



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IV

PROVISIONS RELATING TO THE SCHEDULE D CHARGE

CHAPTER VI

DISCONTINUANCE ^{F1} . . .

Textual Amendments

- F1** Words in [Pt. 4 Ch. 6](#) heading repealed (with application in accordance with Sch. 27 Pt. 3(6) Note of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. 3\(6\)](#)

Valuation of trading stock etc.

100 Valuation of trading stock at discontinuance of trade.

- (1) ^{M1}In computing for [^{F2}any corporation tax purpose] the [^{F3}profits] of a trade which has been discontinued, any trading stock belonging to the trade at the discontinuance shall be valued as follows—
- (a) if—
- (i) the stock is sold or transferred for valuable consideration to a person who carries on, or intends to carry on, a trade in the United Kingdom, and
 - (ii) the cost of the stock may be deducted by the purchaser as an expense in computing for any tax purpose the [^{F3}profits] of that trade,
- the value of the stock shall be taken to be the amount [^{F4}determined in accordance with subsections (1A) to (1C) below; and]

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- (b) if the stock does not fall to be valued under paragraph (a) above, its value shall be taken to be the amount which it would have realised if it had been sold in the open market at the discontinuance of the trade.

[^{F5}(1ZA) This section does not apply in relation to any trading stock if paragraph 1(2) of Schedule 28AA (provision not at arm’s length) has effect in relation to any provision made or imposed in relation to that stock and having effect in connection with the discontinuance of the trade.]

[^{F6}(1A) Subject to subsections (1B) and (1C) below and to paragraph 2 of Schedule 12 to the ^{M2}Finance Act 1988 (gilt-edged securities and other financial trading stock), the value of any trading stock falling to be valued under paragraph (a) of subsection (1) above shall be taken—

- (a) except where the person to whom it is sold or transferred is connected with [^{F7}the company which] makes the sale or transfer, to be the amount (“the price actually received for it”) which is in fact realised on the sale or, as the case may be, which is in fact the value of the consideration given for the transfer; and
- (b) if [^{F8}that person and that company] are connected with each other, to be what would have been the price actually received for it had the sale or transfer been a transaction between independent persons dealing at arm’s length.

(1B) In a case falling within subsection (1)(a) above—

- (a) ^{F9}
- (b) stock sold in circumstances in which the amount realised on the sale would be taken to be an amount determined in accordance with paragraph 5 of Schedule 5 shall be taken to have the value so determined, instead of the value for which subsection (1A)(a) or (b) above provides.

(1C) If—

- (a) trading stock is sold or transferred to a person in circumstances where paragraph (b) of subsection (1A) above would apply (apart from this subsection) for determining the value of the stock so sold or transferred,
- (b) the amount which would be taken in accordance with that paragraph to be the value of all of the stock sold or transferred to that person is more than the acquisition value of that stock and also more than the price actually received for it, and
- (c) both parties to the sale or transfer, by notice signed by them and sent to the inspector no later than two years after the end of the [^{F10}accounting period] in which the trade is discontinued, elect that this subsection shall apply,

then the stock sold or transferred to that person shall be taken to have a value equal to whichever is the greater (taking all the stock so sold or transferred together) of its acquisition value and the price actually received for it or, in a case where they are the same, to either of them.

(1D) In subsection (1C) above “acquisition value”, in relation to any trading stock, means the amount which, in computing for any [^{F11}corporation] tax purposes the [^{F3}profits] of the discontinued trade, would have been deductible as representing the acquisition value of that stock if—

- (a) the stock had, immediately before the discontinuance, been sold in the course of the trade for a price equal to whatever would be its value in accordance with subsection (1A)(b) above; and
- (b) the period for which those [^{F3}profits] were to be computed began immediately before the sale.

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(1E) ^{F12}Where the value of the trading stock is determined in accordance with subsections (1A) to (1C) above, or sections 176 to 178 of ITTOIA 2005 or section 127 of that Act (by virtue of section 175(3)) (corresponding provisions for income tax purposes),] the amount to be brought into account as the value of that stock in computing ^{F3}profits] of the discontinued trade shall also be taken, for the purpose of making ^{F13}for corporation tax purposes] any deduction in computing the ^{F3}profits] of any trade carried on by the purchaser, to be the cost of that stock to the purchaser.

(1F) For the purposes of this section two persons are connected with each other if—

- (a) they are connected with each other within the meaning of section 839;
- (b) one of them is a partnership and the other has a right to a share in the partnership;
- (c) one of them is a body corporate and the other has control over that body;
- (d) both of them are partnerships and some other person has a right to a share in each of them; or
- (e) both of them are bodies corporate or one of them is a partnership and the other is a body corporate and, in either case, some other person has control over both of them;

and in this subsection the references to a right to a share in a partnership are references to a right to a share of the assets or income of the partnership and “control” has the meaning given by section 840.

(1G) In this section “purchaser”, in relation to a transfer otherwise than by sale, means the person to whom the transfer is made.]

(2) ^{M3}For the purposes of this section “trading stock”, in relation to any trade—

- (a) means property of any description, whether real or personal, being either—
 - (i) property such as is sold in the ordinary course of the trade, or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or
 - (ii) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in sub-paragraph (i) above; and
- (b) includes also any services, article or material which would, if the trade were a profession ^{F14}. . . , be treated, for the purposes of section 101, as work in progress of the profession ^{F14}. . . , and references to the sale or transfer of trading stock shall be construed accordingly.

^{F15}(3) Where trading stock falling to be valued under paragraph (a) of subsection (1) above is sold or transferred together with other assets, so much of the amount realised on the sale or, as the case may be, of the value of the consideration given for the transfer as on a just and reasonable apportionment is properly attributable to each asset shall be treated for the purposes of this section as the amount realised on the sale or, as the case may be, the value of the consideration given for the transfer, of that asset.]

Textual Amendments

- F2** Words in s. 100(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 79(2)** (with Sch. 2)
- F3** Words in s. 100(1)(1D)(1E) substituted (31.7.1998) by *Finance Act 1998 (c. 36)*, **s. 46(3)(a)(b)**, Sch. 7 para. 1

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- F4** Words in s. 100(1)(a) substituted (with application in accordance with s. 140(2) of the amending Act) by Finance Act 1995 (c. 4), s. 140(1)
- F5** S. 100(1ZA) inserted (with effect in accordance with s. 37 of the amending Act) by Finance Act 2004 (c. 12), Sch. 5 para. 2(2)
- F6** S. 100(1A)-(1G) inserted (with application in accordance with s. 140(2) of the amending Act) by Finance Act 1995 (c. 4), by {s. 140(1)}
- F7** Words in s. 100(1A)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 79(3)(a) (with Sch. 2)
- F8** Words in s. 100(1A)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 79(3)(b) (with Sch. 2)
- F9** S. 100(1B)(a) repealed (24.7.2002) by Finance Act 2002 (c. 23), s. 105(1), Sch. 40 Pt. 3(17)
- F10** Words in s. 100(1C)(c) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 79(4) (with Sch. 2)
- F11** Word in s. 100(1D) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 79(5) (with Sch. 2)
- F12** Words in s. 100(1E) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 79(6)(a) (with Sch. 2)
- F13** Words in s. 100(1E) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 79(6)(b) (with Sch. 2)
- F14** Words in s. 100(2)(b) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 79(7), Sch. 3 (with Sch. 2)
- F15** S. 100(3) inserted (with application in accordance with s. 106(2) of the amending Act) by Finance Act 2002 (c. 23), s. 106(1)

Modifications etc. (not altering text)

- C1** S. 100 excluded (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 10 para. 11(3); S.I. 2003/120, art. 2, Sch. (with arts. 3-7 (as amended by S.I. 2003/333, art. 14))
- C2** See—1988(F) Sch. 12 para.2—*building societies converting to companies*. Trustee Savings Bank Act 1985 (c.58) s.5 and Sch.2 para.6(1)—*this provision not to apply to the discontinuance of an existing bank under the TSB Act 1985.*

Marginal Citations

- M1** Source—1970 s.137(1)
- M2** 1988 c. 39.
- M3** Source—1970 s.137(4)

101 Valuation of work in progress at discontinuance of profession or vocation.

- (1) ^{M4}Where, in computing for [^{F16}any corporation tax purpose] the [^{F17}profits] of a profession ^{F18}. . . which has been discontinued, a valuation is taken of the work of the profession ^{F18}. . . in progress at the discontinuance, that work shall be valued as follows—

(a) if—

- (i) the work is transferred for money or any other valuable consideration to a person who carries on, or intends to carry on, a profession ^{F18}. . . in the United Kingdom, and
- (ii) the cost of the work may be deducted by that person as an expense in computing for any tax purpose the [^{F17}profits] of that profession ^{F18}. . . ,

the value of the work shall be taken to be the amount paid or other consideration given for the transfer; and

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- (b) if the work does not fall to be valued under paragraph (a) above, its value shall be taken to be the amount which would have been paid for a transfer of the work on the date of the discontinuance as between parties at arm's length.
- (2)^{M5}Where a profession ^{F19}. . . is discontinued, and the [^{F20}company by which] it was carried on immediately before the discontinuance so elects by notice sent to the inspector at any time within [^{F21}the period specified in subsection (2A) below]—
 - (a) the amount (if any) by which the value of the work in progress at the discontinuance (as ascertained under subsection (1) above) exceeds the actual cost of the work shall not be brought into account in computing the [^{F17}profits] of the period immediately before the discontinuance; but
 - (b) the amount by which any sums received for the transfer of the work exceed the actual cost of the work shall be included in the sums chargeable to tax by virtue of section 103 as if it were a sum to which that section applies received after the discontinuance.

[^{F22}(2A) The period mentioned in subsection (2) above is—

- (a) ^{F23}
- (b) ^{F24} . . . the period of two years beginning at the end of the accounting period in which the profession ^{F24}. . . is discontinued.]
- (3)^{M6}References in this section to work in progress at the discontinuance of a profession ^{F25}. . . shall be construed as references to—
 - (a) any services performed in the ordinary course of the profession ^{F25}. . . , the performance of which was wholly or partly completed at the time of the discontinuance and for which it would be reasonable to expect that a charge would have been made on their completion if the profession ^{F25}. . . had not been discontinued; and
 - (b) any article produced, and any such material as is used, in the performance of any such services,

and references in this section to the transfer of work in progress shall include references to the transfer of any benefits and rights which accrue, or might reasonably be expected to accrue, from the carrying out of the work.

Textual Amendments

- F16** Words in s. 101(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 80(2)(a)* (with Sch. 2)
- F17** Words in s. 101(1)(2)(a) substituted (31.7.1998) by *Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1*
- F18** Words in s. 101(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 80(2)(b), Sch. 3* (with Sch. 2)
- F19** Words in s. 101(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 80(3), Sch. 3* (with Sch. 2)
- F20** Words in s. 101(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 80(3)* (with Sch. 2)
- F21** Words in s. 101(2) substituted (with effect in accordance with s. 135(2) of the amending Act) by *Finance Act 1996 (c. 8), Sch. 21 para. 3(2)*
- F22** S. 101(2A) inserted (with effect in accordance with s. 135(2) of the amending Act) by *Finance Act 1996 (c. 8), Sch. 21 para. 3(3)*
- F23** S. 101(2A)(a) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 80(4)(a), Sch. 3* (with Sch. 2)

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- F24** Words in s. 101(2A)(b) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 80\(4\)\(b\)](#), **Sch. 3** (with [Sch. 2](#))
- F25** Words in s. 101(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 80\(5\)](#), **Sch. 3** (with [Sch. 2](#))

Marginal Citations

- M4** Source—1970 s.138(1)
M5 Source—1970 s.138(3)
M6 Source—1970 s.138(5)

102 Provisions supplementary to sections 100 and 101.

- (1)^{M7} Any question arising under section 100(1)(a) or 101(1)(a) shall be determined as follows, for the purpose of computing for any tax purpose the [^{F26}profits] of both the trades or, as the case may be, the professions^{F27} . . . concerned—
- (a) in a case where the same body of General Commissioners have jurisdiction with respect to [^{F28}each of the persons whose [^{F29}trade or profession] is one of those] concerned, the question shall be determined by those Commissioners unless all parties concerned agree that it shall be determined by the Special Commissioners;
 - (b) in any other case, the question shall be determined by the Special Commissioners; and
 - (c) the General or Special Commissioners shall determine the question in like manner as an appeal.
- (2)^{M8} Where, by virtue of section^{F30} . . . 337(1), a [^{F31}trade or profession] is treated as having been permanently discontinued for the purpose of computing [^{F32}corporation] tax, it shall also be so treated^{F30} for the purposes of sections 100 and 101

Textual Amendments

- F26** Words in s. 102(1) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\)](#), [Sch. 7 para. 1](#)
- F27** Words in s. 102(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 81\(2\)\(a\)](#), **Sch. 3** (with [Sch. 2](#))
- F28** Words in s. 102(1)(a) substituted (with effect in accordance with [Sch. 22 para. 12](#) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 22 para. 11](#)
- F29** Words in s. 102(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 81\(2\)\(b\)](#) (with [Sch. 2](#))
- F30** Words in s. 102(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 81\(3\)\(a\)\(d\)](#), **Sch. 3** (with [Sch. 2](#))
- F31** Words in s. 102(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 81\(3\)\(b\)](#) (with [Sch. 2](#))
- F32** Word in s. 102(2) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 81\(3\)\(c\)](#) (with [Sch. 2](#))

Marginal Citations

- M7** Source—1970 s.137(2), 138(2)
M8 Source—1970 s.137(3), 138(4)

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Case VI charges on receipts

103 Receipts after discontinuance: earnings basis charge and related charge affecting conventional basis.

^{M9}(1) Where any trade, profession or vocation [^{F33}carried on wholly or partly in the United Kingdom] the [^{F34}profits] of which are chargeable to tax ^{F35}. . . has been permanently discontinued, [^{F36}corporation tax shall be charged under Case VI of Schedule D] in respect of any sums to which this section applies which are received after the discontinuance.

(2) Subject to subsection (3) below, this section applies to the following sums arising from the carrying on of the trade, profession or vocation during any period before the discontinuance (not being sums otherwise chargeable to tax)—

- (a) where the [^{F34}profits] for that period were computed by reference to earnings, all such sums in so far as their value was not brought into account in computing the [^{F34}profits] for any period before the discontinuance, and
- (b) where those [^{F34}profits] were computed on a conventional basis (that is to say, were computed otherwise than by reference to earnings), any sums which, if those [^{F34}profits] had been computed by reference to earnings, would not have been brought into the computation for any period before the discontinuance because the date on which they became due, or the date on which the amount due in respect thereof was ascertained, fell after the discontinuance.

(3) This section does not apply to any of the following sums—

- (a) sums received by a [^{F37}company] beneficially entitled thereto [^{F38}which] is not resident in the United Kingdom, or by a person acting on [^{F39}its] behalf, which represent income arising directly or indirectly from a country or territory outside the United Kingdom, or

(b) ^{F40}

[^{F41}(bb) ^{F40}]

- (c) sums realised by the transfer of trading stock belonging to a trade at the discontinuance of the trade, or by the transfer of the work of a profession or vocation in progress at its discontinuance.

^{F42}

(4) Where—

- (a) in computing for tax purposes the [^{F34}profits] of a trade, profession or vocation a deduction has been allowed for any debt incurred for the purposes of the trade, profession or vocation, and
- (b) the whole or any part of that debt is thereafter released [^{F43}otherwise than as part of a relevant arrangement or compromise], and
- (c) the trade, profession or vocation has been permanently discontinued at or after the end of the period for which the deduction was allowed and before the release was effected,

subsections (1) to (3) above shall apply as if the amount released were a sum received after the discontinuance.

[^{F44}(4A) In subsection (4)(b) above “relevant arrangement or compromise” has the same meaning as in section 74.]

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- (5) For the purposes of this section the value of any sum received in payment of a debt shall be treated as not brought into account in the computation of the [^{F34}profits] of a trade, profession or vocation to the extent that a deduction has been allowed in respect of that sum under section 74(j) [^{F45}above or under section 35 of ITTOIA 2005].

Textual Amendments

- F33** Words in s. 103(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(2\)\(a\)](#) (with Sch. 2)
- F34** Words in s. 103(1)(2)(a)(b)(4)(a)(5) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\)](#), Sch. 7 para. 1
- F35** Words in s. 103(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(2\)\(b\)](#), [Sch. 3](#) (with Sch. 2)
- F36** Words in s. 103(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(2\)\(c\)](#) (with Sch. 2)
- F37** Word in s. 103(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(3\)\(a\)\(i\)](#) (with Sch. 2)
- F38** Word in s. 103(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(3\)\(a\)\(ii\)](#) (with Sch. 2)
- F39** Word in s. 103(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(3\)\(a\)\(iii\)](#) (with Sch. 2)
- F40** [S. 103\(3\)\(b\)\(bb\)](#) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(3\)\(b\)](#), [Sch. 3](#) (with Sch. 2)
- F41** [Sch. 7 para. 36\(3\) Copyright Designs and Patents Act 1988 \(c. 48\)](#) *in force on 1 August 1989. (Commencement order—S.I. 1989 No. 816—not reproduced).*
- F42** Words in s. 103(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(3\)\(c\)](#), [Sch. 3](#) (with Sch. 2)
- F43** Words in s. 103(4)(b) inserted (with effect in accordance with s. 144(7) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 144\(3\)\(b\)](#)
- F44** [S. 103\(4A\)](#) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 144\(5\)](#)
- F45** Words in s. 103(5) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(4\)](#) (with Sch. 2)

Marginal Citations

- M9** Source—1970 s.143; 1983 s.27(b)

104 Conventional basis: general charge on receipts after discontinuance ^{F46}

- (1) ^{M10}Where any trade, profession or vocation [^{F47}carried on wholly or partly in the United Kingdom] the [^{F48}profits] of which are chargeable to tax ^{F49}. . . has been permanently discontinued, and the [^{F48}profits] for any period before the discontinuance were computed on a conventional basis, [^{F50}corporation tax shall be charged under Case VI of Schedule D] in respect of any sums to which this subsection applies which are received on or after the discontinuance.
- (2) Subject to subsection (3) below, subsection (1) above applies to all sums arising from the carrying on of the trade, profession or vocation during any period before the discontinuance, not being sums otherwise chargeable to tax, in so far as the amount or

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value of the sums was not brought into account in computing the [^{F48}profits] for any period before the discontinuance.

(3) In subsection (2) above the reference to sums otherwise chargeable to tax includes any sums which (disregarding this section) are chargeable to [^{F51}corporation tax] under section 103 or to which that section would have applied but for subsection (3)(a) ^{F52} . . . of that section.

(4) ^{F53}

(5) ^{F53}

(6) ^{M11}It is hereby declared that where work in progress at the discontinuance of a profession or vocation, or the responsibility for its completion, is transferred, the sums to which subsection (1) above applies include any sums received by way of consideration for the transfer, and any sums received by way of realisation by the transferee, on behalf of the transferor, of the work in progress transferred.

(7) ^{F53}

Textual Amendments

- F46** Words in s. 104 sidenote repealed (with effect in accordance with Sch. 27 Pt. 3(6) Note of the repealing act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 27 Pt. 3(6)**
- F47** Words in s. 104(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 83(2)(a)** (with Sch. 2)
- F48** Words in s. 104(1)(2) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), **s. 46(3)(a)(b)**, **Sch. 7 para. 1**
- F49** Words in s. 104(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 83(2)(b)**, **Sch. 3** (with Sch. 2)
- F50** Words in s. 104(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 83(2)(c)** (with Sch. 2)
- F51** Words in s. 104(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 83(3)(a)** (with Sch. 2)
- F52** Words in s. 104(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 83(3)(b)**, **Sch. 3** (with Sch. 2)
- F53** [S. 104\(4\)\(5\)\(7\)](#) repealed (with application in accordance with Sch. 27 Pt. 3(6) Note of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 27 Pt. 3(6)**

Marginal Citations

- M10** Source—1970 s.144(1)
- M11** Source—1970 s.144(3), (4)

105 Allowable deductions.

^{M12}(1) In computing the charge to [^{F54}corporation tax] in respect of sums received by any [^{F55}company] which are chargeable to [^{F54}corporation tax] by virtue of section 103 or 104(1) (including amounts treated as sums received by [^{F56}it] by virtue of section 103(4)), there shall be deducted from the amount which, apart from this subsection, would be chargeable to [^{F54}corporation tax]—

- (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade, profession or vocation had not been discontinued, would have been deducted in computing

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- for tax purposes the [^{F57}profits] of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those [^{F57}profits] as so computed, and
- (b) any capital allowance to which the person who carried on the trade, profession or vocation was entitled immediately before the discontinuance and to which effect has not been given by way of relief before the discontinuance.
- (2) No amount shall be deducted under subsection (1) above if that amount has been allowed under any other provision of the Tax Acts [^{F58}or by virtue of section 90(4) of the Finance Act 1995].
- (3) No amount shall be deducted more than once under subsection (1) above; and—
- (a) any expense or debit shall be apportioned between a sum chargeable under section 103 and a sum chargeable under section 104(1) in such manner as may be just;
- (b) as between sums chargeable, whether under section 103 or 104(1), for one [^{F59}accounting period] and sums so charged for a subsequent [^{F59}accounting period], any deduction in respect of a loss or capital allowance shall be made against sums chargeable for the earlier [^{F59}accounting period];
- (c) subject to paragraph (b) above, as between sums chargeable for any [^{F59}accounting period] under section 103 and sums so chargeable under section 104(1), any deduction in respect of a loss or capital allowance shall be made against the last-mentioned sums rather than the first-mentioned;
- but, in the case of a loss which is to be allowed after the discontinuance, not so as to authorise its deduction from any sum chargeable for a [^{F59}accounting period] preceding that in which the loss is incurred.
- (4) ^{F60}

Textual Amendments

- F54** Words in s. 105(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 84\(2\)\(a\)](#) (with Sch. 2)
- F55** Word in s. 105(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 84\(2\)\(b\)](#) (with Sch. 2)
- F56** Word in s. 105(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 84\(2\)\(c\)](#) (with Sch. 2)
- F57** Words in s. 105(1)(a)(4) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\)](#), Sch. 7 para. 1
- F58** Words in s. 105(2) inserted (with effect in accordance with s. 90(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 90\(6\)](#)
- F59** Words in s. 105(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 84\(3\)](#) (with Sch. 2)
- F60** S. 105(4) repealed (with application in accordance with Sch. 27 Pt. 3(6) Note of the repealing Act) by [Finance Act 1998 \(c. 36\), Sch. 27 Pt. 3\(6\)](#)

Modifications etc. (not altering text)

- C3** S. 105 modified by [Capital Allowances Act 1990 \(c. 1\), s. 15A](#) (as inserted (29.4.1996) by [Finance Act 1996 \(c. 8\), s. 201, Sch. 39 para. 1\(2\)](#))

Marginal Citations

- M12** Source—1970 s.145

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106 Application of charges where rights to payments transferred.

^{M13}(1) Subject to subsection (2) below, in the case of a transfer for value of the right to receive any sum to which section 103, 104(1) or 104(4) applies, any [^{F61}corporation tax] chargeable by virtue of either of those sections shall be charged in respect of the amount or value of the consideration (or, in the case of a transfer otherwise than at arm's length, in respect of the value of the right transferred as between parties at arm's length), and references in this Chapter, except section 101(2), to sums received shall be construed accordingly.

(2) Where a trade, profession or vocation is treated as permanently discontinued by reason of a change in the persons carrying it on, and the right to receive any sum to which section 103 or 104(1) applies is or was transferred at the time of the change to [^{F62}the company carrying on the trade,] profession or vocation after the change, [^{F63}corporation tax] shall not be charged by virtue of either of those sections, but any sum received by [^{F64}that company] by virtue of the transfer shall be treated for [^{F65}corporation tax purposes] as a receipt to be brought into the computation of the [^{F66}profits] of the trade, profession or vocation in the period in which it is received.

Textual Amendments

- F61** Words in s. 106(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 85\(2\)](#) (with Sch. 2)
- F62** Words in s. 106(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 85\(3\)\(a\)](#) (with Sch. 2)
- F63** Words in s. 106(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 85\(3\)\(b\)](#) (with Sch. 2)
- F64** Words in s. 106(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 85\(3\)\(c\)](#) (with Sch. 2)
- F65** Words in s. 106(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 85\(3\)\(d\)](#) (with Sch. 2)
- F66** Word in s. 106(2) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\)](#), Sch. 7 para. 1

Marginal Citations

- M13** Source—1970 s.147

Reliefs

107 Treatment of receipts as earned income.

^{F67}

Textual Amendments

- F67** [S. 107](#) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 86, Sch. 3](#) (with Sch. 2)

108 Election for carry-back.

^{F68}

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Textual Amendments

F68 S. 108 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), Sch. 1 para. 87, **Sch. 3** (with Sch. 2)

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

F69

Textual Amendments

F69 S. 109 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), Sch. 1 para. 88, **Sch. 3** (with Sch. 2)

f^{F70} Relief for post-cessation expenditure

Textual Amendments

F70 S. 109A and preceding cross-heading inserted (with effect in accordance with s. 90(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 90(1)

109A Relief for post-cessation expenditure.

- (1) Where in connection with a trade, profession or vocation formerly carried on by him which has been permanently discontinued a person makes, within seven years of the discontinuance, a payment to which this section applies, he may, by notice given within twelve months from the 31st January next following the year of assessment in which the payment is made, claim relief from income tax on an amount of his income for that year equal to the amount of the payment.
- (2) This section applies to payments made wholly and exclusively—
 - (a) in remedying defective work done, goods supplied or services rendered in the course of the former trade, profession or vocation or by way of damages (whether awarded or agreed) in respect of any such defective work, goods or services; or
 - (b) in defraying the expenses of legal or other professional services in connection with any claim that work done, goods supplied or services rendered in the course of the former trade, profession or vocation was or were defective;
 - (c) in insuring against any liabilities arising out of any such claim or against the incurring of such expenses; or
 - (d) for the purpose of collecting a debt taken into account in computing the [^{F71}profits] of the former trade, profession or vocation.
- (3) ^{F72}
- (4) Where a trade, profession or vocation carried on by a person has been permanently discontinued and subsequently an unpaid debt which was taken into account in computing the [^{F71}profits] of that trade, profession or vocation and to the benefit of which he is entitled [^{F73} is released in whole or in part as part of a relevant arrangement

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or compromise (within the meaning of section 74), he shall be treated as making a payment to which this section applies of—

- (a) an amount equal to the amount released, or
- (b) if he was entitled to only part of the benefit of the debt, an amount equal to an appropriate proportion of that amount.]

F74

[^{F75}(4A) Where a trade, profession or vocation carried on by a person has been permanently discontinued and subsequently an unpaid debt which was taken into account in computing the [^{F71}profits] of that trade, profession or vocation and to the benefit of which he is entitled, proves to be bad, then if—

- (a) in making a claim for a year of assessment under subsection (1) above he gives notice that the debt was bad in any part of that year, and
- (b) he has not given such a notice in respect of that debt in the making of any other such claim,

he shall be treated as making in that year a payment to which this section applies of an amount equal to the amount of the debt or, if he was entitled to only part of the benefit of the debt, to an appropriate proportion of that amount.

F76]

(5) Where in the case of a trade, profession or vocation which has subsequently been permanently discontinued a deduction was made in computing the profits or losses of the trade, profession or vocation in respect of an expense not actually paid (an “unpaid expense”), then—

- (a) if relief under this section in connection with that trade, profession or vocation is claimed in respect of any year of assessment, the amount of the relief shall be reduced by the amount of any unpaid expenses at the end of that year;
- (b) for the purposes of the application of paragraph (a) above in relation to a subsequent year of assessment, any amount by which relief under this section has been reduced by virtue of that paragraph shall be treated as having been paid in respect of the expense in question; and
- (c) if subsequently any amount is in fact paid in respect of an expense in respect of which a reduction has been made under paragraph (a), that amount (or, if less, the amount of the reduction) shall be treated as a payment to which this section applies.

(6) Relief shall not be given under this section in respect of an amount for which relief has been given or is available under any other provision of the Income Tax Acts.

In applying this subsection relief available under [^{F77}section 254 of ITTOIA 2005 (allowable deductions against post-cessation receipts charged to income tax)] shall be treated as given in respect of other amounts before any amount in respect of which relief is available under this section.

[^{F78}(6A) This section applies in relation to a UK property business as it applies in relation to a trade, profession or vocation.]

(7) This section does not apply for the purposes of corporation tax.

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Textual Amendments

- F71** Words in s. 109A(2)(d)(4)(4A) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\)](#), Sch. 7 para. 1
- F72** S. 109A(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 89\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))
- F73** Words in s. 109A(4) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 20 para. 5\(1\)](#)
- F74** Words in s. 109A(4) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 89\(3\)](#), [Sch. 3](#) (with [Sch. 2](#))
- F75** S. 109A(4A) inserted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 20 para. 5\(2\)](#)
- F76** Words in s. 109A(4A) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 89\(4\)](#), [Sch. 3](#) (with [Sch. 2](#))
- F77** Words in s. 109A(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 89\(5\)](#) (with [Sch. 2](#))
- F78** S. 109A(6A) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 89\(6\)](#) (with [Sch. 2](#))

Modifications etc. (not altering text)

- C4** S. 109A(1) modified (with application as stated in s. 90(7) of the modifying Act) by [Finance Act 1995 \(c. 4\), s. 90\(2\)](#)

Supplemental

110 Interpretation etc.

- (1)^{M14}The following provisions have effect for the purposes of [^{F79}sections 103 to 109A].
- [^{F80}(1A) In the case of a trade carried on by a person other than a company or a profession or vocation within the charge to income tax carried on by any person, any reference to the permanent discontinuance of a trade, profession or vocation includes a reference to—
- (a) a person permanently ceasing to carry on a trade, profession or vocation, or
 - (b) in relation to a trade or profession carried on by a person in partnership with other persons, the occurrence of an event treated under section 246(4) of ITTOIA 2005 (basic meaning of “post-cessation receipt”) as a person permanently ceasing to carry on a trade or profession.
- (1B) In the case of a trade carried on by a company, any reference to the permanent discontinuance of a trade includes a reference to the occurrence of an event treated under section 337(1) below as a discontinuance or treated under section 18 of ITTOIA 2005 (companies beginning or ceasing to carry on trade) as the company permanently ceasing to carry on the trade.
- (1C) In the case of a UK property business carried on by a person other than a company, any reference to the permanent discontinuance of a UK property business includes a reference to—
- (a) a person permanently ceasing to carry on a UK property business, or
 - (b) in relation to a UK property business carried on by a person in partnership with other persons, the occurrence of an event treated under section 353(3)

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of ITTOIA 2005 (basic meaning of “post-cessation receipt”) as a person permanently ceasing to carry on a UK property business.

- (1D) In the case of a UK property business carried on by a company, any reference to the permanent discontinuance of a UK property business includes a reference to the occurrence of an event treated under section 362 of ITTOIA 2005 (companies beginning or ceasing to be within the charge to income tax) as the company permanently ceasing to carry on the business.]
- (3) ^{M15}The [^{F81}profits] of a trade, profession or vocation in any period shall be treated as computed by reference to earnings where all credits and liabilities accruing during that period as a consequence of its being carried on are brought into account in computing those [^{F81}profits] for tax purposes, and not otherwise, and “earnings basis” shall be construed accordingly.
- (4) “Conventional basis” has the meaning given by section 103(2), so that [^{F81}profits] are computed on a conventional basis if computed otherwise than by reference to earnings.
- (5) There is a change from a conventional basis to the earnings basis at the end of a period the [^{F81}profits] of which were computed on a conventional basis if the [^{F81}profits] of the next succeeding period are computed by reference to earnings; and, if the [^{F81}profits] of two successive periods are computed on different conventional bases, a change of conventional basis occurs at the end of the earlier period.
- (6) In sections 103 and 104—
- “trading stock” has the meaning given by section 100(2);
 - references to work in progress at the discontinuance of a profession or vocation, and to the transfer of work in progress, are to be construed in accordance with section 101(3); and
 - the reference to work in progress at the time of a change of basis is also to be construed in accordance with section 101(3), substituting therein for this purpose references to the change of basis for references to the discontinuance.

Textual Amendments

- F79** Words in s. 110(1) substituted (with effect in accordance with s. 90(7) of the amending Act) by Finance Act 1995 (c. 4), s. 90(3)
- F80** S. 110(1A)-(1D) substituted for s. 110(2) (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 90 (with Sch. 2)
- F81** Words in s. 110(3)(4)(5) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1

Marginal Citations

- M14** Source—1970 s.151(1)
- M15** Source—1970 s.151(2)-(5)

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[^{F82}^{F83} *Change of residence*]

Textual Amendments

- F82** S. 110A and preceding cross-heading inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 124\(1\)](#)
- F83** S. 110A and preceding cross-heading repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 91, Sch. 3](#) (with [Sch. 2](#))

110A Change of residence.

^{F84}]

Textual Amendments

- F84** S. 110A and preceding cross-heading repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 91, Sch. 3](#) (with [Sch. 2](#))

Status:

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Changes to legislation:

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