

# **INCOME TAX (TRADING AND OTHER INCOME) ACT 2005**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 5: Miscellaneous income**

#### ***Chapter 2: Receipts from intellectual property***

##### **Overview**

2256. This Chapter incorporates three charges to income tax in respect of intellectual property. The Chapter includes a charge to income tax on royalties and other receipts from intellectual property arising both within and outside the United Kingdom. In this context, intellectual property includes patents, trade marks, registered designs and design rights, copyright, performer's rights or plant breeder's rights. The Chapter also charges to income tax capital sums arising from the disposal of know-how in certain circumstances and capital sums from the sale of patent rights.
2257. The following are excluded from the scope of this Chapter:
- royalties or other receipts from intellectual property which form part of the profits of a trade (dealt with in Part 2 of this Act);
  - capital sums from the disposal of know-how which are treated either as trading receipts or as a payment for goodwill (dealt with in Part 2 of this Act or in TCGA); or
  - balancing charges for certain forms of intellectual property included in CAA.
2258. [Sections 536](#) (taxation of royalties where owner abroad), [537](#) (public lending right) and [537B](#) (taxation of design royalties where owner abroad) of ICTA are not rewritten. These provisions all relate to deduction of tax at source under section 349(1) of ICTA.