



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IV

PROVISIONS RELATING TO THE SCHEDULE D CHARGE

CHAPTER VI

DISCONTINUANCE ^{F1} . . .

Case VI charges on receipts

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

^{M1}(1) Where any trade, profession or vocation [^{F1}carried on wholly or partly in the United Kingdom] the [^{F2}profits] of which are chargeable to tax ^{F3} . . . has been permanently discontinued, [^{F4}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 [^{F2}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 [^{F2}profits] for any period before the discontinuance, and
- (b) where those [^{F2}profits] were computed on a conventional basis (that is to say, were computed otherwise than by reference to earnings), any sums which, if those [^{F2}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.

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- (3) This section does not apply to any of the following sums—
- (a) sums received by a [^{F5}company] beneficially entitled thereto [^{F6}which] is not resident in the United Kingdom, or by a person acting on [^{F7}its] behalf, which represent income arising directly or indirectly from a country or territory outside the United Kingdom, or
 - (b) ^{F8}
 - [^{F9}(bb) ^{F8}]
 - (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.
- ^{F10}

- (4) Where—
- (a) in computing for tax purposes the [^{F2}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 [^{F11}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.

[^{F12}(4A) In subsection (4)(b) above “relevant arrangement or compromise” has the same meaning as in section 74.]

- (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 [^{F2}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) [^{F13}above or under section 35 of ITTOIA 2005].

Textual Amendments

- F1** 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)
- F2** 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
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)

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- F8** 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 \(with Sch. 2\)](#)
- F9** [Sch.7 para.36\(3\)Copyright Designs and Patents Act 1988 \(c.48\)](#)in force on 1August 1989.
(Commencement order—S.I. 1989 No.816—not reproduced).
- F10** 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 \(with Sch. 2\)](#)
- F11** 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\(3\)\(b\)](#)
- F12** S. 103(4A) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 144\(5\)](#)
- F13** 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

- M1** Source—1970 s.143; 1983 s.27(b)

104 Conventional basis: general charge on receipts after discontinuance^{F14}

- (1)^{M2}Where any trade, profession or vocation [^{F15}carried on wholly or partly in the United Kingdom] the [^{F16}profits] of which are chargeable to tax^{F17} . . . has been permanently discontinued, and the [^{F16}profits] for any period before the discontinuance were computed on a conventional basis, [^{F18}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 value of the sums was not brought into account in computing the [^{F16}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 [^{F19}corporation tax] under section 103 or to which that section would have applied but for subsection (3)(a)^{F20} . . . of that section.
- (4)^{F21}
- (5)^{F21}
- (6)^{M3}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)^{F21}

Textual Amendments

- F14** 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\(6\)](#)
- F15** 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\(2\)\(a\) \(with Sch. 2\)](#)

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- F16** 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
- F17** 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)
- F18** 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)
- F19** 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)
- F20** 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)
- F21** 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

- M2** Source—1970 s.144(1)
- M3** Source—1970 s.144(3), (4)

105 Allowable deductions.

- ^{M4}(1) In computing the charge to [^{F22}corporation tax] in respect of sums received by any [^{F23}company] which are chargeable to [^{F22}corporation tax] by virtue of section 103 or 104(1) (including amounts treated as sums received by [^{F24}it] by virtue of section 103(4)), there shall be deducted from the amount which, apart from this subsection, would be chargeable to [^{F22}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 for tax purposes the [^{F25}profits] of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those [^{F25}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 [^{F26}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 [^{F27}accounting period] and sums so charged for a subsequent [^{F27}accounting period], any deduction in respect of a loss or capital allowance shall be made against sums chargeable for the earlier [^{F27}accounting period];
 - (c) subject to paragraph (b) above, as between sums chargeable for any [^{F27}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;

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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 [^{F27}accounting period] preceding that in which the loss is incurred.

(4) ^{F28}

Textual Amendments

- F22** 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)
- F23** 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)
- F24** 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)
- F25** 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
- F26** 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)**
- F27** 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)
- F28** 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)

- C1** 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

- M4** Source—1970 s.145

106 Application of charges where rights to payments transferred.

^{M5}(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 [^{F29}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 [^{F30}the company carrying on the trade,] profession or vocation after the change, [^{F31}corporation tax] shall not be charged by virtue of either of those sections, but any sum received by [^{F32}that company] by virtue of the transfer shall be treated for [^{F33}corporation tax purposes] as a receipt to be brought into the computation of the [^{F34}profits] of the trade, profession or vocation in the period in which it is received.

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Textual Amendments

- F29** 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)
- F30** 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)
- F31** 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)
- F32** 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)
- F33** 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)
- F34** 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

- M5** Source—1970 s.147

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