in the earlier year from a source that the person possessed in the earlier year.

(3) But subsection (2) does not affect the calculation of the full amount of the income so arising under section 575(2), 613(3) or 635(3) of ITEPA 2003 (under which the full amount of that income is to be calculated on the basis that the pension or annuity is 90% of its actual amount).

(4) Section 837 (claims for relief on delayed remittances) applies to claims under this section as it applies to claims under section 835.

CHAPTER 4

UNREMITTABLE INCOME

841 Unremittable income: introduction

(1) This Chapter applies if—
  (a) a person is liable for income tax on income arising in a territory outside the United Kingdom, and
  (b) the income is unremittable.

(2) For the purposes of this Chapter, income is unremittable if conditions A and B are met.

(3) Condition A is that the income cannot be transferred to the United Kingdom by the person who is liable for income tax in respect of the income because of—
  (a) the laws of the territory where the income arises,
  (b) executive action of its government, or
  (c) the impossibility of obtaining there currency that could be transferred to the United Kingdom.

(4) Condition B is that the person who is liable for income tax in respect of the income has not realised it outside that territory for an amount in sterling or in another currency which the person is not prevented from transferring to the United Kingdom.

(5) This Chapter does not apply to profits which a person is treated as receiving under section 714(2) of ICTA (accrued income profits), but see section 723 of that Act (which makes similar provision).

842 Claim for relief for unremittable income

(1) If a person liable for income tax on unremittable income makes a claim for relief under this section in respect of that income, it is not taken into account for income tax purposes.

(2) Subsection (1) is subject to section 843.

(3) No claim under this section may be made in respect of any income so far as an ECGD payment has been made in relation to it.

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(4) In subsection (3) "ECGD payment" means a payment made by the Export Credit Guarantee Department under an agreement entered into as a result of arrangements made under—
  (a) section 2 of the Export and Investment Guarantees Act 1991 (c. 67) (insurance in connection with overseas investment), or
  (b) section 11 of the Export Guarantees and Overseas Investment Act 1978 (c. 18).

(5) A claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the income would be charged to tax if no claim were made.

843 Withdrawal of relief

(1) This section applies if—
  (a) a claim under section 842 has been made in relation to any income, and
  (b) either—
    (i) the income ceases to be unremittable, or
    (ii) an ECGD payment is made in relation to it.

(2) In this section "ECGD payment" has the meaning given by section 842(4).

(3) If income ceases to be unremittable, the income is treated as arising on the date on which it ceases to be unremittable.

(4) If an ECGD payment is made in relation to income, the income is treated, to the extent of the payment, as arising on the date on which the ECGD payment is made.

(5) The income treated as arising under subsection (3) or (4), and any tax payable in respect of it under the law of the territory where it arises, are taken into account for income tax purposes at their value at the date on which the income is treated as arising.

(6) Subsections (3) to (5) do not apply so far as the income has already been treated as arising as a result of this section.

(7) If a person who would have become liable for income tax as a result of this section has died—
  (a) the personal representatives are liable for the tax instead, and
  (b) the tax is a debt due from and payable out of the estate.

844 Income charged on withdrawal of relief after source ceases

(1) This section applies if—
  (a) income is treated as arising as a result of section 843, and
  (b) at the time it is so treated the person who would have become liable for income tax as a result of that section—
    (i) has permanently ceased to carry on the trade, profession, vocation or property business from which the income arises, or
    (ii) in the case of income from another source, has ceased to possess that source.

(2) In the case of income from a trade, profession or vocation—

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(a) the income is treated as a post-cessation receipt for the purposes of Chapter 18 of Part 2 (trading income: post-cessation receipts), but

(b) in the application of that Chapter to that income, section 243 (extent of charge to tax) is omitted.

(3) In the case of income from a property business—

(a) the income is treated as a post-cessation receipt from a UK property business for the purposes of Chapter 10 of Part 3 (property income: post-cessation receipts), but

(b) in the application of that Chapter to that income, section 350 (extent of charge to tax) is omitted.

(4) In the case of income from another source, the income is taxed as if the person continued to possess that source.

845 Valuing unremittable income

(1) If no claim is made under section 842 in relation to unremittable income arising in a territory outside the United Kingdom, the amount of the income to be taken into account for income tax purposes is determined as follows.

(2) If the currency in which the income is denominated has a generally recognised market value in the United Kingdom, the amount is determined by reference to that value.

(3) In any other case, the amount is determined according to the official rate of exchange of the territory where the income arises.

PART 9

PARTNERSHIPS

Modifications etc. (not altering text)

C40 Pt. 9 modified (with effect as mentioned in Sch. 6 para. 6(2)-(7) to the amending Act) by Income and Corporation Taxes Act 1988 (c. 1) , s. 774D(4) as inserted by Finance Act 2006 (c. 25), s. 76, **Sch. 6 para. 6(1)**

Introduction

846 Overview of Part 9

This Part contains some special rules about partnerships.

847 General provisions

(1) In this Act persons carrying on a trade in partnership are referred to collectively as a "firm".

(2) The provisions of this Part are expressed to apply to trades but unless otherwise indicated (whether expressly or by implication) also apply—

(a) to professions, and

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(b) in the case of this section and sections 849, 850, 857 and 858 to businesses that are not trades or professions.

(3) In those sections as applied by subsection (2)(b)—
(a) references to a trade are references to a business, and
(b) references to the profits of a trade are references to the income arising from a business.

848 Assessment of partnerships

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

Calculation of partners' shares

849 Calculation of firm's profits or losses

(1) If—
(a) a firm carries on a trade, and
(b) any partner in the firm is chargeable to income tax,
the profits or losses of the trade are calculated on the basis set out in subsection (2) or (3), as the case may require.

(2) For any period of account in which the partner is a UK resident individual, the profits or losses of the trade are calculated as if the firm were a UK resident individual.

(3) For any period of account in which the partner is non-UK resident, the profits or losses of the trade are calculated as if the firm were a non-UK resident individual.

850 Allocation of firm's profits or losses between partners

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

This is subject to subsections (2) and (4).

(2) If for the period of account the calculation under section 849 in relation to the partner produces a profit, but there is at least one loss-making partner—
(a) each loss-making partner's share is neither a profit nor a loss, and
(b) each profit-making partner's share is given by the formula in subsection (3).

(3) The formula is—

$$FP \times \frac{PP}{TP}$$

where—

FP is the amount of the firm's profit calculated under section 849 in relation to the partner,

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PP is the amount determined under subsection (1) to be the profit of the profit-making partner in question, and

TP is the total of the amounts determined under subsection (1) to be the profits of all the profit-making partners.

(4) If for the period of account the calculation under section 849 in relation to the partner produces a loss, but there is at least one profit-making partner—
  (a) each profit-making partner's share is neither a profit nor a loss, and
  (b) each loss-making partner's share is given by the formula in subsection (5).

(5) The formula is—

$$FL \times \frac{PL}{TL}$$

where—

FL is the amount of the firm's loss calculated under section 849 in relation to the partner,

PL is the amount determined under subsection (1) to be the loss of the loss-making partner in question, and

TL is the total of the amounts determined under subsection (1) to be the losses of all the loss-making partners.

(6) In this section—

"loss-making partner" means a partner whose share is determined under subsection (1) to be a loss,

"partner", in relation to a firm, means any partner in the firm, whether or not chargeable to income tax,

"profit-making partner" means a partner whose share is determined under subsection (1) to be a profit, and

"profit-sharing arrangements" means the rights of the partners to share in the profits of the trade and the liabilities of the partners to share in the losses of the trade.

851 Calculations etc. where firm has other income or losses

(1) This section applies if—
  (a) sections 849 and 850 apply in relation to the profits or losses of a trade carried on by a firm, and
  (b) the firm has other income or losses.

(2) Those sections also apply as if references to the profits or losses of the trade were references to the other income or losses.

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Firms with trading income

852 Carrying on by partner of notional trade

(1) For each tax year in which a firm carries on a trade (the "actual trade"), each partner's share of the firm's trading profits or losses is treated, for the purposes of Chapter 15 of Part 2 (basis periods), as profits or losses of a trade carried on by the partner alone (the "notional trade").

(2) A partner starts to carry on a notional trade at the later of—
  (a) when becoming a partner in the firm, and
  (b) when the firm starts to carry on the actual trade.

This is subject to subsection (3).

(3) If the partner carries on the actual trade alone before the firm starts to carry it on, the partner starts to carry on the notional trade when the partner starts to carry on the actual trade.

(4) A partner permanently ceases to carry on a notional trade at the earlier of—
  (a) when the partner ceases to be a partner in the firm, and
  (b) when the firm permanently ceases to carry on the actual trade.

This is subject to subsections (5) and (6).

(5) If the partner carries on the actual trade alone after the firm permanently ceases to carry it on, the partner permanently ceases to carry on the notional trade when the partner permanently ceases to carry on the actual trade.

(6) If—
  (a) the firm carries on the actual trade wholly or partly outside the United Kingdom, and
  (b) the partner becomes or ceases to be UK resident,

the partner is treated as permanently ceasing to carry on one notional trade when the change of residence occurs and starting to carry on another immediately afterwards.

(7) Subsection (6) does not prevent a loss made before the change of residence from being carried forward under section 385 of ICTA and set against profits arising after the change.

853 Basis periods for partners' notional trades

(1) The basis period of a partner's notional trade is determined by applying the rules in Chapter 15 of Part 2 as if—
  (a) the trade were carried on by an individual, and
  (b) its accounts were drawn up to the same dates as the accounts of the actual trade.

This is subject to subsection (2).

(2) If, on the assumption that the actual trade is carried on by an individual,—
  (a) section 216 (change of accounting date in later tax year) would apply in relation to the actual trade, but

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(b) the basis period for the actual trade would be given by subsection (4) of that section (ineffective change of accounting date), because the conditions in section 217 (conditions for basis period to end with new accounting date) would not be met in relation to that trade,

the accounts of the actual trade are treated for the purposes of subsection (1) as drawn up to the old accounting date.

(3) For the purposes of determining whether, on the assumption that the actual trade is carried on by an individual, the conditions in section 217 would be met in relation to that trade—

(a) a notice under section 217(2) must be given by one of the partners in the firm nominated by them for the purposes of this subsection, and

(b) any appeal under section 218(4) against a notice by the Inland Revenue must be made by a partner so nominated.

(4) Section 207 (treatment of business start-up payments received in overlap period) applies as a result of this section in relation to a partner's notional trade so that—

(a) the requirement in subsection (1)(a) of that section becomes a requirement that the partner's share of the firm's profits so far as attributable to a business start-up payment falls within two basis periods, and

(b) the reference in subsection (2) of that section to the payment is a reference to any part of the partner's share of the firm's profits which is so attributable.

Firms with trading and other source income

854 Carrying on by partner of notional business

(1) For each tax year in which a firm—

(a) carries on a trade, and

(b) has untaxed income or relievable losses from other sources,

each partner's share of the firm's untaxed income or relievable losses other than trading profits or losses is treated, for the purposes of Chapter 15 of Part 2, as profits or losses of a trade carried on by the partner alone (the "notional business").

(2) A partner starts to carry on a notional business at the later of—

(a) when becoming a partner in the firm, and

(b) when the firm starts to carry on a trade.

(3) A notional business continues even if either or both of the following occur—

(a) separate sources of income that comprise the business start and cease, and

(b) no income arises during a particular tax year.

This is subject to subsections (4) and (5).

(4) A partner permanently ceases to carry on a notional business at the earlier of—

(a) when the partner ceases to be a partner in the firm, and

(b) when the firm permanently ceases to carry on a trade.

(5) If—

(a) the firm carries on the trade wholly or partly outside the United Kingdom, and

(b) the partner becomes or ceases to be UK resident,

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the partner is treated as permanently ceasing to carry on one notional business when the change of residence occurs and starting to carry on another immediately afterwards.

(6) In this section "untaxed income" means any income that is not—
- (a) income from which income tax has been deducted,
- (b) income from or on which income tax is treated as having been deducted or paid, or
- (c) dividends or other distributions of a company chargeable under Chapter 3 of Part 4.

855 Basis periods for partners' notional businesses

(1) The general rule is that the basis period for a partner's notional business is the same as the basis period for a partner's notional trade, but subject to the exceptions in subsections (2) and (3).

(2) If the partner carries on the actual trade alone before the firm starts to carry it on the partner is treated as starting to carry on the notional business when the partnership is set up.

(3) If the partner carries on the actual trade alone after the firm permanently ceases to carry it on the partner is treated as permanently ceasing to carry on the notional business when the firm permanently ceases to carry on the actual trade.

856 Overlap profits from partners' notional businesses

(1) This section applies if—
- (a) the basis period for a partner's notional business for a tax year is given by—
  - (i) section 215 (change of accounting date in third tax year), or
  - (ii) section 216(3) (change of accounting date in later tax year),
- (b) a deduction is to be made for overlap profit under section 220 in calculating the profits of the notional business of the tax year, and
- (c) the amount to be deducted exceeds the amount which would otherwise be the amount of the profits of the notional business of the tax year.

(2) This section also applies if—
- (a) the basis period for a partner's notional business for a tax year is given by section 202 (final tax year),
- (b) a deduction is to be made for overlap profit under section 205 in calculating the profits of the notional business of the tax year, and
- (c) the amount to be deducted exceeds the amount which would otherwise be the amount of the profits of the notional business of the tax year.

(3) The amount of the excess is to be deducted in calculating the partner's income for the tax year.

Firms with a foreign element

857 Partners to whom the remittance basis may apply

(1) This section applies if—

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(a) a firm carries on a trade wholly or partly outside the United Kingdom,
(b) the control and management of the trade is outside the United Kingdom, and
(c) a partner who is a UK resident individual—
(i) meets condition A or B in section 831 (conditions to be met for income to be charged on the remittance basis), and
(ii) makes a claim to that effect for a tax year.

(2) The partner's share of the profits of the trade arising in the United Kingdom is determined in accordance with sections 849 to 856.

(3) The partner's share of the profits of the trade arising outside the United Kingdom is treated as relevant foreign income for the purposes of this Act (see Part 8).

858 Resident partners and double taxation agreements

(1) This section applies if—
(a) a UK resident ("the partner") is a member of a firm which—
(i) resides outside the United Kingdom, or
(ii) carries on a trade the control and management of which is outside the United Kingdom, and
(b) by virtue of any arrangements having effect under section 788 of ICTA ("the arrangements") any of the income of the firm is relieved from income tax in the United Kingdom.

(2) The partner is liable to income tax on the partner's share of the income of the firm despite the arrangements.

(3) If the partner's share of the income of the firm consists of or includes a share in a qualifying distribution—
(a) made by a UK resident company, and
(b) chargeable to tax under Chapter 3 of Part 4,
the partner (and not the firm) is, despite the arrangements, entitled to the share of the tax credit which corresponds to the partner's share of the distribution.

[[F52](4) For the purposes of this section the members of a firm include any person entitled to a share of income of the firm.**]**

Textual Amendments
F52 S. 858(4) inserted (retrospectively) by Finance Act 2008 (c. 9), **s. 58(3)(4)**

Miscellaneous

859 Special provisions about farming and property income

(1) The rule in section 9(2) (farming trades) operates in relation to firms so that—
(a) all farming in the United Kingdom which a firm carries on, other than farming carried on as part of another trade, is treated as one trade, but
(b) the farming carried on by a firm which is treated as one trade is not included in any farming trade of any partner in the firm.

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(2) Section 264 (UK property business) operates in relation to firms so that—
- (a) every business and transaction mentioned in that section carried on, or entered into, by a firm constitutes the firm's UK property business, but
- (b) each business or transaction included in the firm's UK property business is not included in any UK property business of any partner in the firm.

(3) Section 265 (overseas property business) operates in relation to firms so that—
- (a) every business and transaction mentioned in that section carried on, or entered into, by a firm constitutes the firm's overseas property business, but
- (b) each business or transaction included in the firm's overseas property business is not included in any overseas property business of any partner in the firm.

860 Adjustment income

(1) A change in the persons carrying on a trade from one period of account to the next does not prevent Chapter 17 of Part 2 (adjustment income) applying in relation to the trade so long as a person carrying on the trade immediately before the change continues to carry on the trade immediately after the change.

(2) A change in the persons carrying on a trade does not constitute the permanent cessation of the trade for the purposes of Chapter 17 of Part 2 so long as a person carrying on the trade immediately before the change continues to carry on the trade immediately after the change.

(3) In the case of a trade carried on by a firm the amount of any adjustment under Chapter 17 of Part 2 is calculated as if the firm were a UK resident individual.

(4) Each partner's share of any amount of adjustment income is determined according to the firm's profit-sharing arrangements for the 12 months ending immediately before the date on which the new basis was adopted.

(5) Any election under Chapter 17 of Part 2 must be made jointly by all the persons who have been members of the firm in that 12 month period.

(6) For the purposes of this section—
- (a) "adjustment income" and "change of basis" have the same meaning as in Chapter 17 of Part 2,
- (b) "profit-sharing arrangements" means the rights of the partners to share in the profits of the trade, and
- (c) references to the date on which a new basis was adopted are to the first day of the first period of account for which the new basis was adopted.

(7) Sections 849 to 856 do not apply so far as this section applies.

861 Sale of patent rights: effect of partnership changes

(1) This section applies if—
- (a) a person ("the trader") sells the whole or part of any patent rights in carrying on a trade, and
- (b) the tax condition, the partnership condition and the non-cessation condition are met.

(2) The tax condition is that—

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(a) tax is charged under section 587 on the proceeds of the sale or on any instalment of those proceeds, and

(b) by virtue of any of sections 590(2) or (4), 591(2) or 592(2), one sixth of the amount chargeable is charged in the tax year in which the trader receives the proceeds or the instalment and in each of the 5 subsequent tax years.

(3) The partnership condition is that—

(a) the trader is a firm at the time of the sale, or

(b) the trade is carried on in partnership at any time during the period beginning with the tax year in which the trader receives the proceeds or the instalment and ending with the last of the 5 subsequent tax years ("the tax spreading period").

(4) The non-cessation condition is that—

(a) there is a change in the persons carrying on the trade during the tax spreading period, and

(b) a person who carried on the trade immediately before the change continues to carry on the trade immediately after the change.

(5) Any amounts chargeable under section 587 during the remainder of the tax spreading period are charged on the person or persons for the time being carrying on the trade.

(6) Such amounts are charged as if—

(a) that person or those persons had at all times been carrying on the trade, and

(b) everything done to or by the predecessors of that person or those persons in carrying on the trade had been done to or by that person or those persons.

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

(1) This section applies if—

(a) a person ("the trader") sells the whole or part of any patent rights in carrying on a trade,

(b) by virtue of section 861 a charge under section 587 falls to be made on any person for the time being carrying on the trade in partnership,

(c) any such person permanently ceases to carry on the trade thereafter, and

(d) no person who carried on the trade immediately before the cessation continues to carry on the trade immediately after the cessation.

(2) Any amounts which would have been chargeable in later tax years are charged in the tax year in which the cessation occurs.

(3) Each partner's share (or, if the partner is dead, the share of the partner's personal representatives) of any additional amount chargeable under subsection (2) is determined in accordance with the firm's profit-sharing arrangements immediately before the cessation.

(4) If an additional amount is chargeable under subsection (2), the person liable may elect that the amount of income tax payable should be reduced to the amount that would have been payable on the assumptions mentioned in subsection (5).

(5) The assumptions are—

(a) that subsection (2) does not apply, and

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(b) that the total of the amounts that would have been charged in later tax years is charged in equal instalments in each of the tax years—

(i) beginning with the year in which the trader received the proceeds of the sale or instalment of those proceeds, and

(ii) ending with the year in which the cessation occurs.

(6) The election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the cessation occurred.

(7) For the purposes of this section "profit-sharing arrangements" means the rights of the partners to share in the profits of the trade.

863 Limited liability partnerships

(1) For income tax purposes, if a limited liability partnership carries on a trade, profession or business with a view to profit—

(a) all the activities of the limited liability partnership are treated as carried on in partnership by its members (and not by the limited liability partnership as such),

(b) anything done by, to or in relation to the limited liability partnership for the purposes of, or in connection with, any of its activities is treated as done by, to or in relation to the members as partners, and

(c) the property of the limited liability partnership is treated as held by the members as partnership property.

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

(2) For all purposes, except as otherwise provided, in the Income Tax Acts—

(a) references to a firm include a limited liability partnership in relation to which subsection (1) applies,

(b) references to members of a firm include members of such a limited liability partnership,

(c) references to a company do not include such a limited liability partnership, and

(d) references to members of a company do not include members of such a limited liability partnership.

(3) Subsection (1) continues to apply in relation to a limited liability partnership which no longer carries on any trade, profession or business with a view to profit—

(a) if the cessation is only temporary, or

(b) during a period of winding up following a permanent cessation, provided—

(i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and

(ii) the period of winding up is not unreasonably prolonged.

This is subject to subsection (4).

(4) Subsection (1) ceases to apply in relation to a limited liability partnership—

(a) on the appointment of a liquidator or (if earlier) the making of a winding-up order by the court, or

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(b) on the occurrence of any event under the law of a territory outside the United Kingdom corresponding to an event specified in paragraph (a).

PART 10

GENERAL PROVISIONS

CHAPTER 1

INTRODUCTION

864 Overview of Part 10

This Part —

(a) contains general rules which are of wider application than to a particular Part of this Act including certain calculation rules (see Chapter 2), and

(b) deals with supplementary matters including general definitions (see Chapter 3).

CHAPTER 2

GENERAL CALCULATION RULES ETC.

Unpaid remuneration

865 Unpaid remuneration: non-trades and non-property businesses

(1) This section applies if, in calculating profits or other income of a period of account for income tax purposes—

(a) an amount is charged in the accounts for the period in respect of employees' remuneration, and

(b) a deduction for the remuneration would otherwise be allowable for the period.

(2) For this purpose "profits or other income" does not include the profits of—

(a) a trade, profession or vocation, or

(b) a property business,

but see subsection (6).

(3) No deduction is allowed for the remuneration for the period of account unless it is paid before the end of the period of 9 months immediately following the end of the period of account.

(4) If the remuneration is paid after the end of that 9 month period, a deduction for it is allowed for the period of account in which it is paid.

(5) Section 37 (supplementary provision) applies for the purposes of this section as it applies for the purposes of section 36 (unpaid remuneration: trades, professions and vocations).

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(6) Provision corresponding to that made by this section is made by—
- (a) sections 36 and 37 (in relation to trades, professions and vocations), and
- (b) section 272 (in relation to property businesses).

Employee benefit contributions

866 Employee benefit contributions: non-trades and non-property businesses

(1) This section applies if, in calculating a person's profits or other income of a period for income tax purposes—
- (a) the profits or other income of the period are required to be calculated for those purposes, and
- (b) a deduction would otherwise be allowable for the period for any employee benefit contributions made or to be made by the person ("the employer") (but see subsection (5)).

(2) For this purpose "profits or other income" does not include the profits of—
- (a) a trade, profession or vocation, or
- (b) a property business,

but see subsection (7).

(3) No deduction is allowed for the contributions for the period except so far as—
- (a) qualifying benefits are provided, or qualifying expenses are paid, out of the contributions during the period or within 9 months from the end of it, or
- (b) if the making of the contributions is itself the provision of qualifying benefits, the contributions are made during the period or within 9 months from the end of it.

(4) An amount disallowed under subsection (3) is allowed as a deduction for a subsequent period so far as—
- (a) qualifying benefits are provided out of the contributions before the end of the subsequent period, or
- (b) if the making of the contributions is itself the provision of qualifying benefits, the contributions are made before the end of the subsequent period.

(5) This section does not apply to any deduction that is allowable for—
- (a) anything given as consideration for goods or services provided in the course of a trade or profession,
- (b) contributions under a registered pension scheme or under a superannuation fund to which section 615(3) of ICTA applies,
- (c) contributions under a qualifying overseas pension scheme in respect of an individual who is a relevant migrant member of the pension scheme in relation to the contributions, or
- (d) contributions under an accident benefit scheme.

For the purposes of paragraph (c) "qualifying overseas pension scheme" and "relevant migrant member" have the same meaning as in Schedule 33 to FA 2004 (see paragraphs 4 to 6 of that Schedule).

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(6) Sections 39 to 44 (supplementary provisions) apply for the purposes of this section as they apply for the purposes of section 38 (employee benefit contributions: trades, professions and vocations).

(7) Provision corresponding to that made by this section is made by—
- (a) sections 38 to 44 (in relation to trades, professions and vocations), and
- (b) section 272 (in relation to property businesses).

Business entertainment and gifts

867 Business entertainment and gifts: non-trades and non-property businesses

(1) This section applies for the purpose of calculating profits or other income charged to income tax which arise from the carrying on of a business.

(2) For this purpose "business" does not include—
- (a) a trade, profession or vocation, or
- (b) a property business,

but see subsection (7).

(3) The general rule is that no deduction is allowed in calculating the profits or other income for expenses incurred in providing entertainment or gifts in connection with the business.

(4) A deduction for expenses which are incurred—
- (a) in paying sums to or on behalf of an employee of the person carrying on the business, or
- (b) in putting sums at the disposal of an employee of that person,

is prohibited by the general rule if (and only if) the sums are paid, or put at the employee's disposal, exclusively for meeting expenses incurred or to be incurred by the employee in providing the entertainment or gift.

(5) The general rule is subject to—

section 46 (business entertainment: exceptions), and

section 47 (business gifts: exceptions),

which apply in relation to a business as they apply in relation to a trade (but as if the reference to a basis period were to a tax year).

(6) For the purposes of this section and those two sections as so applied—
- (a) "employee", in relation to a company, includes a director of the company and a person engaged in the management of the company,
- (b) "entertainment" includes hospitality of any kind, and
- (c) the expenses incurred in providing entertainment or a gift include expenses incurred in providing anything incidental to the provision of entertainment or a gift.

(7) Provision corresponding to that made by this section is made by—
- (a) sections 45 to 47 (in relation to trades, professions and vocations), and
- (b) section 272 (in relation to property businesses).

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Social security contributions

868 Social security contributions: non-trades etc.

(1) This section applies for the purpose of calculating profits or other income charged to income tax.

(2) For this purpose "profits or other income" does not include—
- (a) the profits of a trade, profession, or vocation,
- (b) the profits of a property business, or
- (c) employment income,

but see subsection (6).

(3) No deduction is allowed for any contribution paid by any person under—
- (a) Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4), or
- (b) Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

(4) But this prohibition does not apply to an employer's contribution.

(5) For this purpose "an employer's contribution" means—
- (a) a secondary Class 1 contribution,
- (b) a Class 1A contribution, or
- (c) a Class 1B contribution,

within the meaning of Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4) or of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

(6) Provision corresponding to that made by this section is made by—
- (a) section 53 (in relation to trades, professions and vocations),
- (b) section 272 (in relation to property businesses), and
- (c) section 360A of ITEPA 2003 (in relation to employment income).

Penalties, interest and VAT surcharges

869 Penalties, interest and VAT surcharges: non-trades etc.

(1) This section applies for the purpose of calculating profits or other income charged to income tax.

(2) For this purpose "profits or other income" does not include the profits of—
- (a) a trade, profession, or vocation, or
- (b) a property business,

but see subsection (6).

(3) No deduction is allowed for any penalty or interest mentioned in the first column of the following table.

(4) This is the table—

Penalty or interest	***Description of tax, levy or duty***

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Interest under any provision of Part 9 of TMA 1970	Income tax, capital gains tax and corporation tax
Interest required to be paid by regulations made under section 71 of FA 2004 (construction industry)	
Penalty under any of sections 60 to 70 of VATA 1994	Value added tax
Interest under section 74 of VATA 1994	
Penalty under any of sections 8 to 11 of FA 1994	Excise duties
Penalty under any of paragraphs 12 to 19 of Schedule 7 to FA 1994	Insurance premium tax
Interest under paragraph 21 of that Schedule	
Penalty under any provision of Part 5 of Schedule 5 to FA 1996	Landfill tax
Interest under paragraph 26 or 27 of that Schedule	
Penalty under any provision of Schedule 6 to FA 2000	Climate change levy
Interest under any of paragraphs 70, 81 to 85 and 109 of that Schedule	
Penalty under any provision of Part 2 of FA 2001	Aggregates levy
Interest under any of paragraphs 5 to 9 of Schedule 5 to, paragraph 6 of Schedule 8 to and paragraph 5 of Schedule 10 to FA 2001	
Penalty under section 25 or 26 of FA 2003	Customs, export and import duties
Penalty under any provision of Part 4 of FA 2003	Stamp duty land tax
Interest under any provision of that Part	

(5) No deduction is allowed for any surcharge under section 59 of VATA 1994.

(6) Provision corresponding to that made by this section is made by—

(a) section 54 (in relation to trades, professions and vocations), and

(b) section 272 (in relation to property businesses).

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Crime-related payments

870 Crime-related payments: non-trades and non-property businesses

(1) This section—

(a) applies for the purpose of calculating profits or other income charged to income tax, but

(b) does not apply for the purpose of calculating the profits of a trade, profession or vocation or of a property business (but see subsection (4)).

(2) No deduction is allowed for expenses incurred—

(a) in making a payment if the making of the payment constitutes a criminal offence, or

(b) in making a payment outside the United Kingdom if the making of a corresponding payment in any part of the United Kingdom would constitute a criminal offence in that part.

(3) No deduction is allowed for expenses incurred in making a payment induced by a demand which constitutes—

(a) the offence of blackmail under section 21 of the Theft Act 1968 (c. 60) (England and Wales),

(b) the offence of extortion (Scotland), or

(c) the offence of blackmail under section 20 of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (Northern Ireland).

(4) Provision corresponding to that made by this section is made by—

(a) section 55 (in relation to trades, professions and vocations), and

(b) section 272 (in relation to property businesses).

Apportionment of profits

871 Apportionment etc. of miscellaneous profits to tax year

(1) This section applies if—

(a) income is chargeable to income tax under or by virtue of any provision to which section 836B of ICTA applies, and

(b) any period for which the accounts are drawn up (a "period of account") does not coincide with a tax year.

(2) For this purpose the reference to any provision to which section 836B of ICTA applies is to be read as if subsection (4)(a) of that section were omitted (exclusion for relevant foreign income charged under this Act).

(3) Any of the following steps may be taken if they are necessary in order to arrive at the profits or losses of the tax year—

(a) apportioning the profits or losses of a period of account to the parts of that period falling in different tax years, 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).

(4) The steps must be taken by reference to the number of days in the periods concerned.

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(5) But the person to whom the profits or losses arise may use a different way of measuring the length of the periods concerned if—
  (a) it is reasonable to do so, and
  (b) the way of measuring the length of periods is used consistently for the purpose of charging to income tax the income in question.

Calculation of losses

872 Losses calculated on same basis as miscellaneous income

(1) The same rules apply for income tax purposes in calculating miscellaneous losses as apply in calculating corresponding miscellaneous income.

(2) This is subject to any express provision to the contrary.

(3) In this section—
  (a) "miscellaneous income" means profits or other income charged to income tax under or by virtue of a provision to which section 836B of ICTA applies, and
  (b) "miscellaneous losses" means losses arising from a transaction which is of such a nature that, if profits or other income had arisen from it, the income would have been charged to income tax under or by virtue of such a provision.

(4) Provision corresponding to that made by this section is made by—
  (a) section 26 (in relation to trades, professions and vocations), and
  (b) section 272 (in relation to property businesses).

CHAPTER 3

SUPPLEMENTARY AND GENERAL PROVISIONS

Orders and regulations

873 Orders and regulations made by Treasury or Board

(1) Any power of the Treasury or the Board of Inland Revenue to make any order or regulations under this Act is exercisable by statutory instrument.

(2) Any statutory instrument containing any order or regulations made by the Treasury or the Board of Inland Revenue under this Act is subject to annulment in pursuance of a resolution of the House of Commons.

(3) Subsection (2) does not apply in relation to any order or regulations made under—
  (a) section 86 (meaning of "urban regeneration company"),
  (b) section 724 (purchased life annuity payments),
  (c) section 774 (income from securities issued by designated international organisations), or
  (d) section 883(5) (transitional or saving provision).

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Interpretation

874 Activities in UK sector of continental shelf

(1) Any profits—

(a) from exploration or exploitation activities carried on in the UK sector of the continental shelf, or

(b) from exploration or exploitation rights,

are treated for income tax purposes as profits from activities or property in the United Kingdom.

(2) In this section—

"exploration or exploitation activities" means activities carried on in connection with the exploration or exploitation of so much of the seabed and subsoil and their natural resources as is situated in the United Kingdom or the UK sector of the continental shelf,

"exploration or exploitation rights" means rights to assets to be produced by exploration or exploitation activities or interests in or to the benefit of such assets, and

"the UK sector of the continental shelf" means the areas designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (c. 29).

875 Meaning of "caravan"

(1) In this Act "caravan" means—

(a) a structure designed or adapted for human habitation which is capable of being moved by being towed or being transported on a motor vehicle or trailer, or

(b) a motor vehicle designed or adapted for human habitation,

but does not include railway rolling stock which is on rails forming part of a railway system or any tent.

(2) A structure composed of two sections—

(a) separately constructed, and

(b) designed to be assembled on a site by means of bolts, clamps or other devices,

is not prevented from being a caravan just because it cannot, when assembled, be lawfully moved on a highway (or, in Scotland or Northern Ireland, road) by being towed or being transported on a motor vehicle or trailer.

876 Meaning of "farming" and related expressions

(1) In this Act "farming" means the occupation of land wholly or mainly for the purposes of husbandry, but does not include market gardening (see subsection (5)).

(2) Husbandry includes (for example)—

(a) hop growing, and

(b) the breeding and rearing of horses and the grazing of horses in connection with those activities.

(3) For the purposes of this Act the cultivation of short rotation coppice is regarded as farming and not as forestry.

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(4) In this Act "woodlands" does not include land on which short rotation coppice is cultivated.

(5) In this Act "market gardening" means the occupation of land as a garden or nursery for the purpose of growing produce for sale.

(6) For the purposes of this section "short rotation coppice" means a perennial crop of tree species planted at high density, the stems of which are harvested above ground level at intervals of less than 10 years.

877 Meaning of grossing up

(1) In this Act references to grossing up by reference to a rate of tax are to calculating the amount ("the gross amount") which after deduction of income tax at that rate would equal the amount to be grossed up ("the net amount").

(2) The gross amount is the sum of the net amount and the tax deducted.

(3) The gross amount may also be expressed as—

$$\mathrm{GA} = \mathrm{NA} + \left(\mathrm{NA} \times \frac{R}{100 - R}\right)$$

where—

GA is the gross amount,

NA is the net amount, and

R is the percentage rate of tax by reference to which the net amount is to be grossed up.

878 Other definitions

(1) In this Act, unless otherwise indicated (whether expressly or by implication)—

"the Board of Inland Revenue" means the Commissioners of Inland Revenue,

"charity" means a body of persons or trust established for charitable purposes only,

"houseboat" means a boat or similar structure designed or adapted for use as a place of human habitation,

"income" includes amounts treated as income (whether expressly or by implication),

"the Inland Revenue" means any officer of the Board of Inland Revenue,

"non-UK resident" means not resident in the United Kingdom (and references to a non-UK resident or a non-UK resident person are to a person who is not resident there),

"normal self-assessment filing date", in relation to a tax year, means the 31st January following the tax year,

"personal representatives", in relation to a person who has died, means—

(a) in the United Kingdom, persons responsible for administering the estate of the deceased, and

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(b) in a territory outside the United Kingdom, those persons having functions under its law equivalent to those of administering the estate of the deceased,

"tax year", in relation to income tax, means a year for which any Act provides for income tax to be charged,

"the tax year 2005-06" means the tax year beginning on 6th April 2005 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way), and

"UK resident" means resident in the United Kingdom (and references to a UK resident or a UK resident person are to a person who is resident there).

(2) For the purposes of this Act, the remittance basis applies to a person for a tax year for which the person makes a claim under section 831 (claims for relevant foreign income to be charged on the remittance basis).

(3) In this Act any reference to a claim or election is to a claim or election in writing or in any form authorised (in relation to the case in question) by directions under section 118 of FA 1998.

(4) For further information about claims and elections, see TMA 1970 (in particular, section 42(2), (10) and (11) and Schedule 1A).

(5) Section 839 of ICTA (how to tell whether persons are connected) applies for the purposes of this Act unless otherwise indicated (whether expressly or by implication).

(6) Section 840 of ICTA (meaning of control in relation to a body corporate) applies for the purposes of this Act unless otherwise indicated (whether expressly or by implication).

879 Interpretation: Scotland

(1) In the application of this Act to Scotland—

"assignment" means an assignation,

"mortgage" means—

(a) a standard security, or

(b) a heritable security, as defined in the Conveyancing (Scotland) Act 1924 (c. 27), but including a security constituted by ex facie absolute disposition or assignation, and

"surrender" includes renunciation.

(2) In the application of this Act to Scotland, any reference to property or rights being held on trust or on trusts is a reference to the property or rights being held in trust.

(3) In the application of section 755 (interest on foreign currency securities etc. owned by non-UK residents) to Scotland, "Act" includes an Act of the Scottish Parliament.

(4) In the application of sections 769 (housing grants) and 882 (consequential amendments) and Part 1 of Schedule 2 (transitionals and savings: general provisions) to Scotland, "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

(5) The express provision made by subsection (4) does not affect the construction of "enactment" in the application of section 631 (retained and accumulated income) to Scotland.

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880 Interpretation: Northern Ireland

(1) In the application of section 755 (interest on foreign currency securities etc. owned by non-UK residents) to Northern Ireland, "Act" includes any Act, Order in Council or Measure constituting Northern Ireland legislation.

(2) In the application of section 769 (housing grants) and 882 (consequential amendments) and Part 1 of Schedule 2 (transitionals and savings: general provisions) to Northern Ireland, "enactment" includes an enactment comprised in, or in an instrument made under, Northern Ireland legislation.

(3) The express provision made by subsection (2) does not affect the construction of "enactment" in the application of section 631 (retained and accumulated income) to Northern Ireland.

General and final

881 Disapplication of corporation tax: section 9 of ICTA

Section 9 of ICTA (computation of income for corporation tax purposes: application of income tax principles) does not operate on the provisions of this Act so as to convert them into provisions of the Corporation Tax Acts.

882 Consequential amendments

(1) Schedule 1 (which contains consequential amendments) has effect.

(2) The Treasury may by order make such modifications of any enactment or provision made under an enactment as the Treasury consider appropriate in consequence of this Act.

(3) In subsection (2) "modifications" includes amendments or repeals.

(4) An order under subsection (2)—
  (a) must not change the effect of the law as it was immediately before 6th April 2005, and
  (b) may include such transitional or saving provision as the Treasury consider appropriate.

(5) Subsection (4)(a) does not apply so far as an order contains provision made in consequence of a change already made by this Act in the effect of the law.

Commencement Information

I1 S. 882 wholly in force at 6.4.2005; s. 882(2)-(5) in force at Royal Assent and s. 882(1) in force at 6.4.2005 see s. 883

883 Commencement and transitional provisions etc.

(1) This Act comes into force on 6th April 2005 and has effect—
  (a) for income tax purposes, for the tax year 2005-06 and subsequent tax years, and

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(b) for corporation tax purposes, for accounting periods ending after 5th April 2005.

(2) Subsection (1) is subject to subsections (3) to (5) (including Schedule 2).

(3) Subsection (1) does not apply to the following provisions of this Act (which therefore come into force on the passing of this Act)—

(a) section 873 (orders and regulations made by Treasury or Board),
(b) sections 875 to 881 (certain interpretation and general provisions),
(c) section 882(2) to (5) (power to make consequential amendments),
(d) this section other than subsection (4) below,
(e) section 885 and Schedule 4 (abbreviations and general index),
(f) section 886 (short title), and
(g) paragraphs 78 and 148(5) of Schedule 2 (powers relating to open-ended investment companies and periodical payments of personal injury damages etc.) and subsection (4) below so far as it applies for the purposes of those provisions.

(4) Schedule 2 (which contains transitional provisions and savings etc.) has effect.

(5) The Treasury may by order make such transitional or saving provision as the Treasury consider appropriate in connection with the coming into force of this Act.

Commencement Information

I2 S. 883 wholly in force at 6.4.2005; s. 883(1)-(3)(5) in force at Royal Assent and s. 883(4) in force for certain purposes at Royal Assent and s. 883(4) in force at 6.4.2005 in so far as not already in force see s. 883

884 Repeals and revocations

Schedule 3 (which contains repeals and revocations of enactments including certain spent enactments) has effect.

885 Abbreviations and general index in Schedule 4

(1) Schedule 4 (which contains abbreviations and defined expressions that apply for the purposes of this Act) has effect.

(2) Part 1 of that Schedule gives the meaning of the abbreviated references to Acts used in this Act.

(3) Part 2 of that Schedule lists the places where expressions used in this Act are defined or otherwise explained—

(a) in this Act for the purposes of this Act or for purposes including this Act,
(b) in this Act for the purposes of a Part or Chapter of this Act, or
(c) in ICTA or ITEPA 2003 for the purposes of this Act.

886 Short title

This Act may be cited as the Income Tax (Trading and Other Income) Act 2005.

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