



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IV

PROVISIONS RELATING TO THE SCHEDULE D CHARGE

CHAPTER VI

DISCONTINUANCE ^{F1} . . .

Reliefs

107 Treatment of receipts as earned income.

^{M1}Where an individual is chargeable to tax by virtue of section 103 or 104, and the [^{F2}profits] of the trade, profession or vocation to which he was entitled before the discontinuance or, as the case may be, change of basis fell to be treated as earned income for the purposes of income tax, the sums in respect of which he is so chargeable shall also be treated as earned income for those purposes (but, in the case of sums chargeable by virtue of section 104, after any reduction in those sums under section 109).

Textual Amendments

F2 Words in s. 107 substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1

Marginal Citations

M1 Source—1970 s.148

108 Election for carry-back.

^{M2}Where any sum is—

Status: Point in time view as at 28/09/2004.

Changes to legislation: Income and Corporation Taxes Act 1988, Cross Heading: Reliefs is up to date with all changes known to be in force on or before 12 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) chargeable to tax by virtue of section 103 or 104, and
- (b) received in any year of assessment beginning not later than six years after the discontinuance or, as the case may be, change of basis by the person by whom the trade, profession or vocation was carried on before the discontinuance or change, or by his personal representatives,

that person or (in either case) his personal representatives may, by notice sent to [^{F3}an officer of the Board within one year from the 31st January next following] that year of assessment, elect that the tax so chargeable shall be charged as if the sum in question were received on the date on which the discontinuance took place or, as the case may be, on the last day of the period at the end of which the change of basis took place ^{F4}

Textual Amendments

- F3** Words in s. 108 substituted (with effect in accordance with s. 128(11) of the amending Act) by Finance Act 1996 (c. 8), s. 128(4)(a)
- F4** Words in s. 108 repealed (with effect in accordance with s. 128(11) of the repealing Act) by Finance Act 1996 (c. 8), s. 128(4)(b), Sch. 41 Pt. 5(6), Note 1

Marginal Citations

- M2** Source—1970 s.149

109 Charge under section 104: relief for individuals born before 6th April 1917.

^{M3}(1) If an individual born before 6th April 1917, or the personal representatives of such an individual, is chargeable to tax under section 104 and—

- (a) the individual was engaged in carrying on a trade, profession or vocation on 18th March 1968, and
- (b) the [^{F5}profits] of the trade, profession or vocation were not computed by reference to earnings in the period in which that 18th March fell, or in any subsequent period ending before or with the relevant date,

the net amount with which he is so chargeable to tax shall be reduced by multiplying that net amount by the fraction given below.

(2) Where section 104(4) applies in relation to a change of basis taking place on a date before 19th March 1968, then, in relation to tax chargeable by reference to that change of basis, that earlier date shall be substituted for the date in subsection (1)(a) above and subsection (1)(b) above shall be omitted.

(3) The fraction referred to in subsection (1) above is—

- (a) where on 5th April 1968 the individual had not attained the age of 52—

$$\frac{19}{20}$$

- (b) where on that date he had attained the age of 52, but had not attained the age of 53—

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$$\frac{18}{20}$$

and so on, reducing the fraction by—

$$\frac{1}{20}$$

for each year he had attained up to the age of 64;

(c) where on that date he had attained the age of 65, or any greater age—

$$\frac{5}{20}$$

(4) In this section—

“the net amount” with which a person is chargeable to tax under section 104 means the amount with which he is so chargeable after making any deduction authorised by section 105 but before giving any relief under this section; and “relevant date”—

- (a) in relation to tax under section 104(1), means the date of the permanent discontinuance, and
- (b) in relation to tax under section 104(4), means the date of the change of basis.

(5) Subsections (1) to (4) above shall apply as follows as respects the net amount of any sum chargeable under section 104 which is assessed by reference to a sum accruing to a partnership—

- (a) the part of that net amount which is apportioned to any partner (who is an individual), or the personal representative of such an individual, shall be a net amount with which that person is chargeable under that section, and
- (b) if the part of that net amount which is so apportioned is a greater proportion of that amount than is the individual’s share (that is to say, the part to be included in his total income) of the total amount of the partnership profits assessed to income tax for the three years of assessment ending with the year in which the discontinuance or change of basis took place, the amount of the reduction to be given by way of relief shall not exceed the amount of relief which would have been so given if the apportionment had been made by reference to his share of that total amount.

(6) For the purposes of this section the trade, profession or vocation carried on before a permanent discontinuance shall not be treated as the same as any carried after the discontinuance.

Textual Amendments

F5 Words in s. 109(1)(b) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para.

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Marginal Citations

M3 Source—1970 s.150

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Point in time view as at 28/09/2004.

Changes to legislation:

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