



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 3

PROPERTY INCOME

CHAPTER 4

PROFITS OF PROPERTY BUSINESSES: LEASE PREMIUMS ETC.

Effective duration of lease

304 Applying the rules in section 303

- (1) The rules in section 303 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 281 (sums payable for variation or waiver of [^{F1}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 [^{F2}securing—
 - (a) an income tax advantage in the application of this Chapter, or

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Section 304. (See end of Document for details)

- (b) a corporation tax advantage in the application of Chapter 4 of Part 4 of CTA 2009 (profits of property business: lease premiums etc).]
- (5) In applying [^{F3}paragraph (b) of] rule 1 in section 303, 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.

Textual Amendments

- F1** Word in s. 304(1)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 627\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F2** Words in s. 304(4) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 627\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F3** Words in s. 304(5) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 627\(4\)](#) (with [Sch. 2 Pts. 1, 2](#))

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