These notes refer to the Income Tax (Trading and Other Income) Act 2005 (c.5) which received Royal Assent on 24 March 2005

INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Property income

Chapter 5: Profits of property businesses: other rules about receipts and deductions

Section 321: Mutual business

1318. This section makes it clear that the concept of "mutuality" does not apply in the property income context. It is based on section 21C of ICTA.

1319. Mutuality is a concept that has been developed by the courts over a long period. It derives from the principle that one cannot make a profit out of oneself. It may arise in the trading context where a class of contributors to a common fund are entitled, as a class, to share in the surpluses of that fund.

1320. The approach in section 321 is different from that in section 21C of ICTA and simpler. The approach in section 21C of ICTA is to apply the normal profit calculation rules to any "mutual business" and add the result to the profits of the rest of the Schedule A business. Section 321 on the other hand prevents, from the outset, the concept of mutuality operating on amounts within Part 3 of this Act.