

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: Companies with investment business

Overview

Chapter 4: Rules restricting deductions

Section 1247: Introduction

3150. This section introduces the Chapter. It is new.
3151. *Subsection (2)* lists rules outside this Part that affect the calculation of management expenses. All these rules in the source legislation are drafted in wide terms (for instance, “for the purpose of calculating profits or other income charged to corporation tax”). The rules apply to the calculation of management expenses because that is part of the calculation of profits charged to corporation tax.
3152. In some cases the application of the rewritten rules is restricted so that they do not apply in calculating the profits of a trade or property business. That is because there is an equivalent rule in Part 3 (trading income) which is also applied to property income by section 210.
3153. The permissive rules for management expenses in Chapter 3 of this Part say that expenses are “treated for the purposes of Chapter 2 as expenses of management”. The restrictive rules in this Chapter “restrict the deduction of expenses of management under section 1219” (which is in Chapter 2). So it is clear that the restrictive rules have priority.
3154. This is the reverse of the position for trading income, where the general rule in section 51 is that the permissive rules have priority. But, in the unusual cases where it is possible for the rules to overlap, the result is the same.
3155. *Subsection (3)* draws attention to section 196A of FA 2004. This rule about pension scheme contributions does not itself restrict management expenses. But it gives HMRC power to make regulations that may make such a restriction.

Section 1248: Expenses in connection with arrangements for securing a tax advantage

3156. This section disallows expenses incurred in connection with arrangements to secure a tax advantage. It is based on section 75 of ICTA.
3157. *Subsections (1)* and *(2)* are the basic rule that the expenses are not allowed as management expenses. The wording of the subsections echoes that of section 1220, which treats investments held in connection with arrangements to secure a tax advantage as held for a disallowable purpose.
3158. *Subsection (3)* establishes an order of priority for “disallowable purposes” rules.

*These notes refer to the Corporation Tax Act 2009
(c.4) which received Royal Assent on 26 March 2009*

- If the investments concerned are held for an unallowable purpose, the expenses are not expenses of management of the company's investment business (section 1219(2)(b)).
- Otherwise, if a manufactured payment is made in pursuance of arrangements that have an unallowable purpose, relief may be denied for the payment by paragraph 7A of Schedule 23A to ICTA.
- If neither of these applies, this section may apply.

Section 1249: Unpaid remuneration

3159. This section delays a deduction for employees' (or an office-holder's) pay if it is paid late. The section is based on section 44 of FA 1989. The corresponding rule for other businesses (based on section 43 of FA 1989) is in section 1288.

Section 1250: Unpaid remuneration: supplementary

3160. This section provides definitions and further explanation of the main rule in section 1249. It is based on section 44 of FA 1989. The corresponding rule for other businesses (based on section 43 of FA 1989) is in section 1289.

3161. *Subsection (1)* applies section 1249 to provisions made in the accounts for amounts that may become employees' remuneration.

3162. *Subsection (3)* deals with the case in which the company submits its tax return before the end of the nine month limit in section 1249(2) and all or any of the remuneration is unpaid. The company must assume the remuneration will remain unpaid. If, subsequently, the remuneration is paid within the time limit the calculation can be adjusted and the return amended. See *Change 68* in Annex 1.

Section 1251: Car or motor cycle hire

3163. This section restricts the amount that a company can deduct in respect of the cost of hiring certain cars or motor cycles with a retail price (when new) of more than £12,000. The section is based on sections 578A and 578B of ICTA. The corresponding rule for trading income is in section 56.

3164. Under section 75B(3) of ICTA any recovery of the hire charge is restricted to the reversal of "so much of the debit as represents the expenses of management." *Subsection (4)* makes this restriction explicit and mirrors the trading income rule in section 56(4). See *Change 83* in Annex 1.

3165. *Subsection (7)* of the section invokes the supporting sections 57 and 58. So the definition of "qualifying hire car or motor cycle" includes a car or motor cycle where ownership passes without the exercise of an option to purchase. See the commentary on section 57 and *Change 10* in Annex 1.