

SCHEDULES

SCHEDULE 2

TRANSITIONALS AND SAVINGS ETC.

VALID FROM 06/04/2005

PART 3

TRADING INCOME

Unpaid remuneration

- 12 (1) This paragraph applies for the purposes of section 36.
- (2) In relation to a period of account ending before 27th November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount which is held by an intermediary with a view to its becoming employees' remuneration.
- (3) In relation to a period of account ending on or after 27th November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount—
- (a) in respect of employee benefit contributions (within the meaning of sections 38 to 44) made before that date, and
 - (b) which is held by an intermediary,
- with a view to its becoming employees' remuneration.

Employee benefit contributions

- 13 Sections 38 to 44 do not apply to deductions that would otherwise be allowed—
- (a) for a period ending before 27th November 2002, or
 - (b) in respect of employee benefit contributions made before that date.
- 14 (1) In relation to any time before the coming into force of ITEPA 2003—
- (a) section 40(7) applies as if, in the definition of “employment income tax charge”, for “tax under ITEPA 2003” there were substituted “income tax under Schedule E”,
 - (b) section 41(1) applies as if for “treated as received” to the end there were substituted “treated as received for the purposes of section 202A(1)(a) of ICTA (applying the rules in section 202B(1) to (6) of that Act (receipts basis of assessment for Schedule E)).”, and
 - (c) section 41(3) applies as if for “tax under ITEPA 2003” there were substituted “income tax under Schedule E”.

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- (2) The express provision made by this paragraph does not affect the construction of other provisions of this Act as a result of the operation of paragraph 5 of this Schedule on paragraph 4 of Schedule 7 to ITEPA 2003 (references in enactment to rewritten provisions include corresponding repealed provisions) or on any similar provision (for example paragraph 4 of Schedule 3 to CAA 2001).
- 15 (1) Subject to sub-paragraph (7), sections 38 to 44 apply before 6th April 2006 with the following amendments.
- (2) In section 38(4)—
- (a) for paragraphs (b) and (c) and the word “or” at the end of paragraph (c) substitute—
- “ (b) contributions under a retirement benefits scheme within the meaning of Chapter 1 of Part 14 of ICTA (see section 611 of that Act),
- (c) contributions under a personal pension scheme approved under Chapter 4 of that Part (see section 630 of that Act), or”, and
- (b) omit “For the purposes of paragraph (c)” to the end.
- (3) In section 39—
- (a) in subsection (1)(b) omit “, or in respect of, present or former”, and
- (b) in subsection (2) omit “present or former”.
- (4) In section 40—
- (a) in subsection (1) for “, C or D” substitute “ or C ”, and
- (b) omit subsection (5).
- (5) In section 41(1) omit paragraph (b) and the word “and” before it.
- (6) In section 44(1) omit the definition of “employer-financed retirement benefits scheme”.
- (7) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained an amendment substituting sections 38 to 44 of this Act for those sections as amended by sub-paragraphs (2) to (6) above.

Car or motor cycle hire

- 16 In relation to expenditure incurred under a contract entered into before 11th March 1992, section 48(1) and (2) apply with the substitution of “£8,000” for “£12,000”.
- 17 Section 50 does not apply to expenditure which is incurred—
- (a) before 17th April 2002, or
- (b) on the hiring of a car mentioned in that section which is first registered before that date.

Crime-related payments

- 18 Section 55(1)(b) does not apply to expenditure which was incurred before 1st April 2002.

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Tenants under taxed leases

- 19 (1) This paragraph relates to the operation of sections 60 to 67 where, in respect of a lease—
- (a) there is a receipt of a Schedule A business or an overseas property business (within the meaning of section 65A(4) or 70A(4) of ICTA) as a result of section 34 or 35 of ICTA (treatment of premiums etc. as rent and assignments for profit of lease granted at an undervalue) for a tax year before the tax year 2005-06 or an accounting period ending before 6th April 2005, or
 - (b) there would be such a receipt, but for the operation of section 37(2) or (3) of ICTA (reductions in certain receipts under section 34 or 35 of ICTA).
- In this paragraph and paragraph 20 such a receipt is referred to as a “pre-commencement receipt”.
- (2) For the purposes of sections 60 to 67—
- (a) the lease is treated as a taxed lease, and
 - (b) the pre-commencement receipt is treated as a taxed receipt.
- (3) For the purposes of those sections, the “receipt period” of a taxed receipt which is a pre-commencement receipt is—
- (a) in the case of a pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (b) in the case of a pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.
- (4) For the purposes of sections 60 to 67 the “unreduced amount” of a taxed receipt which is a pre-commencement receipt is the amount of the pre-commencement receipt as a result of section 34 or 35 of ICTA, before the operation of section 37(2) or (3) of ICTA.
- (5) Sub-paragraph (6) applies to a taxed receipt which is a pre-commencement receipt arising as a result of section 34(2) of ICTA (obligation on tenant to carry out work under lease).
- (6) If the obligation to carry out work included the carrying out of work which gave or will give rise to expenditure for which an allowance has been, or may be, made under the enactments relating to capital allowances, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.
- 20 (1) This paragraph provides for the application of section 61 as a result of section 63 if—
- (a) a lease is a taxed lease as a result of paragraph 19,
 - (b) another lease is granted out of the taxed lease,
 - (c) in calculating the amount of a pre-commencement receipt in respect of the other lease, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and
 - (d) as a result of paragraph 19 the amount chargeable on the superior interest is the taxed receipt for the purposes of section 61.

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- (2) Sections 61 to 65 apply as follows—
- (a) the pre-commencement receipt is treated as if it were a lease premium receipt for the purposes of sections 64 and 65,
 - (b) references in those sections to the reduction under section 288 by reference to the taxed receipt are, in relation to the pre-commencement receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and
 - (c) for the purposes of those sections the receipt period of the pre-commencement receipt is—
 - (i) in the case of a pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (ii) in the case of a pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.
- (3) References to a reduction under section 37(2) or (3) of ICTA in a pre-commencement receipt by reference to the amount chargeable on the superior interest are to the difference between—
- (a) the amount of the pre-commencement receipt before the operation of section 37(2) or (3) of ICTA, and
 - (b) the amount of the receipt after the operation of that subsection,
- so far as attributable to the amount chargeable on the superior interest for the purposes of section 37 of ICTA.

Seconded employees

- 21 (1) This paragraph applies if—
- (a) the period of account of a trade begins before 1st April 2003 and ends on or after 6th April 2005, and
 - (b) in that period of account the person carrying on the trade made the services of a person employed for the purposes of the trade available to a self-governing school within the meaning of the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39) on a basis that was stated and intended to be temporary.
- (2) For the purposes of section 70 an “educational establishment”, in Scotland, includes such a school (despite the fact that, following the abolition of such schools on 1st April 2003, section 86(5)(d) of ICTA is not re-written in this Act).
- (3) This paragraph applies to professions and vocations as it applies to trades.

Training courses for employees

- 22 (1) This paragraph applies if, without the modifications to section 588 of ICTA (training courses for employees) made by this Act—
- (a) section 588(5) of ICTA would operate in relation to an employee by virtue of paragraph (a) of that provision and paragraph 37 of Schedule 7 to ITEPA 2003 (savings in relation to tax years before 2003-04),

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- (b) section 588(5) of ICTA would operate in relation to an employer by virtue of paragraph (b) of that provision and paragraph 37 of Schedule 7 to ITEPA 2003, or
- (c) section 588(6) and (7) of ICTA would operate in relation to an employer by virtue of paragraph 37 of Schedule 7 to ITEPA 2003.
- (2) Those modifications do not apply in relation to—
- (a) the operation of section 588(5) of ICTA in relation to the employee as mentioned in sub-paragraph (1)(a),
- (b) the operation of section 588(5) of ICTA in relation to the employer as mentioned in sub-paragraph (1)(b), and
- (c) the operation of section 588(6) and (7) of ICTA in relation to the employer as mentioned in sub-paragraph (1)(c).
- 23 (1) This paragraph applies if—
- (a) at any time during the period beginning with 6th April 2003 and ending with 5th April 2005, a person (“the employer”) incurred expenditure in paying or reimbursing retraining course expenses within the meaning of section 311 of ITEPA 2003,
- (b) the employer's liability to income tax for any tax year has been determined (before or after the passing of this Act, and by assessment or otherwise) on the assumption that, by virtue only of section 588(3) of ICTA, the employer is entitled to a deduction on account of the expenditure, and
- (c) before 6th April 2005, no assessment has been made under section 29(1) of TMA 1970 by virtue of section 588(5) of ICTA of an amount due in consequence of the failure by the person in respect of whom the expenditure was incurred to meet a condition of the kind mentioned in section 312(1) (b)(i) or (ii) of ITEPA 2003.
- (2) Section 75 (retraining courses: recovery of tax) applies in relation to the employer as if the condition in subsection (1) were met.
- (3) In the application of that section to the employer, references to “the employee” are to the person in respect of whom the expenditure was incurred by the employer.
- Contributions to urban regeneration companies*
- 24 Section 82 does not apply to any contribution which was made to an urban regeneration company before 1st April 2003.
- Local enterprise agencies*
- 25 To the extent that any function of the Scottish Ministers under section 79 of ICTA was, before 6th April 2005, also exercisable by the Secretary of State for the purposes specified in section 2(2) of the European Communities Act 1972 (c. 68) that function as rewritten in—
- (a) section 83(2) (meaning of “local enterprise agency”),
- (b) section 84 (approval of local enterprise agencies), or
- (c) section 85 (supplementary provisions with respect to approvals),
- continues to be also exercisable by the Secretary of State for those purposes.

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Expenses connected with patents, designs and trade marks

- 26 (1) This paragraph applies if—
- (a) fees have been incurred, but not paid, for the purposes of a trade in connection with any of the matters mentioned in section 89 or 90,
 - (b) the fees were incurred in a period of account no part of which falls in the basis period for the tax year 2005-06 or a subsequent tax year, and
 - (c) the fees have not been taken into account in calculating the profits of the trade of any tax year.
- (2) A deduction is allowed for the fees in calculating the profits of the period of account in which they are paid.

Payments to Export Credits Guarantee Department

- 27 (1) This paragraph applies if—
- (a) a sum is payable, but not paid, by the person carrying on a trade to the Export Credits Guarantee Department under an agreement mentioned in section 91(1)(a) or with a view to entering into such an agreement,
 - (b) the sum was incurred in a period of account no part of which falls in the basis period for the tax year 2005-06 or a subsequent tax year, and
 - (c) the sum has not been taken into account in calculating the profits of the trade of any tax year.
- (2) A deduction is allowed for the sum in calculating the profits of the period of account in which it is paid.
- (3) This paragraph applies to professions and vocations as it applies to trades.

Reverse premiums

- 28 (1) Sections 101 and 102 do not apply to a reverse premium—
- (a) which was received before 9th March 1999, or
 - (b) to which the recipient was entitled immediately before that date.
- (2) In determining whether a reverse premium was one to which the recipient was entitled immediately before 9th March 1999, no account is to be taken of any arrangements made on or after that date.

Sums recovered under insurance policies etc.

- 29 (1) Section 106 does not apply if—
- (a) a person carrying on a trade recovers a sum mentioned in that section, and
 - (b) the sum has been taken into account in calculating the profits of the trade of a tax year before the tax year 2005-06.
- (2) This paragraph applies to professions and vocations as it applies to trades.

Meaning of “designated educational establishment”

- 30 To the extent that the power of the National Assembly for Wales to make regulations under section 84(5) of ICTA was, before 6th April 2005, also exercisable by the Secretary of State for the purpose of—

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- (a) implementing any Community obligation of the United Kingdom,
- (b) enabling any such obligation to be implemented,
- (c) enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of the Community Treaties to be exercised, or
- (d) dealing with matters arising out of or related to any such obligation or rights or the operation of section 2(1) of the European Communities Act 1972 (c. 68),

that power as rewritten in section 110 continues to be also exercisable by the Secretary of State for those purposes.

Films and sound recordings

- 31 (1) This paragraph applies to—
- (a) production expenditure in respect of the original master version of a film which (within the meaning of Chapter 9 of Part 2) was completed before 21st March 2000,
 - (b) production expenditure in respect of the original master version of a film which (within the meaning of that Chapter) is completed on or after that date, if the first day of principal photography was before that date (but see sub-paragraph (4)), and
 - (c) acquisition expenditure in respect of the original master version of a film which was incurred before 6th April 2000.
- (2) For this purpose acquisition expenditure in respect of the original master version of a film includes the acquisition of any description of rights in the original master version of a film (whether or not held or acquired with it).
- (3) In relation to expenditure to which this paragraph applies—
- (a) section 130(4) applies with the omission of “that are held or acquired with it”,
 - (b) section 131(5) applies with the insertion at the end of “ or, if the expenditure is acquisition expenditure and the acquisition takes place after that time, at the time of the acquisition ”, and
 - (c) section 134(1) applies with the insertion after “acquisition expenditure,” of “ and the expenditure would otherwise constitute capital expenditure on the provision of plant or machinery for the purposes of Part 2 of CAA 2001, ”.
- (4) This paragraph does not apply to expenditure falling within sub-paragraph (1)(b) if the person incurring the expenditure so elects.
- (5) Any such election is irrevocable.
- 32 (1) Sections 134 and 135 do not apply in relation to expenditure incurred by a person carrying on a trade which consists of or includes the exploitation of original master versions of films if—
- (a) the expenditure is incurred on the production or acquisition of an original master version of a film completed before 10th March 1992 (within the meaning of Chapter 9 of Part 2),
 - (b) the original master version is a certified master version,
 - (c) its value is expected to be realised over a period of not less than two years, and
 - (d) the film is genuinely intended for theatrical release.

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- (2) Sub-paragraph (1)(d) does not apply if—
- (a) the original master version of the film was certified before 17th April 2002 by the Secretary of State under Schedule 1 to the Films Act 1985 (c. 21) as a qualifying film, tape or disc, or
 - (b) an application for such certification was received by the Secretary of State before that date.
- 33 Section 137 does not apply in relation to expenditure which was incurred before 10th March 1992.
- 34 Section 138 does not apply in relation to production or acquisition expenditure in respect of the original master version of a film which was completed before 10th March 1992.
- 35 (1) Any requirement in Chapter 9 of Part 2 for a film to be genuinely intended for theatrical release does not apply to a film completed (within the meaning of that Chapter)—
- (a) on or after 17th April 2002 if—
 - (i) an application for certification was received by the Secretary of State before that date, or
 - (ii) the film is a qualifying drama (see sub-paragraph (2)),
 - (b) before 1st January 2002 if—
 - (i) the film was certified by the Secretary of State before 17th April 2002, or
 - (ii) an application for certification was received by the Secretary of State before 17th April 2002, or
 - (c) at any time in the period beginning with 1st January 2002 and ending with 16th April 2002.
- References in this sub-paragraph to certification are to certification of the original master version of the film under Schedule 1 to the Films Act 1985 (c. 21) as a qualifying film, tape or disc.
- (2) A film is a qualifying drama if—
- (a) it is a drama with an average production expenditure per hour of running time of the completed film greater than £500,000,
 - (b) it was commissioned on or before 17th April 2002, and
 - (c) the first day of principal photography was on or before 30th June 2002.
- (3) For the purposes of sub-paragraph (2) “drama” does not include—
- (a) anything in the nature of—
 - (i) an advertisement or promotional film,
 - (ii) a discussion programme, news or current affairs programme, quiz show, panel show, variety show or similar entertainment, or
 - (iii) a training film, or
 - (b) a film of a live event or of a theatrical or artistic performance given otherwise than for the purpose of being filmed,
- but it includes a documentary involving the dramatic reconstruction of events if the dramatic content forms 50% or more of the running time.

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(4) For the purposes of sub-paragraph (2) the production expenditure on a film means the total production expenditure in respect of the original master version of the film (as defined by section 141).

36 Sections 139 and 140 do not apply if—

- (a) the expenditure was incurred before 2nd July 1997 (as determined by section 142), or
- (b) the film was completed before that date (within the meaning of Chapter 9 of Part 2).

37 Sections 139(4) and 141(3) do not apply to any film which was completed before 17th April 2002.

38 The requirement in section 140 for the acquisition to be a relevant acquisition does not apply in relation to expenditure which was incurred before 30th June 2002 (as determined by section 142).

Certain telecommunication rights

39 Chapter 10 of Part 2 does not apply to an indefeasible right to use a telecommunications cable system (“IRU”) acquired before 21st March 2000.

40 (1) That Chapter also does not apply to an IRU acquired by a person on or after that date (directly or indirectly) from an associate or an associated company if the associate or associated company acquired the IRU before that date.

(2) In sub-paragraph (1)—

“associate” has the meaning given by section 417(3) and (4) of ICTA, and

“associated company”—

- (a) in relation to another company, has the meaning given by section 416(1) of that Act, and
- (b) in relation to any other person, means a company of which that person has control within the meaning of subsections (2) to (6) of that section.

Dealers in securities etc: taxation of amounts taken to reserves

41 (1) Section 149 does not apply in relation to periods of account beginning before 1st January 2005.

(2) But, in the case of a company required to prepare accounts—

- (a) under the Companies Act 1985 (c. 6), or
- (b) under the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)),

that section does apply in relation to a period of account beginning before that date for which the company is required or permitted to prepare such accounts in accordance with international accounting standards.

Purchase or sale of woodlands

42 Section 156 does not apply if the purchase mentioned in subsection (2) of that section was made under a contract entered into before 1st May 1963.

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Ministers of religion

- 43 (1) This paragraph applies if—
- (a) expenses have been incurred, but not borne, by a minister of a religious denomination on any of the matters mentioned in section 159(3),
 - (b) the expenses were incurred in a period of account no part of which falls in the basis period for the tax year 2005-06 or a subsequent tax year, and
 - (c) the part of the expenses corresponding to the amount under section 159(4) has not been taken into account in calculating the profits of the profession or vocation of the minister of any tax year.
- (2) A deduction is allowed under section 159(3) for that part of the expenses in calculating the profits of the period of account in which the expenses are borne.

Waste disposal

- 44 If the predecessor ceased to carry on the trade carried on by the trader, or ceased to carry on a trade so far as relating to the site, before 21st March 2000, section 165 applies as if—
- (a) “, or a predecessor,” in subsection (1) were omitted, and
 - (b) subsections (3) and (4) were omitted.
- 45 If the trade carried on by the trader was started before 1st April 1993, the definition of “waste disposal licence” in section 167(1) applies for the purposes of sections 165 and 166 as if paragraphs (d) and (e) of the definition were omitted (radioactive waste and nuclear site authorisations or licences).
- 46 Section 167(2) does not apply for the purposes of sections 165 and 166 if the trade was started before 1st April 1993.

Valuation of trading stock on cessation

- 47 (1) This paragraph applies if—
- (a) a period of account of a trade begins before 6th April 2004 and ends on or after 6th April 2005 (“the straddling period of account”), and
 - (b) as a result of paragraph 48, the profits or losses of the period of account are to be calculated in accordance with Part 2 of this Act.
- (2) Subsection (2) of section 173 (valuation of trading stock on cessation) does not apply in relation to the part of the period of account which—
- (a) begins with the straddling period of account, and
 - (b) ends with 5th April 2004,
- and the profits or losses of the trade are to be calculated accordingly.

Apportionment of profits or losses to tax years before tax year 2005-06

- 48 (1) This paragraph applies if—
- (a) a period of account of a trade, profession or vocation begins before 6th April 2005 and ends on or after that date,
 - (b) the period of account, or part of the period of account, falls in the basis period for the tax year 2005-06,
 - (c) part of the period of account also falls in the basis period (or periods) for an earlier tax year (or years), and

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(d) in order to arrive at the profits or losses of the basis period for any earlier tax year it is necessary to apportion the profits or losses of the period of account to any part of the period of account falling in that basis period.

(2) The profits or losses of the period of account—

- (a) are calculated in accordance with Part 2 of this Act (and therefore, to that extent, that Part has effect for tax years before the tax year 2005-06), and
- (b) may be apportioned in accordance with section 203 to any part of the period of account falling in a basis period for a tax year before the tax year 2005-06.

Treatment of business start-up payments received in an overlap period

49 (1) There is an exception to the rule that, subject to Part 8, the charge to tax under Chapter 2 of Part 2 on the profits of a trade, profession or vocation of a tax year operates by reference to the profits of the basis period for the tax year (which may include a period falling before 6th April 2005).

(2) The exception is that section 207 does not apply to payments received before 6th April 2005.

Profits or losses of a trade, profession or vocation previously chargeable in accordance with section 65(1) of ICTA

50 (1) This paragraph applies if—

- (a) a person carries on a trade, profession or vocation wholly outside the United Kingdom, and
- (b) the trade, profession or vocation was chargeable to income tax in accordance with section 65(1) of ICTA (Case IV and V assessments: general) for a tax year before 2005-06.

(2) If the trade, profession or vocation was so chargeable for the tax year 2004-05, the person is treated for the purpose of determining the basis period for the tax year 2005-06 and subsequent tax years as if the person started to carry on the trade, profession or vocation on 6th April 2005.

(3) For the purposes of section 391 of ICTA (as substituted by Schedule 1 to this Act), no account is to be taken of any loss made in any tax year before tax year 2005-06 if the trade, profession or vocation was chargeable to income tax in accordance with section 65(1) of ICTA for that tax year.

Profits of mines, quarries and other concerns not chargeable by reference to a basis period

51 (1) This paragraph applies if any profits or losses arising out of land in the case of any concern specified in section 55(2) of ICTA—

- (a) arose in the tax year 2004-05, and
- (b) were calculated for that tax year otherwise than by reference to a basis period.

(2) For the purpose of determining the basis period for the tax year 2005-06 and subsequent tax years, the concern is treated as if it were a trade which was started to be carried on by a person on 6th April 2005.

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- (3) Paragraph 48 of this Schedule applies in relation to any case to which this paragraph applies as if references to a basis period for a tax year (an “earlier tax year”) before the tax year 2005-06 were references to that earlier tax year.
- Overlap profit: pre-April 1994 trades, professions and vocations*
- 52 (1) This paragraph applies in the case of a trade, profession or vocation which was—
- (a) set up and commenced by a person before 6th April 1994, and
 - (b) continued by the person after 5th April 1997,
- and the profits of which were chargeable to income tax under Case I or II of Schedule D for the tax year 1997-98.
- (2) For the purposes of Chapter 15 of Part 2 “overlap profit” includes the amount of profits or gains of the basis period for the tax year 1997-98 which—
- (a) arose after the end of the basis period for the tax year 1996-97 or, in the case of a trade or profession carried on by a firm, the basis period of the firm for that year, and
 - (b) arose before 6th April 1997.
- (3) In calculating the amount of the profits or gains of the basis period for the tax year 1997-98 which arose as mentioned above—
- (a) any deduction of a capital allowance, and
 - (b) any addition of a balancing charge,
- are ignored.
- (4) But sub-paragraph (3) does not apply in the case of a trade or profession carried on by a firm which included both an individual and a company.
- (5) For the purposes of this paragraph the basis period for the tax year 1996-97 is determined in accordance with paragraph 1 of Schedule 20 to FA 1994 despite the repeal by this Act of that paragraph.
- (6) This paragraph is subject to Schedule 22 to FA 1995 (prevention of exploitation of the transitional rules facilitating self-assessment).
- 53 (1) This paragraph applies in the case of income which—
- (a) was immediately derived from the carrying on of a trade, profession or vocation set up and commenced by a person before 6th April 1994 and continued by the person after 5th April 1998, and
 - (b) was chargeable to income tax under Case IV or V of Schedule D for the tax year 1997-98.
- (2) But, in the case of income which was chargeable to tax by reference to the amounts of income received in the United Kingdom, this paragraph applies only if the date on which the first amount of income was received in the United Kingdom was before 6th April 1994.
- (3) For the purposes of Chapter 15 of Part 2 “overlap profit” includes the amount of profits or gains of the basis period for the tax year 1997-98 which arose before 6th April 1997.
- (4) This paragraph is subject to Schedule 22 to FA 1995 (prevention of exploitation of the transitional rules facilitating self-assessment).

Status: Point in time view as at 24/03/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 3. (See end of Document for details)

54 The repeal by this Act of paragraphs 2, 6 and 10 of Schedule 20 to FA 1994 (changes for facilitating self-assessment: transitional provisions and savings) does not affect the continuing application of the assumptions mentioned in paragraph 11(4) of that Schedule (double taxation relief).

Averaging profits of farmers and creative artists

55 (1) The first tax years which may be the subject of an averaging claim under section 222 are the tax years 2004-05 and 2005-06.

(2) If—

- (a) an individual carries on a trade of farming or market gardening in the United Kingdom in partnership, and
- (b) but for the repeal by this Act of section 96 of ICTA the individual could have made a claim under that section in relation to the profits of that trade for the tax years 2004-05 and 2005-06,

the individual may make an averaging claim under section 222 of this Act in relation to those profits for those tax years (despite anything in Chapter 16 of Part 2 of this Act to the contrary).

Adjustment on change of basis

56 (1) Chapter 17 of Part 2 applies to a change of basis taking effect for a period of account which ends on or after 6th April 2005.

(2) For this purpose the period of account for which a change of basis takes effect is the first period of account for which the new basis is adopted.

57 (1) Subject to sub-paragraph (3), section 232 applies before 6th April 2006 with the following amendment.

(2) In subsection (4)—

(a) before paragraph (a) insert—

“(aa) relevant earnings within section 623(2)(c) or 644(2)(c) of ICTA, or”,

(b) omit paragraph (b) and the word “or” before it, and

(c) for “earned income or relevant UK earnings” substitute “relevant earnings or earned income”.

(3) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained an amendment substituting section 232(4) of this Act for that subsection as amended by sub-paragraph (2) above.

58 If—

(a) an individual has made an election under paragraph 12 of Schedule 22 to FA 2002 (election by barrister or advocate to accelerate adjustment charge),

(b) as a result of the election sub-paragraph (4) of that paragraph applies in relation to the tax year 2004-05, and

(c) the election is in force immediately before 6th April 2005,

the election continues to apply in relation to the tax year 2005-06 and subsequent tax years (despite paragraph 3 of this Schedule).

Status: Point in time view as at 24/03/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 3. (See end of Document for details)

59 Section 104(4) of ICTA (which, despite its repeal, applies in relation to any change of accounting basis occurring before 6th April 1999) does not apply if the person who would be liable to tax as a result of the change was born before 6th April 1917.

Post-cessation receipts

60 (1) Subject to sub-paragraph (4), section 256 applies before 6th April 2006 with the following amendments.

(2) In subsection (1)(b)—

(a) after “from the trade was” insert “ relevant earnings within section 623(2)(c) or 644(2)(c) of ICTA or ”, and

(b) omit “or relevant UK earnings within section 189(2)(b) of FA 2004”.

(3) In subsection (2) for “earned income or relevant UK earnings” substitute “ relevant earnings or earned income ”.

(4) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained an amendment substituting section 256 of this Act for that section as amended by sub-paragraphs (2) and (3) above.

61 Chapter 18 of Part 2 does not apply in relation to a post-cessation receipt if—

(a) the person who would be liable to tax on the receipt was born before 6th April 1917, and

(b) the cessation of the trade occurred before 6th April 2000.

Status:

Point in time view as at 24/03/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 3.