



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 2

TRADING INCOME

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.

f¹ Cash basis accounting

Textual Amendments

- F1** S. 32A and cross-heading inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 7](#)

32A Application of Chapter to the cash basis

- (1) The following sections do not apply in calculating the profits of a trade on the cash basis—
section 33 (capital expenditure),

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

section 35 (bad and doubtful debts),
 sections 36 and 37 (unpaid remuneration),
 section 43 (employee benefit contributions: profits calculated before end of 9 month period),
 sections 48 to 50B (car hire).

- (2) For rules restricting deductions that apply only where profits are calculated on the cash basis, see the following—
 section 33A (cash basis: capital expenditure),
 section 51A (cash basis: interest payments on loans).]

Capital expenditure

33 Capital expenditure

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

[^{F2}33A Cash basis: capital expenditure

- (1) This section applies in relation to the calculation of the profits of a trade on the cash basis.
- (2) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the acquisition or disposal of a business or part of a business.
- (3) No deduction is allowed for an item of a capital nature incurred on, or in connection with, education or training.
- (4) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the provision, alteration or disposal of—
 - (a) any asset that is not a depreciating asset (see subsections (6) and (7)),
 - (b) any asset not acquired or created for use on a continuing basis in the trade,
 - (c) a car (see subsection (14)),
 - (d) land,
 - (e) a non-qualifying intangible asset (see subsections (8) to (11)), or
 - (f) a financial asset (see subsection (12)).
- (5) But subsection (4)(d) does not prevent a deduction being made for expenditure that—
 - (a) is incurred on the provision of a depreciating asset which, in being provided, is installed or otherwise fixed to land so as to become, in law, part of the land, but
 - (b) is not incurred on, or in connection with, the provision of—
 - (i) a building,
 - (ii) a wall, floor, ceiling, door, gate, shutter or window or stairs,
 - (iii) a waste disposal system,
 - (iv) a sewerage or drainage system, or
 - (v) a shaft or other structure in which a lift, hoist, escalator or moving walkway may be installed.
- (6) An asset is a “depreciating” asset if, on the date the item of a capital nature is incurred, it is reasonable to expect that before the end of 20 years beginning with that date—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) the useful life of the asset will end, or
 - (b) the asset will decline in value by 90% or more.
- (7) The useful life of an asset ends when it could no longer be of use to any person for any purpose as an asset of a business.
- (8) “Intangible asset” means anything that is capable of being an intangible asset within the meaning of FRS 105 and, in particular, includes—
 - (a) an internally-generated intangible asset, and
 - (b) intellectual property.
- (9) An intangible asset is “non-qualifying” unless, by virtue of having a fixed maximum duration, it must cease to exist before the end of 20 years beginning with the date on which the item of a capital nature is incurred.
- (10) An intangible asset is “non-qualifying” if it consists of a right, whether conditional or not, to obtain an intangible asset without a fixed maximum duration by virtue of which that asset must, assuming the right is exercised at the last possible time, cease to exist before the end of 20 years beginning with the date on which the item of a capital nature is incurred.
- (11) Where—
 - (a) the trader has an intangible asset, and
 - (b) the trader grants a licence or any other right in respect of that asset to another person,
 any intangible asset that consists of a licence or other right granted to the trader in respect of the intangible asset mentioned in paragraph (a) is “non-qualifying”.
- (12) A “financial asset” means any right under or in connection with—
 - (a) a financial instrument, or
 - (b) an arrangement that is capable of producing a return that is economically equivalent to a return produced under any financial instrument.
- (13) A reference to acquisition, provision, alteration or disposal includes potential acquisition, provision, alteration or (as the case may be) disposal.
- (14) In this section—
 - “arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
 - “building” includes any fixed structure;
 - “car” has the same meaning as in Part 2 of CAA 2001 (see section 268A of that Act);
 - “financial instrument” has the same meaning as in FRS 105;
 - “FRS 105” means Financial Reporting Standard 105 (the Financial Reporting Standard applicable to the Micro-entities Regime), issued by the Financial Reporting Council in July 2015;
 - “intellectual property” means—
 - (a) any patent, trade mark, registered design, copyright or design right, plant breeders' rights or rights under section 7 of the Plant Varieties Act 1997,
 - (b) any right under the law of a country or territory outside the United Kingdom corresponding or similar to a right within paragraph (a),

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (c) any information or technique not protected by a right within paragraph (a) or (b) but having industrial, commercial or other economic value, or
 - (d) any licence or other right in respect of anything within paragraph (a), (b) or (c);
- “provision” includes creation, construction or acquisition;
- “the trader” means the person carrying on the trade.]

Textual Amendments

- F2** S. 33A substituted (16.11.2017) (with effect in accordance with Sch. 2 para. 64 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 2 para. 2](#)

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.

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.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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

- [^{F3}(1) This section applies if, in calculating for income tax purposes the profits of a trade of a person (“the employer”) for a period, a deduction would otherwise be allowable for the period in respect of employee benefit contributions made or to be made (but see subsection (4)).]
- [^{F4}(1A) No deduction is allowed under this section in respect of employee benefit contributions for a period of account which starts more than 5 years after the end of the period of account in which the contributions are made.]
- (2) No deduction is allowed for the contributions for the period except so far as—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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.

[^{F5}(2AA) Subsection (2) is subject to subsections (1A) and (2AB).

(2AB) Where subsection (3C) applies, no deduction is allowed for an amount in respect of the contributions for the period except so far as the amount is a qualifying amount (see subsection (3D)).]

[^{F6}(2A) In calculating for income tax purposes the profits of a trade on the cash basis, this section has effect as if—

- (a) in subsection (1), the words “or to be made” were omitted, and
- (b) in subsection (2), the words “or within 9 months from the end of it” were omitted (in both places).]

(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.

[^{F7}(3A) Subsection (3) is subject to subsections (1A) and (3B).

(3B) Where subsection (3C) applies, an amount disallowed under subsection (2) is allowed as a deduction for a subsequent period only so far as it is a qualifying amount.

(3C) This subsection applies where the provision of qualifying benefits out of, or by way of, the contributions gives rise both to an employment income tax charge and to an NIC charge.

(3D) An amount in respect of employee benefit contributions is a “qualifying amount” if the relevant tax charges are paid before the end of the relevant period (and are not repaid).

(3E) For the purposes of subsection (3D)—

- (a) the “relevant tax charges”, in relation to an amount, are the employment income tax charge and the NIC charge arising in respect of benefits which are provided out of, or by way of, that amount, and
- (b) the “relevant period” is the period of 12 months immediately following the end of the period of account for which the deduction for the employee benefit contributions would (apart from this section) be allowable.

(3F) For the purposes of subsections (3C) and (3E), “employment income tax charge” and “NIC charge” have the meaning given by section 40(7).]

[^{F8}(3G) Subsection (3H) applies where—

- (a) a deduction would, apart from this section, be allowable for an amount (the “remuneration amount”) in respect of employees' remuneration, and
- (b) in consequence of the payment of the employees' remuneration, employee benefit contributions are made, or are to be made, in respect of the remuneration amount.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(3H) In calculating for income tax purposes the profits of a trade, the deduction referred to in subsection (3G)(a) is to be treated as a deduction in respect of employee benefit contributions made or to be made (and is to be treated as not being a deduction in respect of employees' remuneration).]

(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).

Textual Amendments

- F3** S. 38(1) substituted (with effect as stated in s. 34(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 34(8)
- F4** S. 38(1A) inserted (16.11.2017) (with effect in accordance with s. 36(11) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 36(2)
- F5** S. 38(2AA)(2AB) inserted (16.11.2017) (with effect in accordance with s. 36(11) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 36(3)
- F6** S. 38(2A) inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 9](#)
- F7** S. 38(3A)-(3F) inserted (16.11.2017) (with effect in accordance with s. 36(11) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 36(4)
- F8** S. 38(3G)(3H) inserted (16.11.2017) (with effect in accordance with s. 36(12) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 36(5)

39 Making of “employee benefit contributions”

[^{F9}(1) For the purposes of section 38, an “employee benefit contribution” is made if, as a result of any act or omission—

- (a) property is held, or may be used, under an employee benefit scheme, or
- (b) there is an increase in the total value of property that is so held or may be so used (or a reduction in any liabilities under an employee benefit scheme).]

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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 ^{F10} or persons linked with present or former employees of the employer] .
- ^{F11}(3) Section 554Z1 of ITEPA 2003 applies for the purposes of subsection (2) but as if references to A were to a present or former employee of the employer.
- (4) So far as it is not covered by subsection (2), “employee benefit scheme” also means—
- ^{F12}(a) an arrangement (the “relevant arrangement”) which is—
- (i) an arrangement within subsection (1)(b) of section 554A of ITEPA 2003 to which subsection (1)(c) of that section applies, or
 - (ii) an arrangement within subsection (1)(b) of section 554AA of ITEPA 2003 to which subsection (1)(c) of that section applies,] or
- (b) any other arrangement connected (directly or indirectly) with the relevant arrangement.]

Textual Amendments

- F9** S. 39(1) substituted (19.7.2007 with effect as stated in s. 34(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 34\(9\)](#)
- F10** Words in s. 39(2) inserted (with effect in accordance with Sch. 2 para. 52-59 61 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 36\(2\)](#)
- F11** S. 39(3)(4) inserted (with effect in accordance with Sch. 2 para. 52-59 61 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 36\(3\)](#)
- F12** S. 39(4)(a) substituted (with effect in accordance with Sch. 1 para. 15 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 1 para. 6](#)

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^{F13} and the payment or transfer—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) gives rise to an employment income tax charge under Chapter 2 of Part 6 of ITEPA 2003 or under Part 9 of that Act, or
 - (b) is an excluded benefit as defined in section 393B(3) of that Act.]
- (6) None of the conditions is met if the payment or transfer is by way of loan.
- [^{F14}(6A) For the purposes of section 38 qualifying benefits are also provided if—
- (a) a relevant step within the meaning of Part 7A of ITEPA 2003 is taken, and
 - (b) Chapter 2 of that Part applies by reason of the step.]
- (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.

Textual Amendments

- F13** Words in s. 40(5) inserted (with effect in accordance with Sch . 2 para. 52-59 62 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 37\(2\)](#)
- F14** S. 40(6A) inserted (with effect in accordance with Sch . 2 para. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 37\(3\)](#)

41 Timing and amount of certain qualifying benefits

- [^{F15}(1) If the provision of a qualifying benefit takes the form of a payment of money, the benefit, so far as Chapter 4 of Part 2 of ITEPA 2003 applies to the money, is provided for the purposes of section 38 when the money is treated as received for the purposes of that Chapter (applying the rules in section 18 of that Act (receipt of money earnings)).]
- [^{F16}(1A) Except so far as subsection (1) applies to the provision of the qualifying benefit, if the provision of a qualifying benefit is a chargeable relevant step, for the purposes of section 38—
- (a) the benefit is provided when A's employment with B starts if the chargeable relevant step is taken before then, or
 - (b) otherwise, the benefit is provided when the chargeable relevant step is taken.]
- (2) If the provision of a qualifying benefit takes the form of a transfer of an asset [^{F17} which meets condition A, B, C or D in section 40], the amount provided for the purposes of section 38 is the total of—
- (a) the amount (if any) spent on the asset by [^{F18}a scheme manager] , ^{F19}...
 - (b) in a case where the asset was transferred to [^{F18}a scheme manager] 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^{F20}, and
 - (c) if the transfer is a chargeable relevant step, the cost of the relevant step so far as not covered by paragraph (a) or (b).]

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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.
- [^{F21}(4) If the provision of a qualifying benefit is a chargeable relevant step which does not involve a sum of money (see section 554Z(10) of ITEPA 2003) and is not covered by subsection (2), the amount provided for the purposes of section 38 is the cost of the relevant step (subject to subsection (5)).
- (5) If the provision of a qualifying benefit is a chargeable relevant step which is not covered by subsection (2) (whether or not it involves a sum of money), the amount provided for the purposes of section 38 is not to exceed the amount that—
- (a) is charged to tax under ITEPA 2003 in relation to the relevant step (whether under Part 7A of that Act or otherwise), or
 - (b) would be charged had not A been non-UK resident in any tax year.
- (6) In this section—
- (a) “chargeable relevant step” means a relevant step within the meaning of Part 7A of ITEPA 2003 by reason of which Chapter 2 of that Part applies (and references to A and B are to be read accordingly), and
 - (b) references to the cost of a chargeable relevant step are to be read in accordance with section 554Z3(6) of that Act.]

Textual Amendments

- F15** S. 41(1) substituted (with effect in accordance with Sch. 2 paras. 52-59, 63 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 38\(2\)](#)
- F16** S. 41(1A) inserted (with effect in accordance with Sch. 2 paras. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 38\(3\)](#)
- F17** Words in s. 41(2) inserted (with effect in accordance with Sch. 2 paras. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 38\(4\)\(a\)](#)
- F18** Words in s. 41 substituted (19.7.2007 with effect as stated in [s. 34\(13\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 34\(10\)](#)
- F19** Word in s. 41(2) omitted (with effect in accordance with Sch. 2 paras. 52-59 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 38\(4\)\(b\)](#)
- F20** S. 41(2)(c) and word inserted (with effect in accordance with Sch. 2 paras. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 38\(4\)\(c\)](#)
- F21** S. 41(4)-(6) inserted (with effect in accordance with Sch. 2 paras. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 38\(5\)](#)

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 [^{F22}a scheme manager] after the receipt by [^{F23}the scheme manager] 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).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) For the purposes of section 38(3)(a) any qualifying benefits provided by [^{F24}a scheme manager] after the receipt by [^{F25}the scheme manager] 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 [^{F26}scheme manager] .

Textual Amendments

- F22** Words in s. 42(1) substituted (19.7.2007 with effect as stated in s. 34(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 34\(11\)\(a\)](#)
- F23** Words in s. 42(1) substituted (19.7.2007 with effect as stated in s. 34(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 34\(11\)\(a\)](#)
- F24** Words in s. 42(3) substituted (19.7.2007 with effect as stated in s. 34(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 34\(11\)\(b\)](#)
- F25** Words in s. 42(3) substituted (19.7.2007 with effect as stated in s. 34(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 34\(11\)\(b\)](#)
- F26** Words in s. 42(5) substituted (19.7.2007 with effect as stated in s. 34(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 34\(11\)\(c\)](#)

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, 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 [^{F27}39(2) to (4)] ,
 - “the employer” is to be read in accordance with section 38(1),

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“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), [^{F28} but ignoring section 393B(2)(a) and (c) 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

[^{F29}“scheme manager” means a person who administers an employee benefit scheme (acting in that capacity).]

- (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.

Textual Amendments

F27 Words in s. 44(1) substituted (with effect in accordance with Sch. 2 paras. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 39\(a\)](#)

F28 Words in s. 44(1) inserted (with effect in accordance with Sch. 2 paras. 52-59, 62 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 39\(b\)](#)

F29 S. 44(1): definition of "third party" substituted (19.7.2007 with effect as stated in [s. 34\(13\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 34\(12\)](#)

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.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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.
- (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^{F30}... 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^{F31} which is not—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) a car that is first registered before 1 March 2001,
 - (b) a car that has low CO₂ emissions,
 - (c) a car that is electrically propelled, or
 - (d) a qualifying hire car.]
- (2) The amount of the deduction which would otherwise be allowable is reduced by [^{F32}15%].
- (3) Subsection (4) applies if [^{F33}a deduction is reduced as a result of subsection (2), or a corresponding provision,] 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 ^{F34}..., or
 - (b) is treated as a post-cessation receipt under section 249 (debts released after cessation),
- is reduced by [^{F35}15%] .
- [^{F36}(4A) In this section “corresponding provision” means—
- (a) section 56(2) of CTA 2009 (car ^{F37}... hire: trade profits and property income), [^{F38} or]
 - (b) section 1251(2) of CTA 2009 (car ^{F37}... hire: expenses of management), [^{F39} including as applied by section 82(4) of FA 2012.]^{F40}...
 - ^{F40}(c)]
- ^{F41}(5)

Textual Amendments

- F30** Words in s. 48 heading omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 36\(7\)](#)
- F31** Words in s. 48(1) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 36\(2\)](#)
- F32** Word in s. 48(2) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 36\(3\)](#)
- F33** Words in s. 48(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 589\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F34** Words in s. 48(4)(a) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 589\(3\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F35** Word in s. 48(4) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 36\(4\)](#)
- F36** S. 48(4A) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 589\(4\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F37** Words in s. 48(4A)(a)(b)(c) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 36\(5\)](#)
- F38** Word in s. 48(4A)(a) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 126\(a\)](#)
- F39** Words in s. 48(4A)(b) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 126\(b\)](#)
- F40** S. 48(4A)(c) and word omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 126\(c\)](#)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F41 S. 48(5) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 11 para. 36(6)**

49 Car^{F42} ... hire: supplementary

(1) In section 48 “car^{F43} ...” means a mechanically propelled road vehicle other than^{F44} ...—

[^{F45}(za) a motor cycle (within the meaning of section 185(1) of the Road Traffic Act 1988),]

(a) [^{F46}a vehicle] of a construction primarily suited for the conveyance of goods or burden of any description, or

(b) [^{F47}a vehicle] of a type not commonly used as a private vehicle and unsuitable for such use.

[^{F48}(1A) In section 48—

“a car that has low CO2 emissions” has the same meaning as in section 104AA of CAA 2001 (special rate expenditure: main rate car);

“electrically propelled” has the meaning given in section 268B of that Act.]

(2) In section 48 “a qualifying hire car^{F49} ...” means a car^{F49} ... which—

(a) is hired under a hire-purchase agreement^{F50} ... 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^{F49} ... when new, or

^{F51}(c)

[^{F52}(d) is leased under a long-funding lease (within the meaning of section 70G of CAA 2001).]

[^{F53}(3) For this purpose “hire-purchase agreement” has the meaning given by section 998A of ITA 2007.]

(6) In this section^{F54} ... “new” means unused and not second-hand.

Textual Amendments

F42 Words in s. 49 heading omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 11 para. 37(6)**

F43 Words in s. 49(1) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 11 para. 37(2)(a)**

F44 Word in s. 49(1) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 11 para. 37(2)(b)**

F45 S. 49(1)(za) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 11 para. 37(2)(c)**

F46 Words in s. 49(1)(a) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 11 para. 37(2)(d)**

F47 Words in s. 49(1)(b) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 11 para. 37(2)(d)**

F48 S. 49(1A) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 11 para. 37(3)**

F49 Words in s. 49(2) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 11 para. 37(4)(a)**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F50** Words in s. 49(2)(a) repealed (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 254(2), Sch. 10 Pt. 9 (with Sch. 9 paras. 1-9, 22)
- F51** S. 49(2)(c) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 11 para. 37(4)(b)
- F52** S. 49(2)(d) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by Finance Act 2009 (c. 10), Sch. 11 para. 37(4)(c)
- F53** S. 49(3) substituted (1.4.2010) for s. 49(3)-(5) (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 254(3) (with Sch. 9 paras. 1-9, 22)
- F54** Words in s. 49(6) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 11 para. 37(5)

^{F55}50 Hiring cars (but not motor cycles) with low carbon dioxide emissions

.....

Textual Amendments

- F55** S. 50 omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 11 para. 38

[^{F56}50A Short-term hiring in and long-term hiring out

- (1) Section 48 does not apply to expenses incurred by a person (“the taxpayer”) on the hiring of a car if condition A or B is met.
- (2) Condition A is that—
 - (a) the expenses are incurred in respect of the making available of the car to the taxpayer for a period (“the hire period”) of not more than 45 consecutive days, and
 - (b) if the car is made available to the taxpayer (whether by the same person or different persons) for one or more periods linked to the hire period, the hire period and the linked period or periods, taken together, consist of not more than 45 days.
- (3) Condition B is that the expenses are incurred in respect of a period (“the sub-hire period”) throughout which the taxpayer makes the car available to another person (“the customer”) and—
 - (a) the sub-hire period consists of more than 45 consecutive days, or
 - (b) if the taxpayer makes the car available to the customer throughout one or more periods linked to the sub-hire period, the sub-hire period and the linked period or periods, taken together, consist of more than 45 days,
 but see subsection (4).
- (4) Condition B is not met if—
 - (a) the customer is an employee of the taxpayer or of a person connected with the taxpayer, or
 - (b) during all or part of the sub-hire period (or any period linked to the sub-hire period), the customer makes any car available to an employee of the taxpayer

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

under arrangements with the taxpayer or with a person connected with the taxpayer.

- (5) Neither condition A nor condition B is met if the car is hired under arrangements the purpose, or one of the main purposes, of which is—
- (a) to disapply or reduce the effect of section 48, or
 - (b) other avoidance of tax.
- (6) For the purposes of condition B the expenses incurred by the taxpayer on the hiring of the car must be apportioned between—
- (a) the sub-hire period, and
 - (b) the remainder of the period during which the car is made available to the taxpayer,
- according to the respective lengths of those periods.
- (7) A period of consecutive days (“the main period”) is linked to—
- (a) a period of consecutive days that ends not more than 14 days before the main period begins,
 - (b) a period of consecutive days that begins not more than 14 days after the main period ends, and
 - (c) a period of consecutive days linked to a period in paragraph (a) or (b).
- (8) For the purposes of this section, where arrangements for the hiring of a car include arrangements for the provision of a replacement car in the event that the first car is not available, the first car and any replacement car are to be treated as if they were the same car.
- (9) In this section (and section 50B) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable and whether involving a single transaction or two or more transactions.

Textual Amendments

F56 Ss. 50A, 50B inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 39](#)

50B Connected persons: application of section 48

- (1) This section applies where connected persons incur expenses on the hiring of the same car for the same period and—
- (a) section 48 would (but for this section) apply to the expenses of two or more of those persons, or
 - (b) section 48 and section 56 of CTA 2009 would (but for this section and section 58B of that Act) each apply to the expenses of at least one of those persons.
- (2) This section only applies where one or more of the persons mentioned in subsection (1) (a) or (b) incurs the expenses under commercial arrangements (and such a person is referred to below as a “commercial lessee”).
- (3) In relation to the expenses mentioned in subsection (1) to which section 48 would (but for this section) apply, section 48 only applies to the following—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) where there is one commercial lessee, any such expenses incurred by that lessee, and
 - (b) where there is more than one, any such expenses incurred by the first commercial lessee in the chain of arrangements for the hiring of the car for the period.
- (4) In this section—
- (a) references to expenses incurred by a commercial lessee include expenses incurred in that or any other capacity, and
 - (b) “commercial arrangements” means arrangements the terms of which are such as would reasonably have been expected if the parties to the arrangements had been dealing at arm's length.]

Textual Amendments

F56 Ss. 50A, 50B inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 11 para. 39**

Modifications etc. (not altering text)

C1 S. 50B modified by 1988 c. 1, s. 578A(5) (as inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 11 para. 62(7)**)

Patent royalties

51 Patent royalties

F57

Textual Amendments

F57 S. 51 repealed (6.4.2007 with effect as noted in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, Sch. 1 para. 497, **Sch. 3 Pt. 1** (with transitional provisions and savings in [Sch. 2](#))

Interest payments

[^{F58}51A Cash basis: interest payments on loans

- (1) In calculating the profits of a trade on the cash basis, no deduction is allowed for the interest paid on a loan.
- (2) This is subject to section 57B.]

Textual Amendments

F58 S. 51A inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 4 para. 10**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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 [^{F59}section 383 of ITA 2007](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
 - (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 [^{F59}section 383 of ITA 2007] 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 [^{F59}section 383 of ITA 2007] if interest on a debt or liability is brought into account in calculating the profits of a trade, see [^{F60}section 387(2) and (3) of that Act] .

Textual Amendments

- F59** Words in s. 52(1)(5)(6) substituted (6.4.2007 with effect as noted in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 498\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F60** Words in s. 52(6) substituted (6.4.2007 with effect as noted in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 498\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

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,

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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^[F61], interest and VAT surcharges^[F61] and interest^[F61]

Textual Amendments
F61 Words in s. 54 cross-heading substituted (1.1.2023 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), Sch. 27 para. 30; S.I. 2022/1278, reg. 2(3)(4)(b)

54 Penalties^[F62], interest and VAT surcharges^[F62] and interest^[F62]

- (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—

| <i>Penalty or interest</i> | <i>Description of tax, levy or duty</i> |
|---|---|
| Interest under any provision of Part 9 of TMA 1970 | Income tax, capital gains tax and corporation tax |
| ^[F63] Interest under section 101 of FA 2009 in connection with sums required to be deducted under section 61 of FA 2004 (construction industry)] | |
| Penalty under any of sections 60 to 70 of VATA 1994 | Value added tax |
| ^[F64] Interest under section 101 of FA 2009 in respect of an amount of value added tax] | |
| 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 |
| ^[F65] Interest under section 60(8) of FA 1994 or paragraph 21 of Schedule 7 to FA 1994] | |
| Penalty under any provision of Part 5 of Schedule 5 to FA 1996 | Landfill tax |
| ^[F66] Interest under section 56(5) of, or paragraph 26 or 27 of Schedule 5 to, FA 1996] | |
| Penalty under any provision of Schedule 6 to FA 2000 | Climate change levy |

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Interest under any of paragraphs 70,
 81 to 85^[F67], 109 and 123(6)] of that
 Schedule

Penalty under any provision of Part 2 of Aggregates levy
 FA 2001

Interest under ^[F68]section 42(6) of, or]
 any of paragraphs 5 to 9 of Schedule 5
 to, paragraph 6 of Schedule 8 to and
 paragraph 5 of Schedule 10 ^[F69]to, FA
 2001]

Penalty under section 25 or 26 of FA ^[F70]Customs duties]
 2003

Penalty under any provision of Part 4 of Stamp duty land tax
 FA 2003

Interest under any provision of that Part

^[F71]Penalty under Schedule 24 to FA Various taxes and excise duties]
 2007

^[F72]Penalty under Schedule 41 to FA Various taxes and excise duties]
 2008

^[F73]Penalty under Schedule 16 to F(No. Various taxes]
 2)A 2017

- (3) ^[F74]In calculating the profits of a trade, no deduction is allowed for any surcharge under section 59 of VATA 1994.]

Textual Amendments

- F62** Words in s. 54 heading substituted (1.1.2023 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 31(a)**; S.I. 2022/1278, reg. 2(3)(4)(b)
- F63** Words in s. 54(2) table substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments) (Consequential Amendments) Order 2014 (S.I. 2014/1283), art. 1(1), **Sch. para. 5**
- F64** Words in s. 54(2) table substituted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **4(2)**
- F65** Words in s. 54(2) table substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 438(3)**
- F66** Words in s. 54(2) table substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 438(4)**
- F67** Words in s. 54(2) table substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 438(5)**
- F68** Words in s. 54(2) table inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 438(6)(a)**
- F69** Words in s. 54(2) table substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 438(6)(b)**
- F70** Words in s. 54(2) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 154** (with

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)

- F71** Words in s. 54(2) table added (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), **Sch. 1 para. 28**
- F72** Words in s. 54(2) table added (1.4.2010) by The Finance Act 2008 (Penalties for Errors and Failure to Notify etc) (Consequential Amendments) Order 2010 (S.I. 2010/530), art. 1, **Sch. para. 8**
- F73** Words in s. 54(2) table inserted (16.11.2017) (with effect in accordance with Sch. 16 para. 62 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 16 para. 59**
- F74** S. 54(3) omitted (1.1.2023 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 31(b)**; S.I. 2022/1278, reg. 2(3)(4)(b)

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

[^{F75}Integral features

Textual Amendments

- F75** S. 55A and cross-heading inserted (with effect in accordance with s. 73(6) of the amending Act) by Finance Act 2008 (c. 9), s. 73(4)

55A Expenditure on integral features

[Section 33A(3) of CAA 2001 provides that no deduction is allowed in respect of ^{F76}(1)] certain expenditure on an integral feature of a building or structure (within the meaning of that section).]

[^{F77}(2) But section 33A(3) of CAA 2001 does not apply in calculating the profits of a trade on the cash basis.]

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F76** S. 55A(1): s. 55A renumbered as s. 55A(1) (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 11\(2\)](#)
- F77** S. 55A(2) inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 11\(3\)](#)

^{F78}Rental rebates

Textual Amendments

- F78** S. 55B and cross-heading inserted (8.4.2010) (with effect in accordance with Sch. 5 para. 2(3) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 5 para. 2\(1\)](#)

55B Rental rebates

- (1) Where plant or machinery (“the asset”) is leased and a rental rebate is payable by the lessor, the amount of the deduction allowable in respect of the rebate is limited to—
 - (a) the amount of the lessor's income from the lease, or
 - (b) in the case of a finance lease, that amount excluding the finance charge.
- (2) “Rental rebate” means any sum payable to the lessee that is calculated by reference to the termination value of the asset.
- (3) For this purpose—
 - (a) the termination value of an asset is the value of the asset at or about the time when the lease terminates,
 - (b) calculation by reference to the termination value includes calculation by reference to any one or more of—
 - (i) the proceeds of sale, if the asset is sold,
 - (ii) any insurance proceeds, compensation or similar sums in respect of the asset,
 - (iii) an estimate of the market value of the asset, and
 - (c) calculation by reference to the termination value also includes—
 - (i) determination in a way which, or by reference to factors or criteria which, might reasonably be expected to produce a broadly similar result to calculation by reference to the termination value, or
 - (ii) any other form of calculation indirectly by reference to the termination value.
- (4) For the purposes of this section—
 - (a) the income of the lessor from the lease is the total of all the amounts receivable in connection with the lease that have been brought into account in calculating the lessor's income for income tax purposes, excluding—
 - (i) disposal receipts brought into account under Part 2 of CAA 2001 (see section 60(1) of that Act), and
 - (ii) so much of any amount as represents charges for services or qualifying UK or foreign tax (within the meaning of section 70YE of that Act) to be paid by the lessor, and

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (b) the finance charge, in relation to a finance lease, is—
 - (i) if the lease is one that, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, so much of the rentals under the lease as fall (or would fall) to be treated as interest, or
 - (ii) in any other case, the amount that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment.
- (5) Where the asset is acquired by the lessor in a transaction in relation to which an election is made under section 266 of CAA 2001 (election where predecessor and successor are connected persons), this section applies as if the successor had been the lessor at all material times and everything done to or by the predecessor had been done to or by the successor.
- (6) Where the whole or part of a rental rebate is disallowed under this section as a deduction in computing profits—
 - (a) the amount disallowed, or
 - (b) if less, the amount by which the rental rebate exceeds the amount of capital expenditure incurred by the lessor,may be treated for the purposes of capital gains tax as an allowable loss accruing to the lessor on the termination of the lease.

That allowable loss is deductible only from chargeable gains accruing to the lessor on the disposal of the asset.
- (7) This section does not apply to a long funding finance lease (see section 148C).]

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A-7D inserted by [2022 c. 3 Sch. 1 para. 3](#)
- s. 31E(4) inserted by [2022 c. 3 Sch. 1 para. 7\(3\)](#)
- s. 649(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 11\(2\)](#)
- s. 679(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(5\)\(b\)](#)
- s. 679A(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(6\)\(b\)](#)
- s. 680(1A) inserted by [2023 c. 30 Sch. 2 para. 11\(7\)\(a\)](#)