



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 4

#### PROPERTY INCOME

### CHAPTER 5

#### PROFITS OF PROPERTY BUSINESSES: OTHER RULES ABOUT RECEIPTS AND DEDUCTIONS

##### *Furnished accommodation: receipts and deductions*

#### **248** **Furnished lettings**

- (1) In calculating the profits of a property business which consists of or includes a furnished letting—
  - (a) any sum payable for the use of furniture is brought into account as a receipt, and
  - (b) a deduction is allowed for expenses incurred in connection with the provision of furniture.
- (2) But subsection (1) does not apply to receipts or expenses brought into account in calculating the profits of a trade which consists of, or involves, making furniture available for use in premises.
- (3) A furnished letting is a lease or other arrangement under which—
  - (a) a sum is payable in respect of the use of premises, and
  - (b) the person entitled to the use of the premises is also entitled, in connection with that use, to the use of furniture.
- (4) In this section—
  - (a) “premises” includes a caravan and a houseboat, and
  - (b) “sum” includes the value of any consideration.

*Treatment of receipts on acquisition of business***249 Acquisition of business: receipts from transferor’s UK property business**

- (1) This section applies if—
- (a) a person (“the transferor”) permanently ceased to carry on a UK property business (including one within the charge to income tax) at any time,
  - (b) at that time the transferor transferred to another person (“the transferee”) the right to receive sums arising from the carrying on of any business (“the transferred business”) comprised in the transferor’s UK property business, and
  - (c) the transferee subsequently carries on the transferred business.
- (2) Sums—
- (a) which the transferee receives as a result of the transfer, and
  - (b) which are not brought into account in calculating the profits of the transferor’s UK property business for corporation or income tax purposes of any period before the cessation,
- are brought into account in calculating the profits of the transferee’s UK property business in the accounting period in which they are received.
- (3) Any sums mentioned in subsection (1)(b) which are received after the cessation of the transferor’s property business are not post-cessation receipts (see Chapter 9).

*Reverse premiums as receipts***250 Reverse premiums**

- (1) This section applies if—
- (a) a company receives a reverse premium, and
  - (b) the reverse premium is not brought into account under section 98(2) in calculating the profits of any trade carried on by the company.
- (2) The company is treated as—
- (a) entering into a transaction mentioned in section 205 (if the land to which the property transaction relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
  - (b) receiving the reverse premium as a result of that transaction.
- (3) Accordingly, the reverse premium is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction.
- (4) Subsection (5) applies if—
- (a) two or more of the parties to the property arrangements are connected persons, and
  - (b) the terms of those arrangements are not such as would reasonably have been expected if those persons had been dealing at arm’s length.
- (5) The whole amount or value of the reverse premium is brought into account in the period of account in which the property transaction is entered into.
- (6) Expressions used in this section and sections 96 to 100 have the same meaning in this section as they do in those sections.

*Deductions for expenditure on energy-saving items***251 Deduction for expenditure on energy-saving items**

- (1) This section applies if—
  - (a) a company carries on a property business in relation to land which consists of or includes a dwelling-house,
  - (b) the company incurs expenditure in acquiring and installing an energy-saving item in the dwelling-house or in a building containing the dwelling-house (see subsections (5) to (7)),
  - (c) the expenditure is incurred before 1 April 2015,
  - (d) a deduction for the expenditure is not prohibited by the wholly and exclusively rule but would otherwise be prohibited by the capital prohibition rule (see subsection (8)), and
  - (e) no allowance under CAA 2001 may be claimed in respect of the expenditure.
- (2) In calculating the profits of the business, a deduction for the expenditure is allowed.
- (3) But any deduction is subject to—
  - (a) section 252 (restrictions on relief), and
  - (b) any provision made by regulations under section 253.
- (4) If, on a just and reasonable apportionment of any expenditure, part of the expenditure would qualify for the relief (but the remainder would not), a deduction is allowed for that part.
- (5) “Energy-saving item” means an item of an energy-saving nature of such description as is for the time being specified in regulations made by the Treasury.
- (6) The Treasury may by regulations provide for an item to be an energy-saving item only if it satisfies such conditions as may be—
  - (a) specified in, or
  - (b) determined in accordance with,the regulations.
- (7) The conditions may include conditions imposed by reference to information or documents issued by any body, person or organisation.
- (8) In this section—

“the capital prohibition rule” means the rule in section 53 (capital expenditure), as applied by section 210, and

“the wholly and exclusively rule” means the rule in section 54 (expenses not wholly and exclusively for trade and unconnected losses), as applied by section 210.

**252 Restrictions on relief**

- (1) This section restricts deductions that would otherwise be allowable under section 251.
- (2) No deduction is allowed if, when the energy-saving item is installed, the dwelling-house—
  - (a) is in the course of construction, or

- (b) is comprised in land in which the company does not have an interest or is in the course of acquiring an interest or further interest.
- (3) No deduction is allowed in respect of expenditure in an accounting period if—
  - (a) the business consists of or includes the commercial letting of furnished holiday accommodation (see Chapter 6), and
  - (b) the dwelling-house constitutes some or all of that accommodation for the accounting period.
- (4) No deduction is allowed in respect of expenditure treated by section 61 (as applied by section 210) as incurred on the date on which the company starts to carry on the business unless the expenditure was incurred not more than 6 months before that date.
- (5) No deduction is allowed in respect of expenditure incurred in acquiring and installing the energy-saving item in a building containing the dwelling-house in so far as the expenditure is not for the benefit of the dwelling-house.

### 253 Regulations

- (1) In relation to any deduction under section 251, the Treasury may make regulations for—
  - (a) restricting or reducing the amount of expenditure for which the deduction is allowable,
  - (b) excluding entitlement to the deduction in such cases as may be specified in, or determined in accordance with, the regulations,
  - (c) determining who is (and is not) entitled to the deduction if different persons have different interests in land that consists of or includes the whole or part of a building containing one or more dwelling-houses,
  - (d) making apportionments if the property business is carried on by persons in partnership or an interest in land is beneficially owned by persons jointly or in common.
- (2) The apportionments that may be made include apportionments to persons within the charge to income tax.
- (3) Regulations under this section may—
  - (a) make different provision for different cases, and
  - (b) contain incidental, supplemental, consequential and transitional provision and savings (including provision as to appeals in relation to apportionments mentioned in subsection (1)(d)).

#### *Deductions for expenditure on sea walls*

### 254 Deduction for expenditure on sea walls

- (1) This section applies if in a tax year a person —
  - (a) is the owner or tenant of any premises, and
  - (b) incurs expenditure in making a sea wall or other embankment necessary for the preservation or protection of the premises against the encroachment or overflowing of the sea or any tidal river.

- (2) In calculating the profits of any property business (within the charge to tax under Chapter 3) carried on by the person in relation to the premises, a deduction is allowed for the expenditure in each tax year comprised in the deduction period.
- (3) The deduction period comprises—
  - (a) the tax year in which the expenditure is incurred, and
  - (b) the next 20 tax years.
- (4) The amount of the deduction is 1/21 of the expenditure.
- (5) The deduction is apportioned between the accounting period or periods comprised in the tax year, but—
  - (a) no apportionment is made to an accounting period which ends before the expenditure is incurred, and
  - (b) if the person is entitled to the deduction because of a transfer dealt with by section 255, no apportionment is made to an accounting period which ends before the transfer takes place.
- (6) In the case of the transfer of an interest in the premises dealt with by section 255, this section applies as if the reference to the person in subsection (2) above included the transferor and the transferee.
- (7) No deduction is allowed for any expenditure in respect of which a capital allowance has been made.

## **255 Transfer of interest in premises**

- (1) This section applies if, during the deduction period, the whole of the person's interest in the premises or in any part of them is transferred, whether by operation of law or otherwise.
- (2) For the tax year in which the transfer takes place—
  - (a) the transferor and the transferee are entitled to a part of any deduction under section 254, and
  - (b) the amount of the deduction is determined by what is just and reasonable.
- (3) For subsequent tax years in the deduction period, the entitlement to any deduction under section 254 depends on whether the interest transferred is in the whole of the premises or in part of them.
- (4) If the interest transferred is in the whole of the premises, the transferee (but not the transferor) is entitled to any deduction under section 254.
- (5) If the interest transferred is in part of the premises—
  - (a) the transferor and the transferee are entitled to a part of any deduction under section 254, and
  - (b) the amount of the deduction is determined by reference to what is properly referable to the part of the premises.
- (6) This section is supplemented by sections 256 (ending of lease of premises) and 257 (transfer involving person within the charge to income tax).

**256 Ending of lease of premises**

- (1) If a person's interest in the premises is a lease that comes to an end before the end of the deduction period, the interest is treated as if transferred to the following persons.
- (2) If a new lease of the premises is granted and the new tenant makes a payment in respect of the embankment in question to the old tenant, the transferee is the new tenant.
- (3) Otherwise the transferee is the owner of the interest in immediate reversion on the lease (or, in Scotland, the landlord).

**257 Transfer involving person within the charge to income tax**

- (1) This section explains how section 255 works if—
  - (a) the transferor is a company within the charge to corporation tax and the transferee is a person within the charge to income tax, or
  - (b) the transferor is a person within the charge to income tax and the transferee is a company within the charge to corporation tax.
- (2) Section 255 applies only for the purpose of determining—
  - (a) whether the company within the charge to corporation tax is entitled to a deduction (or part of a deduction) under section 254, and
  - (b) the amount of any such deduction.
- (3) Accordingly, any reference to—
  - (a) whether a person is entitled to a deduction (or part of a deduction) under section 254, or
  - (b) the amount of any such deduction,
 is ignored if the person is within the charge to income tax.
- (4) For any entitlement of a person within the charge to income tax to a deduction for any of the expenditure, see sections 316 to 318 of ITTOIA 2005 (corresponding income tax provisions).

*Mineral royalties***258 Relief in respect of mineral royalties**

- (1) This section applies if in an accounting period a UK resident company carries on a UK property business the receipts of which consist of or include mineral royalties—
  - (a) which the company is entitled to receive under a mineral lease or agreement, and
  - (b) which are not chargeable to tax under Chapter 7 (rent receivable in connection with a UK section 39(4) concern).
- (2) In calculating the profits of the business, the company is treated as—
  - (a) entitled to receive only half of the total of the mineral royalties arising under the lease or agreement in the accounting period, and
  - (b) making in the accounting period only half of the total of the payments made in respect of the management of the property concerned.
- (3) Sections 274 to 276 (meaning of “mineral lease or agreement” and “mineral royalties”) apply for the purposes of this section as they apply for the purposes of Chapter 7.

- (4) See also section 201 of TCGA 1992 (gains treated as accruing to a company entitled to receive mineral royalties).

*Apportionments on sale of land*

**259 Nature of item apportioned on sale of estate or interest in land**

- (1) This section applies if—
- (a) a company sells an estate or interest in land,
  - (b) on the sale a part of a receipt or outgoing in respect of the estate or interest is apportioned to the seller, and
  - (c) the receipt or outgoing is receivable or to be paid by the buyer after the apportionment is made.
- (2) In calculating the profits of the seller's property business, the part apportioned is treated as being of the same nature as the receipt or outgoing.

*Mutual business*

**260 Mutual business**

- (1) Nothing in this Part is to be read as applying the rules relating to mutual business to property businesses.
- (2) Accordingly, receipts and expenses are to be brought into account in calculating the profits of a company's property business even if a relationship of mutuality exists between that company and another person.
- (3) Nothing in this section affects the operation of section 488 of ICTA (co-operative housing associations).

*Adjustment on change of basis*

**261 Adjustment on change of basis**

- (1) Section 262 applies if—
- (a) a company carrying on a UK property business changes, from one period of account to the next, the basis on which profits of the business are calculated for corporation tax purposes,
  - (b) the old basis accorded with the law or practice applicable in relation to the period of account before the change, and
  - (c) the new basis accords with the law and practice applicable in relation to the period of account after the change.
- (2) The practice applicable in any case means the accepted practice in cases of that description as to how profits of a UK property business should be calculated for corporation tax purposes.
- (3) Subsections (3) to (6) of section 180 (what is meant by a company changing the basis on which profits are calculated) apply for the purposes of this section as they apply for

the purposes of that section (but as if any reference to a trade were to a UK property business).

## **262 Giving effect to positive and negative adjustments**

- (1) An amount by way of adjustment must be calculated in accordance with section 182, which applies in relation to a UK property business as it applies in relation to a trade.
- (2) If the amount produced by the calculation is positive—
  - (a) the amount is brought into account as a receipt in calculating the profits of the UK property business, and
  - (b) the receipt is treated as arising on the first day of the first period of account for which the new basis is adopted.
- (3) But if there is a change of basis resulting from a tax adjustment affecting the calculation of any amount brought into account in respect of depreciation, the receipt is treated as arising only when the asset to which it relates is realised or written off.
- (4) If the amount produced by the calculation is negative—
  - (a) a deduction is allowed for the amount as an expense of the UK property business in calculating the profits of that business, and
  - (b) the expense is treated as arising on the first day of the first period of account for which the new basis is adopted.
- (5) But if there is a change of basis resulting from a tax adjustment affecting the calculation of any amount brought into account in respect of depreciation, the expense is treated as arising only when the asset to which it relates is realised or written off.
- (6) This section is subject to section 183 (no adjustment for certain expenses previously brought into account) which applies in relation to a UK property business as it applies in relation to a trade.

### *Integral features*

## **263 Expenditure on integral features**

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