



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 2

TRADING INCOME

CHAPTER 6

TRADE PROFITS: RECEIPTS

Introduction

95 Professions and vocations

Apart from section 105 (industrial development grants), the provisions of this Chapter apply to professions and vocations as they apply to trades.

Capital receipts

96 Capital receipts

- (1) Items of a capital nature must not be brought into account as receipts in calculating the profits of a trade.
- (2) But this does not apply to items which, as a result of any provision of this Part, are brought into account as receipts in calculating the profits of the trade.

Status: Point in time view as at 29/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 6. (See end of Document for details)

Debts released

97 Debts incurred and later released

- (1) This section applies if—
- (a) in calculating the profits of a trade, a deduction is allowed for the expense giving rise to a debt owed by the person carrying on the trade,
 - (b) all or part of the debt is released, and
 - (c) the release is not part of a statutory insolvency arrangement.
- (2) The amount released—
- (a) is brought into account as a receipt in calculating the profits of the trade, and
 - (b) is treated as arising on the date of the release.

Amounts received following earlier cessation

98 Acquisition of trade: receipts from transferor's trade

- (1) This section applies if —
- (a) a person (“the transferor”) permanently ceased to carry on a trade 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 the trade, and
 - (c) the transferee subsequently carries on the transferor's trade.
- (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 trade for income or corporation tax purposes for any period before the cessation,
- are brought into account in calculating the profits of the transferee's trade in the period of account in which they are received.
- (3) Any sums mentioned in subsection (1)(b) which are received after the transferor has permanently ceased to carry on the trade are not post-cessation receipts (see Chapter 18).

Reverse premiums

99 Reverse premiums

- (1) For the purposes of sections 101 and 102 a payment or other benefit is a reverse premium—
- (a) if conditions A to C are met, and
 - (b) it is not excluded by section 100.
- (2) Condition A is that a person (“the recipient”) receives the payment or other benefit by way of inducement in connection with a transaction being entered into by—
- (a) the recipient, or
 - (b) a person connected with the recipient.

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- (3) Condition B is that the transaction (the “property transaction”) is one under which—
- (a) the recipient, or
 - (b) the person connected with the recipient,
- becomes entitled to an estate, interest or right in or over land.
- (4) Condition C is that the payment or other benefit is paid or provided by—
- (a) the person (“the grantor”) by whom the estate, interest or right is granted or was granted at an earlier time,
 - (b) a person connected with the grantor, or
 - (c) a nominee of, or a person acting on the directions of, the grantor or a person connected with the grantor.

100 Excluded cases

- (1) A payment or other benefit is not a reverse premium so far as it is brought into account under section 532 of CAA 2001 (the general rule excluding contributions) to reduce the recipient's expenditure qualifying for capital allowances.
- (2) A payment or other benefit received in connection with a property transaction is not a reverse premium if—
- (a) the person entering into the transaction is an individual, and
 - (b) the transaction relates to premises occupied or to be occupied by the individual as the individual's only or main residence.
- (3) A payment or other benefit is not a reverse premium so far as it is consideration for the transfer of an estate or interest in land which constitutes the sale in a sale and lease-back arrangement.
- (4) A “sale and lease-back arrangement” means any such arrangement as is described in section 779(1) or (2) or 780(1) of ICTA.

Modifications etc. (not altering text)

- C1** S. 100(1) excluded (26.3.2007) by [The Income Tax \(Construction Industry Scheme\) Regulations 2005 \(S.I. 2005/2045\)](#), reg. 20(2) (as amended by [The Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2007 \(S.I. 2007/672\)](#), reg. 5(3))

101 Tax treatment of reverse premiums

- (1) A reverse premium is treated for income tax purposes as a receipt of a revenue nature.
- (2) If the recipient enters into the property transaction for the purposes of a trade carried on (or to be carried on) by the recipient, the reverse premium is brought into account in calculating the profits of the trade.
- (3) If subsection (2) does not apply, the reverse premium is charged to income tax in accordance with section 311 (reverse premium taxed as property business receipt).

102 Arrangements not at arm's length

- (1) This section applies if—

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- (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.
- (2) The terms of the property arrangements meet the condition in subsection (1)(b) if they differ to a significant extent from the terms which, at the time the arrangements were entered into, would be regarded as normal and reasonable—
- (a) in the market conditions then prevailing, and
 - (b) between persons dealing with each other at arm's length in the open market.
- (3) The whole amount or value of the reverse premium brought into account under section 101 is brought into account in the first relevant period of account.
- (4) “The first relevant period of account” means the period of account in which the property transaction is entered into.
- (5) But if the recipient enters into the property transaction for the purposes of a trade—
- (a) which is not then carried on by the recipient, but
 - (b) which the recipient subsequently starts to carry on,
- “the first relevant period of account” means the first period of account in which the recipient carries on the trade.

103 Connected persons and property arrangements

For the purposes of this section and sections 99 to 102—

- (a) persons are treated as connected with each other if they are connected (for which see section 878(5)) at any time during the period when the property arrangements are entered into, and
- (b) “the property arrangements” means the property transaction and any arrangements entered into in connection with it (whether before it, at the same time as it or after it).

Assets of mutual concerns

104 Distribution of assets of mutual concerns

- (1) This section applies if—
- (a) a deduction has been allowed in calculating the profits of a trade for a payment to a mutual concern for the purposes of its mutual business,
 - (b) the concern is being or has been wound up or dissolved,
 - (c) a person (“the recipient”) who is carrying on the trade, or was doing so at the time of the payment, receives money or money's worth representing the concern's assets, and
 - (d) the assets in question represent profits of the mutual business conducted by the concern.
- (2) If the recipient is carrying on the trade at the time the money or money's worth is received, the amount or value of the money or money's worth is brought into account as a receipt in calculating the profits of the trade.
- (3) If the recipient—

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- (a) is not carrying on the trade at the time the money or money's worth is received, but
 - (b) was doing so at the time of the payment to the mutual concern,
- the amount or value of the money or money's worth is treated as a post-cessation receipt (see Chapter 18).
- (4) For the purposes of this section money or money's worth represents assets of a mutual concern if it—
- (a) forms part of the assets of the concern,
 - (b) forms part of the consideration for the transfer of the assets of the concern as part of a scheme of amalgamation or reconstruction which involves its winding up, or
 - (c) consists of the consideration for a transfer or surrender of a right to receive anything falling within paragraph (a) or (b) and does not give rise to a charge to income tax on the person receiving it otherwise than as a result of this section.
- (5) If a transfer or surrender of a right to receive anything which—
- (a) forms part of the assets of a mutual concern, or
 - (b) forms part of the consideration for the transfer of the assets of a mutual concern,
- is not at arm's length, the person making the transfer or surrender is treated as receiving consideration equal to the value of the right.
- (6) In this section references to a mutual concern are to a body corporate which has at any time carried on a trade which consists of or includes the conduct of mutual business (whether or not confined to the members of the body corporate).
- (7) For the purposes of this section a trade does not consist of or include the conduct of mutual business if all the profits of the trade are chargeable to income or corporation tax.

Industrial development grants

105 Industrial development grants

- (1) This section applies if a person carrying on a trade receives a payment by way of a grant under—
- (a) section 7 or 8 of the Industrial Development Act 1982 (c. 52), or
 - (b) Article 7, 9 or 30 of the Industrial Development (Northern Ireland) Order 1982 (S.I. 1982/1083 (N.I. 15)).
- (2) The payment is brought into account as a receipt in calculating the profits of the trade unless—
- (a) the grant is designated as made towards the cost of specified capital expenditure,
 - (b) the grant is designated as compensation for the loss of capital assets, or
 - (c) the grant is for all or part of a corporation tax liability (including one that has already been met).
- (3) This section does not apply to professions or vocations.

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Proceeds of insurance etc.

106 Sums recovered under insurance policies etc.

- (1) This section applies if—
- (a) a deduction is allowed for a loss or expense in calculating the profits of a trade,
 - (b) a person carrying on the trade recovers a sum under an insurance policy or a contract of indemnity in respect of the loss or expense, and
 - (c) the sum is not of a revenue nature.
- (2) The sum is brought into account as a receipt in calculating the profits of the trade (but only up to the amount of the deduction).

Status:

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Changes to legislation:

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