



Corporation Tax Act 2009

2009 CHAPTER 4

PART 4

PROPERTY INCOME

CHAPTER 1

INTRODUCTION

202 Overview of Part

- (1) Chapter 2 contains definitions relevant to the application of the Part.
- (2) Chapter 3 applies the charge to corporation tax on income to the profits of a UK property business or an overseas property business and contains basic rules about the calculation of the profits of such a property business.
- (3) Chapter 4 provides for certain amounts of a capital nature to be brought into account as receipts in calculating the profits of a property business.
- (4) Chapter 5 contains additional rules about the calculation of the profits of a property business.
- (5) Chapter 6 explains what is meant by the commercial letting of furnished holiday accommodation.
- (6) Chapters 7, 8 and 9 apply the charge to corporation tax on income to—
 - (a) rent receivable in connection with a UK section 39(4) concern,
 - (b) rent receivable for UK electric-line wayleaves, and
 - (c) post-cessation receipts arising from a UK property business,and contain related rules.
- (7) Chapter 10 contains supplementary provisions including—

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- (a) rules that give priority to provisions outside this Part in relation to certain matters that fall within it, and
 - (b) rules that give priority to one Chapter of this Part in relation to certain matters that fall both within it and another Chapter of this Part.
- (8) This Part needs to be read with Parts 19 (general exemptions) and 20 (general calculation rules).

CHAPTER 2

PROPERTY BUSINESSES

Introduction

203 Overview of Chapter

- (1) This Chapter explains for the purposes of this Act what is meant by—
 - (a) a company’s UK property business (see section 205), and
 - (b) a company’s overseas property business (see section 206).
- (2) Both those sections need to be read with—
 - (a) section 207 (which explains what is meant by generating income from land), and
 - (b) section 208 (which provides that certain activities do not count as activities for generating income from land).
- (3) In the case of a property business carried on by a company as a member of a firm, the basic rules in sections 205 and 206 are explained in section 1270(2) and (3).
- (4) See also section 432AA of ICTA (which qualifies the basic rules in sections 205 and 206 in the case of an insurance company).

204 Meaning of “property business”

- (1) In this Act “property business” means a UK property business or an overseas property business.
- (2) References in this Act to a property business are to a property business so far as any profits of the business are chargeable to tax under Chapter 3 (as to which see, in particular, the rules about territorial scope in section 5).
- (3) Accordingly, nothing in Chapter 4 or 5 is to be read as treating an amount as a receipt of a property business if the profits concerned would not be chargeable to tax under Chapter 3.

Basic meaning of UK and overseas property business

205 UK property business

A company’s UK property business consists of—

- (a) every business which the company carries on for generating income from land in the United Kingdom, and
- (b) every transaction which the company enters into for that purpose otherwise than in the course of such a business.

206 Overseas property business

A company's overseas property business consists of—

- (a) every business which the company carries on for generating income from land outside the United Kingdom, and
- (b) every transaction which the company enters into for that purpose otherwise than in the course of such a business.

Generating income from land

207 Meaning of “generating income from land”

- (1) In this Chapter “generating income from land” means exploiting an estate, interest or right in or over land as a source of rents or other receipts.
- (2) “Rents” includes payments by a tenant for work to maintain or repair leased premises which the lease does not require the tenant to carry out.
- (3) “Other receipts” includes—
 - (a) payments in respect of a licence to occupy or otherwise use land,
 - (b) payments in respect of the exercise of any other right over land, and
 - (c) rentcharges and other annual payments reserved in respect of, or charged on or issuing out of, land.
- (4) For the purposes of this section a right to use a caravan or houseboat at only one location is treated as a right deriving from an estate or interest in land.

208 Activities not for generating income from land

For the purposes of this Chapter the following activities are not carried on for generating income from land—

- (a) farming or market gardening in the United Kingdom (but see section 36 (UK farming or market gardening treated as trade)),
- (b) any other occupation of land (but see section 38 (certain commercial occupation of UK land treated as trade)), and
- (c) activities for the purposes of a concern to which section 39 applies (profits of mines, quarries etc).

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CHAPTER 3

PROFITS OF PROPERTY BUSINESSES: BASIC RULES

Charge to tax on profits of a property business

209 Charge to tax on profits of a property business

The charge to corporation tax on income applies to the profits of a property business.

Calculation of profits

210 Profits of a property business: application of trading income rules

- (1) The profits of a property business are calculated in the same way as the profits of a trade.
- (2) But the provisions of Part 3 (trading income) which apply as a result of subsection (1) are limited to the following—

In Chapter 3 (basic rules)—

section 46	generally accepted accounting practice
section 47	losses calculated on same basis as profits
section 48	receipts and expenses
section 52	apportionment etc of profits and losses to accounting period

In Chapter 4 (rules restricting deductions)—

section 53	capital expenditure
section 54	expenses not wholly and exclusively for trade and unconnected losses
section 55	bad debts
sections 56 to 58	car or motor cycle hire
section 59	patent royalties

In Chapter 5 (rules allowing deductions)—

section 61	pre-trading expenses
section 68	replacement and alteration of trade tools
section 69	payments for restrictive undertakings
sections 70 and 71	seconded employees
section 72	payroll deduction schemes: contributions to agents' expenses
sections 73 to 75	counselling and retraining expenses
sections 76 to 81	redundancy payments etc

sections 82 to 86	contributions to local enterprise organisations or urban regeneration companies
sections 87 and 88	scientific research
sections 89 and 90	expenses connected with patents, designs and trade marks
section 91	payments to Export Credits Guarantee Department
section 92	levies under FISMA 2000
<i>In Chapter 6 (receipts)—</i>	
section 93	capital receipts
section 94	debts incurred and later released
section 101	distribution of assets of mutual concerns
section 102	industrial development grants
section 103	sums recovered under insurance policies etc
section 104	repayments under FISMA 2000
<i>In Chapter 7 (gifts to charities etc)—</i>	
section 108	receipt of benefits by donor or connected person
<i>In Chapter 9 (other specific trades)—</i>	
section 131	incidental costs of issuing qualifying shares (building societies)
section 133	annual payments paid by a credit union
<i>In Chapter 12 (deductions from profits)—</i>	
sections 172 to 175	unremittable amounts

211 Loan relationships and derivative contracts

- (1) The profits of a property business are calculated without regard to items giving rise to—
 - (a) credits or debits within Part 5 (loan relationships), or
 - (b) credits or debits within Part 7 (derivative contracts).
- (2) This section does not affect the width of the provision made by—
 - (a) section 464 (priority of Part 5 for corporation tax purposes), or
 - (b) section 699 (priority of Part 7 for corporation tax purposes).

212 Items treated as receipts and expenses

The rules for calculating the profits of a property business need to be read with—

- (a) the provisions of CAA 2001 which treat allowances as expenses of a property business,

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- (b) the provisions of CAA 2001 which treat charges as receipts of a property business, and
- (c) section 748 (credits and debits in respect of an intangible fixed asset held by a company for the purposes of a property business carried on by it treated as receipts and expenses of the business).

213 Certain amounts brought into account under Part 3

- (1) The rules for calculating the profits of a property business need to be read with the following provisions of Part 3 (trading income)—
 - (a) section 42 (tied premises),
 - (b) section 43 (caravan sites where trade carried on),
 - (c) section 44 (surplus business accommodation), and
 - (d) section 45(3) (payments for wayleaves).
- (2) Those provisions secure that amounts which would otherwise be brought into account in calculating the profits of the business are, or may be, brought into account instead in calculating the profits of a trade.

214 Relationship between rules prohibiting and allowing deductions

- (1) Any relevant permissive rule in this Part—
 - (a) has priority over any relevant prohibitive rule, but
 - (b) is subject to the following provisions—
 - (i) section 56 (car or motor cycle hire), as applied by section 210,
 - (ii) section 1288 (unpaid remuneration),
 - (iii) section 1290 (employee benefit contributions),
 - (iv) section 1304 (crime-related payments).
- (2) In this section “any relevant permissive rule in this Part” means any provision of this Part (apart from sections 231 to 234) which allows a deduction in calculating the profits of a property business.
- (3) In this section “any relevant prohibitive rule”, in relation to any deduction, means any provision of this Part or Chapter 1 of Part 20 (apart from those mentioned in subsection (1)(b)) which might otherwise be read as—
 - (a) prohibiting or deferring the deduction, or
 - (b) restricting the amount of the deduction.
- (4) In this section any reference to any provision of this Part includes any provision applied by section 210.

CHAPTER 4

PROFITS OF PROPERTY BUSINESSES: LEASE PREMIUMS ETC

Introduction

215 Overview of Chapter

- (1) This Chapter provides for certain amounts (which would otherwise generally be amounts of a capital nature) to be brought into account as receipts in calculating the profits of a property business.
- (2) The amounts relate to short-term leases in the case of—
 - section 217 (lease premiums),
 - section 218 (amount treated as lease premium where work required),
 - section 220 (sums payable for surrender of lease), and
 - section 222 (assignments for profit of lease granted at undervalue).
- (3) The amounts relate to any lease in the case of—
 - section 219 (sums payable instead of rent), and
 - section 221 (sums payable for variation or waiver of terms of lease).
- (4) The amounts relate to the sale of any estate or interest in land in the case of—
 - section 224 (sales with right to reconveyance), and
 - section 225 (sale and leaseback transactions).
- (5) This Chapter also permits certain deductions in calculating the profits of property businesses carried on by tenants under certain leases (see sections 231 and 232).

216 Meaning of “short-term lease”

In this Chapter “short-term lease” means a lease whose effective duration is 50 years or less.

Amounts treated as receipts: leases

217 Lease premiums

- (1) This section applies if a premium is required to be paid—
 - (a) under a short-term lease, or
 - (b) otherwise under the terms subject to which a short-term lease is granted.
- (2) The company to which the premium is due is treated as—
 - (a) entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.

- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the lease is granted.
- (4) The amount of the receipt is given by the formula—

$$P \times \left(\frac{50 - Y}{50} \right)$$

where—

P is the premium, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

- (5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.

218 Amount treated as lease premium where work required

- (1) This section applies if the terms subject to which a lease is granted impose on the tenant an obligation to carry out work on the premises.
- (2) The lease is treated for the purposes of section 217 (lease premiums) as requiring the payment of a premium to the landlord (in addition to any other premium).
- (3) The amount of the premium is the amount by which the value of the landlord's estate or interest immediately after the commencement of the lease exceeds what its value would have been at that time if the terms of the lease did not impose the obligation on the tenant.
- (4) An obligation, or part of an obligation, that requires the carrying out of excepted work is ignored for the purposes of this section.
- (5) Work is "excepted work" if the payment for carrying it out would, if the landlord and not the tenant were obliged to carry it out, be deductible as an expense in calculating the profits of the landlord's property business.

219 Sums payable instead of rent

- (1) This section applies if—
- under the terms subject to which a lease is granted a sum becomes payable by the tenant instead of the whole or a part of the rent for a period, and
 - the period is 50 years or less.
- (2) The company to which the sum is due is treated as—
- entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
 - receiving the amount calculated under subsections (4) and (5) as a result of that transaction.

(3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the sum becomes payable.

(4) The amount of the receipt is given by the formula—

$$S \times \left(\frac{50 - Y}{50} \right)$$

where—

S is the sum payable instead of rent, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period in relation to which the sum is payable.

(5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.

(6) In determining for the purposes of this Chapter the duration of the period in relation to which the sum is payable, any part of the period that falls after the expiry of the effective duration of the lease is excluded.

220 Sums payable for surrender of lease

(1) This section applies if, under the terms subject to which a short-term lease is granted, a sum becomes payable by the tenant as consideration for the surrender of the lease.

(2) The company to which the sum is due is treated as—

(a) entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and

(b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.

(3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the sum becomes payable.

(4) The amount of the receipt is given by the formula—

$$S \times \left(\frac{50 - Y}{50} \right)$$

where—

S is the sum payable as consideration for the surrender of the lease, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

(5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.

221 Sums payable for variation or waiver of terms of lease

(1) This section applies if—

- (a) a sum becomes payable by the tenant (otherwise than by way of rent) as consideration for the variation or waiver of a term of a lease,
 - (b) the sum is due to the landlord or a company which is connected with the landlord, and
 - (c) the period for which the variation or waiver has effect is 50 years or less.
- (2) The company to which the sum is due is treated as—
- (a) entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the contract providing for the variation or waiver is entered into.
- (4) The amount of the receipt is given by the formula—
- $$S \times \left(\frac{50 - Y}{50} \right)$$
- where—
- S is the sum payable as consideration for the variation or waiver, and
 - Y is the number of complete periods of 12 months (other than the first) comprised in the period for which the variation or waiver has effect.
- (5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.
- (6) In determining for the purposes of this Chapter the duration of the period for which the variation or waiver has effect, any part of the period that falls after the expiry of the effective duration of the lease is excluded.

222 Assignments for profit of lease granted at undervalue

- (1) This section applies to an assignment of a short-term lease if—
- (a) the lease was granted at an undervalue, and
 - (b) a profit is made on the assignment.
- (2) The company which assigns the lease is treated as—
- (a) entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the consideration for the assignment becomes payable.
- (4) The amount of the receipt is given by the formula—

$$P \times \left(\frac{50 - Y}{50} \right)$$

where—

P is the lesser of—

- (a) the profit on the assignment, and
- (b) the amount by which the undervalue exceeds the total of the profits (if any) made on previous assignments of the lease, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

- (5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.
- (6) Section 223 explains references in this section to the grant of a lease at an undervalue and the making of a profit on an assignment of a lease.

223 Provisions supplementary to section 222

- (1) This section operates for the purposes of section 222.
- (2) A lease is granted at an undervalue if the terms subject to which it was granted are such that the landlord who granted it could have required the payment of an additional sum by way of premium, or additional premium, for its grant.
- (3) The additional sum is the undervalue.
- (4) The test in subsection (2) must be applied—
 - (a) having regard to values prevailing at the time the lease was granted, and
 - (b) on the assumption that the negotiations for the lease were at arm's length.
- (5) A profit is made on an assignment of a lease if the consideration for the assignment exceeds—
 - (a) if the lease has not previously been assigned, any premium for which it was granted, or
 - (b) in any other case, any consideration for which it was last assigned.
- (6) The amount of the excess is the profit.

Other amounts treated as receipts

224 Sales with right to reconveyance

- (1) This section applies if—
 - (a) an estate or interest in land is sold subject to terms which provide that it is to be, or may be required to be, reconveyed on a future date to the seller or a person connected with the seller,
 - (b) the period beginning with the sale and ending with the earliest date on which under the terms of the sale the estate or interest would fall to be reconveyed is 50 years or less, and

- (c) the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed.
- (2) The seller is treated as—
 - (a) entering into a transaction mentioned in section 205 (if the land is in the United Kingdom) or section 206 (if the land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsection (4) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the estate or interest is sold.
- (4) The amount of the receipt is given by the formula—

$$E \times \left(\frac{50 - Y}{50} \right)$$

where—

E is the amount by which the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period beginning with the sale and ending with the earliest date on which under the terms of the sale the estate or interest would fall to be reconveyed.

- (5) See section 226 for some provisions which are supplementary to this section.

225 Sale and leaseback transactions

- (1) This section applies if—
 - (a) an estate or interest in land is sold subject to terms which provide for the grant of a lease directly or indirectly out of the estate or interest to the seller or a person connected with the seller,
 - (b) the period beginning with the sale and ending with the earliest date on which under the terms of the sale the lease would fall to be granted is 50 years or less, and
 - (c) the price at which the estate or interest is sold exceeds the total of—
 - (i) the amount of any premium for the lease, and
 - (ii) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run.
- (2) This section does not apply if the lease is granted and begins to run within one month after the sale.
- (3) The seller is treated as—
 - (a) entering into a transaction mentioned in section 205 (if the land is in the United Kingdom) or section 206 (if the land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsection (5) as a result of that transaction.
- (4) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the estate or interest is sold.

- (5) The amount of the receipt is given by the formula—

$$E \times \left(\frac{50 - Y}{50} \right)$$

where—

E is the amount by which the price at which the estate or interest is sold exceeds the total of—

- (a) the amount of any premium for the lease, and
- (b) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period beginning with the sale and ending with the earliest date on which under the terms of the sale the lease would fall to be granted.

- (6) See section 226 for some provisions which are supplementary to this section.

226 Provisions supplementary to sections 224 and 225

- (1) This section operates for the purposes of sections 224 (sales with right to reconveyance) and 225 (sale and leaseback transactions).
- (2) Subsection (3) explains how to determine for the purposes of section 224 the price at which an estate or interest is to be reconveyed when—
 - (a) the date on which the estate or interest would fall to be reconveyed is not fixed under the terms of the sale, and
 - (b) the price at which it is to be reconveyed varies with the date.
- (3) The price is taken to be the lowest possible under the terms of the sale.
- (4) Subsection (5) explains how to determine for the purposes of section 225 the total of—
 - (a) the amount of any premium for the lease, and
 - (b) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run,
 when the date for the grant of the lease is not fixed under the terms of the sale and the total varies with the date.
- (5) The total is taken to be the lowest possible under the terms of the sale.
- (6) For the purposes of sections 224(3) and 225(4) (receipts of property business for accounting period in which estate or interest sold) an estate or interest in land is sold when any of the following occurs—
 - (a) an unconditional contract for its sale is entered into,
 - (b) a conditional contract for its sale becomes unconditional, or
 - (c) an option or right of pre-emption is exercised requiring the seller to enter into an unconditional contract for its sale.

Additional calculation rule for reducing certain receipts

227 Circumstances in which additional calculation rule applies

- (1) The rule in section 228 (the additional calculation rule) applies in relation to the calculation of receipts under—
 - section 217 (lease premiums),
 - section 219 (sums payable instead of rent),
 - section 220 (sums payable for surrender of lease),
 - section 221 (sums payable for variation or waiver of terms of lease), or
 - section 222 (assignments for profit of lease granted at undervalue).
- (2) It applies if conditions A and B are met.
- (3) Condition A is that—
 - (a) in the case of a receipt under section 217, 219 or 220, the lease is granted out of a taxed lease,
 - (b) in the case of a receipt under section 221, the lease was granted out of a taxed lease, and
 - (c) in the case of a receipt under section 222, the assignment is of a taxed lease.
- (4) A lease is a “taxed lease” for the purposes of this Chapter if—
 - (a) there is a receipt under any of sections 217 to 222 in respect of the lease,
 - (b) there would be such a receipt, but for the operation of the rule in section 228 (the additional calculation rule) in the calculation of its amount,
 - (c) there is a receipt under any of sections 277 to 282 of ITTOIA 2005 (receipts in respect of lease premiums, sums payable instead of rent, for surrender of lease and for variation or waiver of terms of lease and assignments) in respect of the lease, or
 - (d) there would be such a receipt, but for the operation of the rule in section 288 of that Act (the additional calculation rule) in the calculation of its amount.

In this Chapter a receipt falling within paragraph (a), (b), (c) or (d) is referred to as a “taxed receipt”.

- (5) Condition B is that the taxed receipt, or if there is more than one, at least one of them, has an unused amount.
- (6) See section 230 for an explanation of when a taxed receipt has an “unused amount”.

228 The additional calculation rule

- (1) The rule in this section applies if the conditions mentioned in section 227(2) are met.
- (2) The additional calculation rule is that the amount given by the formula in section 217, 219, 220, 221 or 222 must be reduced by the amount calculated in accordance with this section in order to give the amount of the receipt under calculation.
- (3) The amount of the reduction is—
 - (a) if there is one taxed receipt which has an unused amount, the basic relieving amount by reference to that receipt, and
 - (b) if there is more than one taxed receipt which has an unused amount, the total of the basic relieving amounts by reference to each receipt,

adjusted, if necessary, in the light of section 229(5) (reduction not to exceed amount being reduced).

- (4) The basic relieving amount by reference to a taxed receipt is given by the formula—

$$\frac{A \times LRP}{TRP}$$

where—

A is the unreduced amount of the taxed receipt (which is, generally, the amount given by the formula in section 217, 219, 220, 221 or 222, or in section 277, 279, 280, 281 or 282 of ITTOIA 2005, but see section 230(2) to (4) of this Act),

LRP is the receipt period of the receipt under calculation, and

TRP is the receipt period of the taxed receipt.

- (5) But the basic relieving amount is different if section 229(2) or (4) applies (certain special cases).
- (6) For the purposes of this Chapter, the “receipt period” of a receipt is—
- in the case of a receipt under section 217 or 220, the effective duration of the lease,
 - in the case of a receipt under section 219, the period in relation to which the sum payable instead of rent is payable,
 - in the case of a receipt under section 221, the period for which the variation or waiver has effect,
 - in the case of a receipt under section 222, the effective duration of the lease remaining at the date of the assignment, and
 - in the case of a receipt under Chapter 4 of Part 3 of ITTOIA 2005 (profits of property businesses: lease premiums etc), its receipt period within the meaning of that Chapter (see section 288(6) of that Act).

229 The additional calculation rule: special cases

- (1) This section explains how section 228 operates in some special cases.

- (2) If—

- the receipt under calculation is under any of sections 217 to 221, and
- the lease does not extend to the whole of the premises subject to the taxed lease,

the basic relieving amount by reference to a taxed receipt is calculated by multiplying the amount given by the formula in subsection (4) of section 228 by the fraction of those premises which is subject to the lease.

- (3) This fraction is calculated on a just and reasonable basis.
- (4) If the basic relieving amount given by section 228(4) or subsection (2) above by reference to a taxed receipt would otherwise exceed the unused amount of the taxed receipt, the basic relieving amount is the unused amount.
- (5) If the amount of the reduction under section 228 would otherwise exceed the amount given, in respect of the receipt under calculation, by the formula in section 217, 219, 220, 221 or 222, the amount of the reduction is equal to the amount given by the formula.

230 Meaning of “unused amount” and “unreduced amount”

- (1) For the purposes of this Chapter, a taxed receipt has an “unused amount” if the unreduced amount exceeds the total of the reductions and deductions referred to in subsection (5).
- (2) In this Chapter the “unreduced amount” of a taxed receipt is the amount given, in respect of the taxed receipt, by the formula in—
 - (a) section 217, 219, 220, 221 or 222 above, or
 - (b) section 277, 279, 280, 281 or 282 of ITTOIA 2005 (income tax provisions corresponding to those listed in paragraph (a)).
- (3) Subsection (4) applies—
 - (a) to a taxed receipt under section 217 (lease premiums) as a result of section 218 (amount treated as lease premium where work required), and
 - (b) to a taxed receipt under section 277 of ITTOIA 2005 (lease premiums) as a result of section 278 of that Act (amount treated as lease premium where work required).
- (4) If the obligation to carry out work included the carrying out of work which gives, or will give, rise to qualifying expenditure under CAA 2001, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.
- (5) The reductions and deductions mentioned in subsection (1) are—
 - (a) the reductions under section 228 above or section 288 of ITTOIA 2005 (the additional calculation rule) by reference to the taxed receipt,
 - (b) the deductions made in calculating the profits of a trade, profession or vocation for expenses under section 63 above or section 61 of ITTOIA 2005 (tenant under taxed lease who uses land in connection with trade treated as incurring expenses) by reference to the taxed receipt, and
 - (c) the deductions made in calculating the profits of a property business for expenses under section 232 below or section 292 of ITTOIA 2005 (tenant under taxed lease who uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt.
- (6) For the purposes of this Chapter references to a reduction under section 228 above or section 288 of ITTOIA 2005 by reference to a taxed receipt are to a reduction under the section concerned so far as attributable to the taxed receipt.

*Deductions in relation to certain receipts***231 Deductions for expenses under section 232**

- (1) Section 232 (tenants under taxed leases treated as incurring expenses) applies in calculating the profits of a property business carried on by the tenant under a taxed lease for the purpose of making deductions for the expenses of the property business.
- (2) A deduction is allowed for an expense under section 232 for a qualifying day on which the whole or part of the premises subject to the taxed lease is—
 - (a) occupied by the tenant for the purpose of carrying on the property business, or
 - (b) sublet.

- (3) But any deduction for an expense under section 232 is subject to the application of any provision of Chapter 4 of Part 3 (as applied to property businesses by section 210).
- (4) The amount of the deduction for an expense under section 232 for a qualifying day by reference to a taxed receipt may be reduced in order to comply with section 235 (limit on reductions and deductions).
- (5) For the meaning of expressions used in this section, see in particular—
section 227(4) (“taxed lease”), and
Section 227(4) (“taxed receipt”).

232 Tenants under taxed leases treated as incurring expenses

- (1) The tenant under a taxed lease is treated as incurring an expense of a revenue nature in respect of the premises subject to the taxed lease for each qualifying day.
- (2) If there is more than one taxed receipt, this section applies separately in relation to each of them.
- (3) A day is a “qualifying day”, in relation to a taxed receipt, if it falls within the receipt period of the taxed receipt.
- (4) The amount of the expense for the qualifying day by reference to the taxed receipt is given by the formula—

$$\frac{A}{TRP}$$

where—

A is the unreduced amount of the taxed receipt, and

TRP is the number of days in the receipt period of the taxed receipt.

- (5) This section is subject to sections 233 and 234 (restrictions on expenses where the additional calculation rule is relevant).
- (6) For the meaning of expressions used in this section, see in particular—
section 228(6) (“receipt period”), and
section 230(2) to (4) (“unreduced amount”).

233 Restrictions on section 232 expenses: the additional calculation rule

- (1) This section applies if—
 - (a) in calculating the amount of a receipt under this Chapter there is a reduction under section 228 (the additional calculation rule) by reference to a taxed receipt, or
 - (b) in calculating the amount of a receipt under Chapter 4 of Part 3 of ITTOIA 2005 (profits of a property business: lease premiums etc) there is a reduction under section 288 of that Act (the additional calculation rule) by reference to a taxed receipt.

The receipt that is so reduced is referred to in this section as the “lease premium receipt”.

- (2) Subsections (3) to (5) provide for the application of section 232 for a qualifying day that falls within the receipt period of the lease premium receipt.
- (3) The tenant under the taxed lease is treated as incurring an expense under section 232 for the qualifying day by reference to the taxed receipt only if the daily amount of the taxed receipt exceeds the daily reduction of the lease premium receipt.
- (4) If the condition in subsection (3) is met, the amount of the expense under section 232 for the qualifying day by reference to the taxed receipt is equal to that excess.
- (5) If the qualifying day falls within the receipt periods of more than one lease premium receipt, the reference in subsection (3) to the daily reduction of the lease premium receipt is to be read as a reference to the total of the daily reductions of each of the lease premium receipts whose receipt period includes the qualifying day.
- (6) In this section—

the “daily amount” of the taxed receipt is given by the formula—

$$\frac{A}{TRP}$$

where—

A is the unreduced amount of the taxed receipt (see section 230(2) to (4)),
and

TRP is the number of days in the receipt period of the taxed receipt, and
the “daily reduction” of a lease premium receipt is given by the formula—

$$\frac{AR}{RRP}$$

where—

AR is the reduction under section 228 above or section 288 of ITTOIA 2005 by reference to the taxed receipt (see section 230(6)), and

RRP is the number of days in the receipt period of the lease premium receipt.

- (7) Section 234 explains how this section operates if the lease premium receipt is in respect of a lease that has been granted out of the taxed lease and does not extend to the whole of the premises subject to the taxed lease.

234 Restrictions on section 232 expenses: lease of part of premises

- (1) This section applies if—
 - (a) a lease has been granted out of the taxed lease,
 - (b) the lease does not extend to the whole of the premises subject to the taxed lease, and
 - (c) the condition in subsection (2) is met.
- (2) The condition is that—
 - (a) in calculating the amount of a receipt under any of sections 217 to 221 (receipts in respect of lease premiums or sums payable instead of rent, for surrender of lease or for variation or waiver of terms of lease) in respect of the lease, there is a reduction under section 228 by reference to a taxed receipt, or

- (b) in calculating the amount of a receipt under any of sections 277 to 281 of ITTOIA 2005 (receipts in respect of lease premiums or sums payable instead of rent, for surrender of lease or for variation or waiver of terms of lease) in respect of the lease, there is a reduction under section 288 of that Act (the additional calculation rule) by reference to a taxed receipt.

The receipt that is so reduced is referred to in this section as the “lease premium receipt”.

- (3) Subsections (4) to (6) apply for a qualifying day that falls within the receipt period of the lease premium receipt.
- (4) Sections 232 and 233 apply separately in relation to the part of the premises subject to the lease and to the remainder of the premises.
- (5) If—
 - (a) more than one lease that does not extend to the whole of the premises subject to the taxed lease has been granted out of the taxed lease, and
 - (b) the qualifying day falls within the receipt period of two or more lease premium receipts that relate to different leases,
 sections 232 and 233 apply separately in relation to each part of the premises subject to a lease to which such a receipt relates and to the remainder of the premises.
- (6) Where sections 232 and 233 apply in relation to a part of the premises, A becomes the amount calculated by multiplying the unreduced amount of the taxed receipt by the fraction of the premises constituted by the part.
- (7) This fraction is calculated on a just and reasonable basis.

Limit on effect of additional calculation rule and deductions

235 Limit on reductions and deductions

- (1) The total of—
 - (a) the reductions under section 228 by reference to a taxed receipt, and
 - (b) the deductions allowed in calculating the profits of a property business for expenses under section 232 (tenant under taxed lease which uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt,
 must not exceed the amount referred to in subsection (2).
- (2) The amount mentioned in subsection (1) is the difference between—
 - (a) the unreduced amount of the taxed receipt, and
 - (b) the total of the amounts mentioned in subsection (3).
- (3) Those amounts are—
 - (a) the reductions under section 288 of ITTOIA 2005 (the additional calculation rule) by reference to the taxed receipt,
 - (b) the deductions made in calculating the profits of a property business for expenses under section 292 of ITTOIA 2005 (tenant under taxed lease who uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt, and

- (c) the deductions made in calculating the profits of a trade, profession or vocation for expenses under section 63 above or section 61 of ITTOIA 2005 (tenant under taxed lease who uses land in connection with trade treated as incurring expenses) by reference to the taxed receipt.

Certain administrative provisions

236 Payment of tax by instalments

- (1) This section applies if—
 - (a) there is a receipt under section 217 (lease premiums) in respect of a premium which is payable by instalments, or
 - (b) there is a receipt under any of sections 219 to 221 (sums payable instead of rent, for surrender of lease or for variation or waiver of terms of lease) in respect of a sum which is payable by instalments.
- (2) The company which is liable to pay tax by reference to the receipt may choose to pay the tax by such instalments as an officer of Revenue and Customs may allow.
- (3) The period over which the instalments of tax must be paid—
 - (a) must be 8 years or less, and
 - (b) must end before, or at the same time as, the time when the last of the instalments mentioned in subsection (1)(a) or (b) is payable.

237 Statement of accuracy for purposes of section 222

- (1) This section applies if any of the persons mentioned in subsection (3) provides an officer of Revenue and Customs with a statement showing—
 - (a) whether or not there is, or may be, a receipt under section 222 (assignments for profit of lease granted at undervalue), and
 - (b) the amount of any receipt.
- (2) The officer must certify the accuracy of the statement, if satisfied as to its accuracy.
- (3) The persons referred to in subsection (1) are—
 - (a) the landlord who granted the lease,
 - (b) a company which assigned it, or
 - (c) a person to whom it was assigned.

238 Claim for repayment of tax payable by virtue of section 224

- (1) This section applies if—
 - (a) there is a receipt under section 224 (sales with right to reconveyance), and
 - (b) the date on which the estate or interest would fall to be reconveyed was not fixed under the terms of the sale.
- (2) If the seller makes a claim, the seller must be repaid the amount by which A exceeds B, where—
 - A is the amount of tax paid by the seller which was payable by virtue of section 224, and

B is the amount of tax that would have been so payable if the date on which the estate or interest was reconveyed had been taken as the date fixed by the terms of the sale.

- (3) The claim must be made within 4 years after the day on which the estate or interest was reconveyed.

239 Claim for repayment of tax payable by virtue of section 225

- (1) This section applies if—
- (a) there is a receipt under section 225 (sale and leaseback transactions), and
 - (b) the date for the grant of the lease was not fixed under the terms of the sale.
- (2) If the seller makes a claim, the seller must be repaid the amount by which A exceeds B, where—
- A is the amount of tax paid by the seller which was payable by virtue of section 225, and
 - B is the amount of tax that would have been so payable if the date on which the lease was granted had been taken as the date fixed by the terms of the sale.
- (3) The claim must be made within 4 years after the day on which the lease was granted.

Determinations affecting liability of more than one person

240 Appeals against proposed determinations

- (1) Subsection (2) applies if it appears to an officer of Revenue and Customs that—
- (a) a determination is needed of an amount that is to be brought into account as a receipt under this Chapter in calculating the liability to tax of a person (“the first taxpayer”), and
 - (b) the determination may affect the liability to corporation tax, income tax or capital gains tax of other persons.
- (2) The officer may give notice (a “provisional notice of determination”) to the first taxpayer and the other persons of—
- (a) the determination the officer proposes to make, and
 - (b) their rights under this section and section 242.
- (3) A person to whom a provisional notice of determination is given may object to the proposed determination by giving notice (“a notice of objection”) to the officer.
- (4) The notice of objection must be given within 30 days of the date on which the provisional notice of determination was given.
- (5) If an officer gives provisional notices of determination and no person gives a notice of objection—
- (a) a determination must be made by the officer as proposed in the provisional notices, and
 - (b) the determination is not to be called in question in any proceedings.

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

241 Section 240: supplementary

- (1) A provisional notice of determination under section 240(2) may include a statement of the grounds on which the officer proposes to make the determination.
- (2) Subsection (1) applies despite any obligation as to secrecy or other restriction on the disclosure of information.
- (3) An officer of Revenue and Customs may by notice (a “preliminary notice”) require any person to give any information that appears to the officer to be needed for deciding whether to give any person a provisional notice of determination under section 240(2).
- (4) The preliminary notice must state the time within which the information is to be given.

242 Determination by tribunal

- (1) If a notice of objection is given under section 240(3), the amount mentioned in section 240(1) must be determined in the same way as an appeal.
- (2) All persons to whom provisional notices of determination have been given under section 240(2) may take part—
 - (a) in any proceedings under subsection (1), and
 - (b) in any appeal arising out of those proceedings.
- (3) Those persons are bound by the determination made in the proceedings or on appeal, whether or not they have taken part in the proceedings.
- (4) Their successors in title are bound in the same way.

Effective duration of lease

243 Rules for determining effective duration of lease

- (1) The following rules apply for determining the effective duration of a lease for the purposes of this Chapter.

Rule 1: If—

- (a) the terms of the lease or any other circumstances make it unlikely that the lease will continue beyond a date before the end of the term for which the lease was granted, and
- (b) the premium was not substantially greater than it would have been had the term been one ending on that date,

the lease is treated as ending on that date (or the earliest such date).

Rule 2: If the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant, account may be taken of any circumstances making it likely that the lease will be so extended.

Rule 3: If the tenant or a person connected with the tenant is, or may become, entitled to a further lease or the grant of a further lease (whenever commencing)

—

- (a) of the same premises, or
- (b) of premises including the whole or part of the same premises,

the term of the lease may be treated as continuing until the end of the term of the further lease.

- (2) The rules are to be applied in accordance with section 244.
- (3) In Rule 1, “premium” includes—
 - (a) an amount treated as a premium under section 218 (amount treated as lease premium where work required),
 - (b) a sum payable by the tenant under the terms subject to which the lease is granted instead of the whole or a part of the rent for a period,
 - (c) a sum payable by the tenant under the terms subject to which the lease is granted as consideration for the surrender of the lease, and
 - (d) a sum payable by the tenant (otherwise than by way of rent) as consideration for the variation or waiver of a term of the lease.
- (4) In this section and section 244, in relation to Scotland, “term”, where referring to the duration of a lease, means period.

244 Applying the rules in section 243

- (1) The rules in section 243 apply by reference to the facts known or ascertainable—
 - (a) at the time of the grant of the lease, or
 - (b) if the determination is for the purposes of section 221 (sums payable for variation or waiver of terms of lease), at the time when the contract for the variation or waiver is entered into.
- (2) In applying those rules, it is assumed that all parties concerned, whatever their relationship, act as if they were at arm’s length.
- (3) Subsection (5) applies if—
 - (a) special benefits were conferred by the lease or in connection with its grant, or
 - (b) payments were made which one would not expect to be made by parties acting at arm’s length unless such benefits had been conferred.
- (4) But subsection (5) does not apply if it can be shown that the special benefits were not conferred nor the payments made for the purpose of securing—
 - (a) a corporation tax advantage in the application of this Chapter, or
 - (b) an income tax advantage in the application of Chapter 4 of Part 3 of ITTOIA 2005 (profits of property business: lease premiums etc).
- (5) In applying paragraph (b) of Rule 1 in section 243, it is assumed that the special benefits would not have been conferred nor the payments made if the lease had been granted for a term ending on the date mentioned in that rule.
- (6) In this section “special benefits” means benefits other than—
 - (a) vacant possession and beneficial occupation of the premises, or
 - (b) the right to receive rent at a reasonable commercial rate in respect of the premises.

245 Information about effective duration of lease

- (1) This section applies if an officer of Revenue and Customs has reason to believe that a person has information relevant to the determination of the effective duration of a lease.

- (2) The officer may by notice require the person to provide such information on the matters specified in the notice as is in the person's possession.
- (3) The information must be provided within a time specified in the notice.
- (4) In relation to anything done by a solicitor on behalf of a client, the solicitor is required only to—
 - (a) state that the solicitor was acting on behalf of a client, and
 - (b) provide the name and address of the client.

Other interpretative provisions

246 Provisions about premiums

- (1) For the purposes of this Chapter, the presumption is that a sum paid on or in connection with the granting of a tenancy has been paid by way of premium.
- (2) This does not apply if the sum is rent.
- (3) This also does not apply so far as other sufficient consideration for the payment can be shown to have been given.
- (4) In this section “sum” includes the value of any consideration.
- (5) Where Rule 3 in section 243 (rules for determining effective duration of lease) applies, the premium, or an appropriate part of it, payable for or in connection with either lease mentioned in that rule may be treated for the purposes of this Chapter as having been required under the other.

247 Interpretation

- (1) In this Chapter “premium” includes any similar sum payable to the immediate or a superior landlord or to a person connected with such a person.
- (2) In subsection (1) “sum” includes the value of any consideration.
- (3) In the application of this Chapter to Scotland—
 - “premium” includes, in particular, a grassum payable to the landlord under the lease in respect of which the grassum is payable or the landlord under any other lease of the property, and
 - “reversion” means the interest of the landlord in the property subject to the lease.
- (4) In the application of this Chapter to Scotland—
 - (a) references to a lease being granted out of a taxed lease are to the grant of a sublease of land subject to the taxed lease, and
 - (b) references to the lease so granted are to be read as references to the sublease.

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 $\frac{1}{21}$ 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).

CHAPTER 6**COMMERCIAL LETTING OF FURNISHED HOLIDAY ACCOMMODATION***Introduction***264 Overview of Chapter**

- (1) This Chapter explains for the purposes of this Part what is meant by the commercial letting of furnished holiday accommodation (see sections 265 to 268).
- (2) It matters whether a UK property business consists of or includes the commercial letting of furnished holiday accommodation for the purposes of—
 - (a) Chapter 2 of Part 10 of ICTA (loss relief: see section 503 of that Act),
 - (b) certain provisions of TCGA 1992 (see section 241 of that Act), and
 - (c) CAA 2001 (see, for example, sections 248 and 249 of that Act).
- (3) This Chapter also supplements the above provisions by providing in certain circumstances for the profits of the furnished holiday lettings part of a UK property business to be calculated separately (see section 269).

*Definition***265 Meaning of “commercial letting of furnished holiday accommodation”**

- (1) A letting is a lease or other arrangement under which a person is entitled to the use of accommodation.
- (2) A letting of accommodation is commercial if the accommodation is let—
 - (a) on a commercial basis, and
 - (b) with a view to the realisation of profits.
- (3) A letting is of furnished holiday accommodation if—

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

- (a) the person entitled to the use of the accommodation is also entitled, in connection with that use, to the use of furniture, and
 - (b) the accommodation is qualifying holiday accommodation (see sections 267 and 268).
- (4) This section applies for the purposes of this Chapter.

266 Meaning of “relevant period” in sections 267 and 268

- (1) For the purposes of sections 267 and 268 “the relevant period” for accommodation let by a company in an accounting period is determined as follows.
- (2) If the accommodation was not let by the company as furnished accommodation in the 12 months immediately before the accounting period, “the relevant period” is 12 months beginning with the first day in the accounting period on which it is let by the company as furnished accommodation.
- (3) If the accommodation—
 - (a) was let by the company as furnished accommodation in the 12 months immediately before the accounting period, but
 - (b) is not let by the company as furnished accommodation in the 12 months immediately after the accounting period,
“the relevant period” is 12 months ending with the last day in the accounting period on which it is let by the company as furnished accommodation.
- (4) Otherwise “the relevant period” is the period of 12 months ending with the last day of the accounting period.

267 Meaning of “qualifying holiday accommodation”

- (1) Accommodation which is let by a company during an accounting period is “qualifying holiday accommodation” for the accounting period if the availability, letting and pattern of occupation conditions are met.
- (2) The availability condition is that, during the relevant period, the accommodation is available for commercial letting as holiday accommodation to the public generally for at least 140 days.
- (3) The letting condition is that, during the relevant period, the accommodation is commercially let as holiday accommodation to members of the public for at least 70 days.
- (4) For the purposes of the letting condition, a letting of accommodation for a period of longer-term occupation (see subsection (6)) is not a letting of it as holiday accommodation.
- (5) The pattern of occupation condition is that, during the relevant period, not more than 155 days fall during periods of longer-term occupation.
- (6) For the purposes of this section a “period of longer-term occupation” is a continuous period of more than 31 days during which the accommodation is in the same occupation otherwise than because of circumstances that are not normal.

268 Under-used holiday accommodation: averaging elections

- (1) This section applies if during an accounting period a company lets both—
 - (a) qualifying holiday accommodation, and
 - (b) accommodation that would be qualifying holiday accommodation if the letting condition (see section 267(3)) were met in relation to it (“under-used accommodation”).
- (2) The company may make an election for the accounting period specifying—
 - (a) the qualifying holiday accommodation, and
 - (b) any or all of the under-used accommodation.
- (3) The under-used accommodation so specified is treated as qualifying holiday accommodation for the accounting period if the average of the number of let days for the accounting period of all the accommodation specified in the election is at least 70.
- (4) “The number of let days” for an accounting period of any accommodation is the number of days during the relevant period for which it is commercially let by the company as holiday accommodation to members of the public.
- (5) Qualifying holiday accommodation may not be specified in more than one election for an accounting period.
- (6) An election for an accounting period must be made within the period of two years beginning at the end of the accounting period.

*Separate profit calculations***269 Capital allowances and loss relief**

- (1) If a UK property business consists of both—
 - (a) the commercial letting of furnished holiday accommodation (“the furnished holiday lettings part”), and
 - (b) other businesses or transactions (“the other part”),
 this section requires separate calculations to be made of the profits of the furnished holiday lettings part and the other part.
- (2) The calculations must be made if—
 - (a) section 248 or 249 of CAA 2001 (giving effect to allowances and charges) applies to the furnished holiday lettings part or the other part, or
 - (b) any provision of Chapter 2 of Part 10 of ICTA (loss relief) applies in relation to a loss made in either of those parts.
- (3) If there is a letting of accommodation only part of which is holiday accommodation, such apportionments are to be made for the purposes of this section as are just and reasonable.

CHAPTER 7

RENT RECEIVABLE IN CONNECTION WITH A UK SECTION 39(4) CONCERN

Charge to tax on rent receivable in connection with a UK section 39(4) concern

270 Charge to tax on rent receivable in connection with a UK section 39(4) concern

The charge to corporation tax on income applies to rent receivable in connection with a UK section 39(4) concern.

271 Meaning of “rent receivable in connection with a UK section 39(4) concern”

- (1) For the purposes of this Chapter rent is receivable in connection with a UK section 39(4) concern if—
 - (a) it is receivable in respect of an estate, interest or right in or over land in the United Kingdom, and
 - (b) the estate, interest or right is used, occupied or enjoyed in connection with a concern listed in section 39(4).
- (2) For the purposes of this Chapter rent is also receivable in connection with a UK section 39(4) concern if—
 - (a) it is receivable in respect of an estate, interest or right in or over land in the United Kingdom,
 - (b) the lease or other agreement under which it is receivable provides for its recoupment by reducing royalties or payments of a similar nature, and
 - (c) the reduction applies if the estate, interest or right is used, occupied or enjoyed in connection with a concern listed in section 39(4).
- (3) In this Chapter “rent” includes—
 - (a) a receipt mentioned in section 207(3), and
 - (b) any other receipt in the nature of rent.

Management expenses of owner of mineral rights

272 Deduction for management expenses of owner of mineral rights

- (1) This section applies if in an accounting period—
 - (a) a company lets a right to work minerals in the United Kingdom, and
 - (b) the company pays a sum wholly and exclusively as an expense of management or supervision of the minerals in the accounting period.
- (2) In calculating the amount of rent receivable in connection with a UK section 39(4) concern, a deduction is allowed for the sum for the accounting period.
- (3) This is subject to section 273 (relief in respect of mineral royalties).

*Mineral royalties***273 Relief in respect of mineral royalties**

- (1) This section applies if in an accounting period—
 - (a) a UK resident company is entitled to receive mineral royalties under a mineral lease or agreement, and
 - (b) the royalties are chargeable to tax under this Chapter.
- (2) In calculating the amount of the royalties so chargeable, the company is treated as—
 - (a) entitled to receive only half of the total of the royalties arising under the lease or agreement in the accounting period, and
 - (b) paying in the accounting period only half of the total of the expenses mentioned in section 272(1)(b) (deduction for management expenses of owner of mineral rights).
- (3) As to the meaning of “mineral lease or agreement” and “mineral royalties”, see sections 274 to 276.
- (4) See also section 201 of TCGA 1992 (gains treated as accruing to a company entitled to receive mineral royalties).

274 Meaning of “mineral lease or agreement” and “mineral royalties”

- (1) In this Chapter “mineral lease or agreement” means—
 - (a) a lease, profit à prendre, licence or other agreement conferring a right to win and work minerals in the United Kingdom,
 - (b) a contract for the sale, or a conveyance, of minerals in or under land in the United Kingdom, and
 - (c) a grant of a right under section 1 of the Mines (Working Facilities and Support) Act 1966 (c. 4) other than an ancillary right (within the meaning of that Act).
- (2) In this Chapter “mineral royalties” means so much of any rent receivable under a mineral lease or agreement as relates to the winning and working of minerals.
- (3) For the purposes of this section and section 276 “minerals” means all minerals and substances in or under land which are ordinarily worked for removal—
 - (a) by underground working, or
 - (b) by surface working,
 but excluding water, peat, top-soil and vegetation.

275 Extended meaning of “mineral royalties” etc in Northern Ireland

- (1) In the application of this Chapter to Northern Ireland references to mineral royalties include the following periodical payments.
- (2) The payments are—
 - (a) payments of compensation under section 29 or 35 of the Mineral Development Act (Northern Ireland) 1969 (c. 35 (N.I.)) (“the 1969 Act”),
 - (b) payments of compensation under section 4 of the Petroleum (Production) Act (Northern Ireland) 1964 (c. 28 (N.I.)) (“the 1964 Act”),
 - (c) payments made as mentioned in section 37 of the 1969 Act,

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- (d) payments made under section 55(4)(b) of the 1969 Act, and
 - (e) payments made under section 11 of the 1964 Act (payments in respect of minerals to persons entitled to a share of royalties under section 13(3) of the Irish Land Act 1903 (c. 37)).
- (3) In the application of this Chapter to Northern Ireland references to the mineral lease or agreement under which mineral royalties are receivable include the enactment under which those payments are made.

276 Power to determine what counts as “mineral royalties”

The Commissioners for Her Majesty’s Revenue and Customs may by regulations—

- (a) provide whether, and to what extent, rents receivable under a mineral lease or agreement which relate both to the winning and working of minerals and to other matters are treated as mineral royalties, and
- (b) provide for treating the whole of such rents as mineral royalties if the extent to which they relate to matters other than the winning and working of minerals is small.

CHAPTER 8

RENT RECEIVABLE FOR UK ELECTRIC-LINE WAYLEAVES

Charge to tax on rent receivable for UK electric-line wayleaves

277 Charge to tax on rent receivable for a UK electric-line wayleave

The charge to corporation tax on income applies to rent receivable for a UK electric-line wayleave.

278 Meaning of “rent receivable for a UK electric-line wayleave”

- (1) For the purposes of this Chapter rent is receivable for a UK electric-line wayleave if—
 - (a) it is receivable in respect of an easement, servitude or right in or over land in the United Kingdom, and
 - (b) the easement, servitude or right is enjoyed in connection with an electric, telegraph or telephone wire or cable.
- (2) The reference to the enjoyment of an easement, servitude or right in connection with an electric, telegraph or telephone wire or cable includes (in particular) its enjoyment in connection with—
 - (a) a pole or pylon supporting such a wire or cable, or
 - (b) apparatus used in connection with such a wire or cable.
- (3) In this Chapter “rent” includes—
 - (a) a receipt mentioned in section 207(3), and
 - (b) any other receipt in the nature of rent.

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

279 Extent of charge to tax

- (1) Rent receivable for a UK electric-line wayleave is not chargeable to tax under this Chapter for an accounting period if—
 - (a) a company carries on a UK property business in relation to some or all of the land to which the wayleave relates, and
 - (b) receipts (other than rents receivable for UK electric-line wayleaves) in respect of some or all of that land are brought into account in calculating the profits of the business of the accounting period.
- (2) In such a case, the rent receivable for the UK electric-line wayleave is brought into account in calculating the profits of the company's UK property business.
- (3) The rules for determining whether an amount is chargeable to tax under this Chapter also need to be read with section 45(2) (payments for wayleaves if company carries on a trade).
- (4) That subsection secures that an amount which would otherwise be chargeable to tax under this Chapter may be brought into account instead in calculating the profits of a trade.

CHAPTER 9

POST-CESSATION RECEIPTS

Charge to tax on post-cessation receipts

280 Charge to tax on post-cessation receipts

The charge to corporation tax on income applies to post-cessation receipts arising from a UK property business.

281 Extent of charge to tax

- (1) A post-cessation receipt is chargeable to tax under this Chapter only so far as the receipt is not otherwise chargeable to corporation or income tax.
- (2) Accordingly, a post-cessation receipt arising from a UK property business is not chargeable to tax under this Chapter so far as it is brought into account in calculating the profits of the business of any period.

Meaning of “post-cessation receipts”

282 Basic meaning of “post-cessation receipt”

- (1) In this Chapter “post-cessation receipt” means a sum—
 - (a) which is received after a person permanently ceases to carry on a UK property business, and
 - (b) which arises from the carrying on of the business before the cessation.

- (2) In this Chapter, except in section 284, references to a UK property business include one within the charge to income tax and references to a person permanently ceasing to carry on a UK property business include—
- (a) in the case of a company, the occurrence of an event treated under section 362 of ITTOIA 2005 (company starting or ceasing to be within charge to income tax) as the company permanently ceasing to carry on the business, and
 - (b) in the case of a UK property business carried on by a person in partnership, the occurrence of an event treated under section 353(3) of ITTOIA 2005 (basic meaning of “post-cessation receipt”) as the person permanently ceasing to carry on the business.

283 Other rules about what counts as a “post-cessation receipt”

- (1) Section 284 (transfer of rights if transferee does not carry on UK property business) treats certain amounts as being, or not being, post-cessation receipts for the purposes of this Chapter.
- (2) The following provisions (which treat certain amounts as post-cessation receipts) apply for the purposes of this Chapter as they apply for the purposes of Chapter 15 of Part 3 (but as if any reference to a trade were to a UK property business)—
- section 82(6) (contributions to local enterprise organisations or urban regeneration companies),
 - section 101(3) (distribution of assets of mutual concerns),
 - section 108(3) (receipt of benefits by donor or connected person),
 - section 192 (debts paid after cessation), and
 - section 193 (debts released after cessation), as qualified, where appropriate, by section 56(4) (car or motor cycle hire).
- (3) This Chapter also needs to be read with—
- (a) section 249(3) (which treats certain amounts as not being post-cessation receipts), and
 - (b) section 1277 (which treats certain income as a post-cessation receipt: unremittable income).

284 Transfer of rights if transferee does not carry on UK property business

- (1) This section applies if—
- (a) a company (“the transferor”) permanently ceases to carry on a UK property business,
 - (b) the transferor transfers to another person (“the transferee”) for value 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 does not subsequently carry on the transferred business.
- (2) The transferor is treated as receiving a post-cessation receipt.
- (3) The amount of the receipt is—
- (a) the amount or value of the consideration for the transfer, if the transfer is at arm’s length, or
 - (b) the value of the rights transferred as between parties at arm’s length, if the transfer is not at arm’s length.

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- (4) Any sums mentioned in subsection (1)(b) which are received after the cessation of the property business are not post-cessation receipts.

Deductions

285 Allowable deductions

Sections 196 and 197 apply for the purposes of this Chapter as they apply for the purposes of Chapter 15 of Part 3 (but as if any reference to a trade were to a UK property business).

Election to carry back

286 Election to carry back

Sections 198 to 200 apply for the purposes of this Chapter as they apply for the purposes of Chapter 15 of Part 3 (but as if any reference to a trade were to a UK property business).

CHAPTER 10

SUPPLEMENTARY

Priority rules

287 Provisions which must be given priority over this Part

Any receipt or other credit item, so far as it falls within—

- (a) Chapter 3 of this Part so far as it relates to an overseas property business or Chapter 7 or 8 of this Part (rent receivable in connection with a UK section 39(4) concern or for UK electric-line wayleaves), and
- (b) Chapter 2 of Part 3 (receipts of a trade),

is dealt with under Part 3.

288 Priority between Chapters within this Part

- (1) Any receipt, so far as it falls within—

- (a) Chapter 3 so far as it relates to a UK property business, and
 - (b) Chapter 7 (rent receivable in connection with a UK section 39(4) concern),
- is dealt with under Chapter 7.

- (2) Any receipt, so far as it falls within—

- (a) Chapter 3 so far as it relates to a UK property business, and
- (b) Chapter 8 (rent receivable for UK electric-line wayleaves),

is dealt with under Chapter 8.

- (3) Any receipt, so far as it falls within Chapter 7 (rent receivable in connection with a UK section 39(4) concern) and Chapter 8 (rent receivable for UK electric-line wayleaves), is dealt with under Chapter 8.

Other supplementary provisions

289 Effect of company starting or ceasing to be within charge to corporation tax

- (1) This section applies if a company starts or ceases to be within the charge to corporation tax in respect of a property business.
- (2) The company is treated for the purposes of this Part—
- (a) as starting to carry on the business when it starts to be within the charge, or
 - (b) as ceasing to carry on the business when it ceases to be within the charge.

290 Overseas property businesses and overseas land: adaptation of rules

- (1) This section applies if a provision of this Part—
- (a) applies to an overseas property business or land outside the United Kingdom, but
 - (b) is expressed by reference to a domestic concept of law.
- (2) In relation to that business or land, the provision is to be read so as to produce the result most closely corresponding with that produced by the provision in relation to a UK property business or land in the United Kingdom.

291 Meaning of “lease” and “premises”

- (1) In this Part “lease” includes—
- (a) an agreement for a lease (so far as the context permits), and
 - (b) any tenancy,
- but does not include a mortgage.
- (2) In this Part “premises” includes land.