



Finance Act 2005

2005 CHAPTER 7

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 7

AVOIDANCE INVOLVING PARTNERSHIP

Partners: restrictions on relief

72 Removal of restrictions on interest relief

(1) In section 117 of ICTA (restriction on interest relief and loss relief for limited partners)

- (a) in subsection (1)—
 - (i) omit “353,” and
 - (ii) in paragraph (a) omit “, or of interest paid by him in connection with the carrying on of a trade,”
- (b) in subsection (2), in the definition of “the aggregate amount”—
 - (i) omit “353,” and
 - (ii) in paragraph (a) omit “, or of interest paid by him in connection with carrying it on,” and
- (c) in that subsection, in the definition of “the appropriate time” omit “or the interest paid”.

(2) In section 118ZB of that Act (limited liability partnerships: restriction on relief), in subsection (2) omit “, or interest paid by him in connection with the carrying on of a trade,”.

Status: This is the original version (as it was originally enacted).

- (3) In section 118ZE of that Act (restriction on relief for non-active partners), in subsection (1) omit “353,” and “, or interest paid by him in connection with the carrying on of a trade,”.
- (4) In section 118ZF of that Act (meaning of “the aggregate amount”), in subsection (1) omit “353,” and “, or of interest paid by him in connection with carrying it on,”.
- (5) In section 118ZG of that Act (meaning of “the individual’s contribution to the trade”), in subsection (2)(b)(ii) omit “353,” and “, or of interest paid by him in connection with carrying it on,”.
- (6) In section 118ZJ of that Act (commencement: the first restricted year)—
- (a) in subsection (3) omit “353,” and “, and interest paid by him in connection with carrying it on,”,
 - (b) in subsection (4)—
 - (i) omit “the sum of”, and
 - (ii) omit paragraph (b) and the word “and” immediately before it, and
 - (c) in subsection (5) omit paragraph (b) and the word “and” immediately before it.
- (7) The amendments made by this section have effect in relation to the application of section 117 of ICTA (including that section as applied by section 118ZB of that Act) and section 118ZE of that Act in relation to—
- (a) any loss sustained by an individual in a trade, or interest paid by him in connection with the carrying on of a trade, in a year of assessment the basis period for which begins on or after 2nd December 2004, and
 - (b) any post-announcement loss sustained by an individual in a trade, and any post-announcement interest paid by him in connection with the carrying on of a trade, in a straddling year of assessment.
- (8) For the purposes of this section—
- “basis period” means the basis period given by Chapter 15 of Part 2 of ITTOIA 2005, as applied by section 853 of that Act, except that the basis period for a year of assessment to which section 199(1) of that Act applies is to be taken to be the period beginning with the date when the individual first carried on the trade and ending with the end of the year of assessment;
- “post-announcement loss”, in relation to a straddling year of assessment, means the loss (if any) sustained by the individual in the trade in the period which—
- (a) begins with 2nd December 2004, and
 - (b) ends with the end of the basis period for that straddling year of assessment;
- “post-announcement interest”, in relation to a straddling year of assessment, means any interest paid by the individual, in connection with carrying on the trade, in the period which—
- (a) begins with 2nd December 2004, and
 - (b) ends with the end of the basis period for that straddling year of assessment;
- “straddling year of assessment” means a year of assessment the basis period for which begins before and includes 2nd December 2004.

- (9) In the definition of “post-announcement loss” in subsection (8), the reference to the loss sustained by the individual in the trade in a period is a reference to his share of any losses of the partnership arising for that period from the trade, and—
- (a) the losses of the partnership arising for that period from the trade are to be computed in the same way as if the period were one for which profits and losses had to be computed for the purposes of section 849 of ITTOIA 2005, and
 - (b) the individual’s share of the losses is to be determined according to his interest in the partnership during that period.
- (10) In subsection (9) the references to “the partnership” are to the partnership as a member of which the individual carries on the trade.
- (11) In relation to years of assessment which are before the year 2005-06, subsections (7) to (9) have effect as if—
- (a) in subsection (8) for the definition of “basis period” there were substituted—

““basis period” means the basis period given by sections 60 to 63 of ICTA as applied by section 111(4) and (5) of that Act, except that the basis period for a year of assessment to which section 61(1) of that Act applies is to be taken to be the period beginning with the date when the individual first carried on the trade and ending with the end of the year of assessment;”, and
 - (b) the reference in subsection (9)(a) to section 849 of ITTOIA 2005 were a reference to section 111(2) of ICTA.
- (12) The amendments made by this section are deemed to have come into force on 2nd December 2004.