

Status: Point in time view as at 06/04/2005.

Changes to legislation: Finance Act 1998, SCHEDULE 5 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 38(1).

RENT AND OTHER RECEIPTS FROM LAND

PART I

MAIN CHARGING PROVISIONS

Commencement Information

II Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

- 1 In section 15(1) of the Taxes Act 1988 (the Schedule A charge), for Schedule A substitute—

“SCHEDULE A

- 1** (1) Tax is charged under this Schedule on the annual profits arising from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom.
- (2) To the extent that any transaction is entered into for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom, it is taken to be entered into in the course of such a business.
- (3) All businesses and transactions carried on or entered into by a particular person or partnership, so far as they are businesses or transactions the profits of which are chargeable to tax under this Schedule, are treated for the purposes of this Schedule as, or as entered into in the course of carrying on, a single business.
- There are qualifications to this rule in the case of—
- (a) companies not resident in the United Kingdom (see subsection (1A) below); and
- (b) insurance companies (see sections 432AA and 441B(2A)).
- (4) The receipts referred to in the expression “as a source of rents or other receipts” include—
- (a) payments in respect of a licence to occupy or otherwise to use land or the exercise of any other right over land, and
- (b) rentcharges, ground annuals and feu duties and other annual payments reserved in respect of, or charged on or issuing out of, the land.
- 2** (1) This Schedule does not apply to profits arising from the occupation of land.

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- (2) This Schedule does not apply to—
- (a) profits charged to tax under Case I of Schedule D under—
 section 53(1) (farming and market gardening), or
 section 55 (mines, quarries and other concerns);
 - (b) receipts or expenses taken into account as trading receipts or expenses under section 98 (tied premises);
 - (c) rent charged to tax under Schedule D under—
 section 119 (rent, etc. payable in connection with mines, quarries and other concerns), or
 section 120(1) (certain rent, etc. payable in respect of electric line wayleaves).
- (3) The profits of a Schedule A business carried on by a company shall be computed without regard to items giving rise to—
 credits or debits within Chapter II of Part IV of the ^{M1}Finance Act 1996 (loan relationships), or
 exchange gains or losses within Chapter II of Part II of the ^{M2}Finance Act 1993 (foreign exchange gains and losses), or
 qualifying payments within Chapter II of Part IV of the ^{M3}Finance Act 1994 (interest rate and currency contracts).
- This Schedule does not affect the operation of those provisions.
- 3 (1) For the purposes of this Schedule a right to use a caravan or houseboat, where the use to which the caravan or houseboat may be put in pursuance of the right is confined to use at a single location in the United Kingdom, is treated as a right deriving from an estate or interest in land in the United Kingdom.
- (2) In sub-paragraph (1)—
 “caravan” has the meaning given by section 29(1) of the ^{M4}Caravan Sites and Control of Development Act 1960; and
 “houseboat” means a boat or similar structure designed or adapted for use as a place of human habitation.
- 4 (1) In the case of a furnished letting, any sum payable for the use of furniture shall be taken into account in computing the profits chargeable to tax under this Schedule in the same way as rent.
- Expenses in connection with the provision of furniture shall similarly be taken into account in the same way as expenses in connection with the premises.
- (2) A furnished letting means where—
- (a) a sum is payable in respect of the use of premises, and
 - (b) the tenant or other person entitled to the use of the premises is also entitled, in connection with that use, to the use of furniture.
- (3) This paragraph does not apply if the receipts and expenses are taken into account in computing the profits of a trade consisting in, or involving, making furniture available for use in premises.
- (4) In this paragraph—

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- (a) any reference to a sum includes the value of consideration other than money, and references to a sum being payable shall be construed accordingly; and
- (b) “premises” includes a caravan or houseboat within the meaning of paragraph 3.”.

Marginal Citations

- M1** 1996 c.8.
- M2** 1993 c.34.
- M3** 1994 c.9.
- M4** 1960 c.62.

2 In section 15 of the Taxes Act 1988 (the Schedule A charge), after subsection (1) insert—

“(1A) In the case of a company which is not resident in the United Kingdom—

- (a) businesses carried on and transactions entered into by it the profits of which are within the charge to corporation tax under Schedule A, and
 - (b) businesses carried on and transactions entered into by it the profits of which are within the charge to income tax under Schedule A,
- are treated as separate Schedule A businesses.”.

3 For the heading to Part II of the Taxes Act 1988 substitute “ PROVISIONS RELATING TO THE SCHEDULE A CHARGE ”.

4 For section 21 of the Taxes Act 1988 (persons chargeable and computation of amounts chargeable) substitute—

“21 Persons chargeable and basis of assessment.

- (1) Income tax under Schedule A shall be charged on and paid by the persons receiving or entitled to the income in respect of which the tax is directed by the Income Tax Acts to be charged.
- (2) Income tax under Schedule A is charged on the full amount of the profits arising in the year of assessment.
- (3) This section does not apply for the purposes of corporation tax.

21A Computation of amount chargeable.

- (1) Except as otherwise expressly provided, the profits of a Schedule A business are computed in the same way as the profits of a trade are computed for the purposes of Case I of Schedule D.
- (2) The following provisions apply in accordance with subsection (1)—
 - section 72 (apportionment);
 - the provisions of Chapter V of Part IV (computational provisions relating to the Schedule D charge), except as mentioned in subsection (4) below;
 - section 577 (business entertainment expenses);

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section 577A (expenditure involving crime);
 sections 579 and 580 (redundancy payments);
 sections 588 and 589 (training courses for employees);
 sections 589A and 589B (counselling services for employees);
 section 73(2) of the ^{M5}Finance Act 1988 (consideration for restrictive undertakings);
 section 43 of the ^{M6}Finance Act 1989 (deductions in respect of certain emoluments);
 section 76 of that Act (expenses in connection with non-approved retirement benefit schemes);
 sections 112 and 113 of that Act (expenditure in connection with provision of security asset or service);
 sections 42 and 46(1) and (2) of the Finance Act 1998 (provisions as to computation of profits and losses).

- (3) Section 74(1)(d) of this Act (disallowance of provisions for future repairs) applies in relation to a Schedule A business as if the reference to premises occupied for the purposes of the trade were to premises held for the purposes of the Schedule A business.
- (4) The following provisions in Chapter V of Part IV of this Act do not apply, or are excepted from applying, in accordance with subsection (1)—
 section 82 (interest paid to non-residents),
 section 87 (treatment of premiums taxed as rent),
 section 96 (farming and market gardening: relief for fluctuating profits), and
 section 98 (tied premises: receipts and expenses treated as those of trade).

21B Application of other rules applicable to Case I of Schedule D.

The following provisions apply for the purposes of Schedule A in relation to a Schedule A business as they apply for the purposes of Case I of Schedule D in relation to a trade—

sections 103 to 106, 108, 109A and 110 (post-cessation receipts and expenses, etc.);
 section 113 (effect for income tax purposes of change in the persons engaged in carrying on trade);
 section 337(1) (effect of company beginning or ceasing to carry on trade);
 section 401(1) (pre-trading expenditure);
 section 44 of and Schedule 6 to the Finance Act 1998 (change of accounting basis).”.

Marginal Citations

M5 1988 c. 39.
M6 1989 c. 26.

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“21C The Schedule A charge and mutual business.

- (1) The following provisions have effect for the purpose of applying the charge to tax under Schedule A in relation to mutual business.
- (2) The transactions or relationships involved in mutual business are treated as if they were transactions or relationships between persons between whom no relationship of mutuality existed.
- (3) Any surplus arising from the business is regarded as a profit (and any deficit as a loss) if it would be so regarded if the business were not mutual.
- (4) The person—
 - (a) to whom the profit arises for corporation tax purposes, or
 - (b) who is regarded as receiving or entitled to the profit for income tax purposes,is the person who would satisfy that description if the business were not mutual business.
- (5) Nothing in this section affects the operation of section 488 (co-operative housing associations).”.

F16

Textual Amendments

F1 Sch. 5 para. 6 repealed (31.7.1998 with effect as mentioned in s. 39, Sch. 27 Pt. III(5)) by 1998 c. 36, s. 165, Sch. 27 Pt. III(5)

F27

Textual Amendments

F2 Sch. 5 para. 7 repealed (31.7.1998 with effect as mentioned in s. 39, Sch. 27 Pt. III(5), Note) by 1998 c. 36, s. 165, Sch. 27 Pt. III(5)

8 In section 27 of the Taxes Act 1988 (maintenance funds for historic buildings), for subsection (3) substitute—

- “(3) Where by virtue of this section an election has effect in relation to an estate part of which is comprised in a settlement—
- (a) there may be treated as deductible from the receipts arising from that part—
 - (i) any disbursements or expenses of the trustees of the settlement which relate to the other part of the estate and which would be so deductible if that part were also comprised in the settlement, and
 - (ii) any disbursements or expenses of the owner of the other part of the estate to the extent to which they cannot be deducted by him in the chargeable period in which they are incurred because of an insufficiency of any receipts for that

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period from which they are deductible apart from this subparagraph;

- (b) any relief available to the trustees by virtue of section 379A(2)(b) shall instead be available to the owner of the other part of the estate.

This subsection has effect subject to subsection (2A) of section 26.”.

- 9 Section 28 of the Taxes Act 1988 (deductions from receipts other than rent) shall cease to have effect.
- 10 Section 29 of the Taxes Act 1988 (sporting rights) shall cease to have effect.
- 11 In section 30(1) of the Taxes Act 1988 (expenditure on sea walls)—
- (a) for “for the purposes of sections 25, 28 and 31” substitute “ for the purpose of computing the profits of any Schedule A business carried on in relation to those premises ”; and
- (b) for “in respect of dilapidation attributable to the year” substitute “ as an expense of the business for that year ”.
- 12 Section 31 of the Taxes Act 1988 (provisions supplementary to sections 25 to 30) shall cease to have effect.
- 13 Section 33 of the Taxes Act 1988 (agricultural land: allowance for excess expenditure on management) shall cease to have effect.
- 14 Sections 33A and 33B of the Taxes Act 1988 (connected persons) shall cease to have effect.
- 15 (1) Section 34 of the Taxes Act 1988 (treatment of premiums, etc. as rent or Schedule D profits) is amended as follows.
- (2) For the sidenote substitute “Treatment of premiums, etc. as rent.”.
- (3) In subsection (3) for the words from “from the rent” onwards substitute “ as an expense of any Schedule A business carried on by the landlord ”.
- (4) In subsection (6) for the words from “no charge” onwards substitute “ no amount shall fall under that subsection to be treated as a receipt of any Schedule A business carried on by the landlord; but that other person shall be taken to have received as income an amount equal to the amount which would otherwise fall to be treated as rent and to be chargeable to tax as if he had received it in consequence of having, on his own account, entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A. ”.
- (5) After subsection (7) insert—
- “(7A) An amount treated under this section as rent shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.”.
- (6) In subsection (8) for the words from “may, if that person satisfies the Board” to “at his option” substitute “ may, at his option, be paid ”.
- 16 (1) Section 35 of the Taxes Act 1988 (charge on assignment of lease granted at an undervalue) is amended as follows.
- (2) In the sidenote for “Schedule D charge” substitute “ Charge ”.
- (3) In subsection (2) for the words from “treated as profits or gains” onwards substitute “ deemed to have been received as income by the assignor and to have been received

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by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A.”.

(4) After that subsection insert—

“(2A) An amount deemed under this section to have been received as income by the assignor—

- (a) is treated as received when the consideration mentioned in subsection (2) becomes payable, and
- (b) shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.”.

17 (1) Section 36 of the Taxes Act 1988 (charge on sale of land with right to reconveyance) is amended as follows.

(2) In the sidenote for “Schedule D charge” substitute “ Charge ”.

(3) In subsection (1)—

- (a) for “the vendor shall be chargeable to tax under Case VI of Schedule D on” substitute “ the following amount shall be deemed to have been received as income by the vendor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A, that is to say ”; and
- (b) for “on that excess” substitute “ the amount of the excess ”.

(4) After subsection (4) insert—

“(4A) An amount deemed under this section to have been received as income by the vendor—

- (a) is treated as received when the estate or interest is sold, and
- (b) shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.

(4B) For the purposes of subsection (4A)(a) an estate or interest in land is treated as sold when any of the following occurs—

- (a) an unconditional contract for its sale is entered into,
- (b) a conditional contract for its sale becomes unconditional, or
- (c) an option or right of pre-emption is exercised requiring the vendor to enter into an unconditional contract for its sale.”.

18 (1) Section 37 of the Taxes Act 1988 (deductions from premiums and rents received) is amended as follows.

(2) In subsection (1) for paragraphs (a) and (b) substitute—

- “(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35, or
- (b) any amount would fall to be so treated but for the operation of subsection (2) or (3) below.”.

(3) In subsection (2)—

- (a) in paragraph (b), for the words from “be” to “any amount” substitute “ be treated by virtue of section 34 or 35 as receiving any amount as income in the course of carrying on a Schedule A business ”; and

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(b) in the closing words, for “on which he is so chargeable” substitute “ which he shall be treated as having so received ”.

(4) In subsection (3)—

(a) for “chargeable under section 34 or 35” substitute “ treated by virtue of section 34 or 35 as having received any amount as income in the course of carrying on a Schedule A business and falls to be so treated ”; and

(b) for “on which he is so chargeable” substitute “ which he shall be treated as having so received ”.

(5) In subsection (4) for the words from “purposes” to “other premises” substitute “ purpose, in computing the profits of a Schedule A business, of making deductions in respect of the disbursements and expenses of that business ”.

19 For the heading before section 40 of the Taxes Act 1988 substitute “ *Supplementary provisions* ”.

20 (1) Section 40 of the Taxes Act 1988 (tax treatment of receipts and outgoings on sale of land) is amended as follows.

(2) In subsection (1) for “become receivable or payable on his behalf” substitute “ been received or paid by him ”.

(3) In subsection (3)(b), for the words from “had become receivable” to the end substitute “ had been received or paid directly by him immediately before the time to which the apportionment is made ”.

(4) After subsection (4) insert—

“(4A) An amount deemed under this section to have been received or paid shall be taken into account in computing the profits of the Schedule A business in question for the period in which it is treated as received or paid.”.

(5) Omit subsection (5).

21 Section 41 of the Taxes Act 1988 (relief for rent not paid, etc.) shall cease to have effect.

22 In section 42A of the Taxes Act 1988 (non-residents and their representatives), omit subsection (8).

F³23

Textual Amendments
F3 Sch. 5 para. 23 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F⁴24

Textual Amendments
F4 Sch. 5 para. 24 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

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25 After section 70 of the Taxes Act 1988 (corporation tax: basis of assessment, etc.)
insert—

“70A Case V income from land outside UK: corporation tax.

- (1) This section applies where a company is chargeable to corporation tax under Case V of Schedule D in respect of income which—
 - (a) arises from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land outside the United Kingdom, and
 - (b) is not income to which section 70(2) applies (income from a trade or vocation).
- (2) The provisions of Schedule A apply to determine whether income falls within subsection (1)(a) above as they would apply to determine whether the income fell within paragraph 1(1) of that Schedule if—
 - (a) the land in question were in the United Kingdom, or
 - (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom.
- (3) Any provision of the Taxes Acts which deems there to be a Schedule A business in the case of land in the United Kingdom applies where the corresponding circumstances arise with respect to land outside the United Kingdom so as to deem there to be a business within subsection (1)(a) above.
- (4) All businesses and transactions carried on or entered into by a particular company or partnership, so far as they are businesses or transactions the income from which is chargeable to tax under Case V of Schedule D in accordance with this section, are treated for the purposes of the charge to tax under Case V as, or as entered into in the course of carrying on, a single business (an “overseas property business”).
- (5) The income from an overseas property business shall be computed for the purposes of Case V of Schedule D in accordance with the rules applicable to the computation of the profits of a Schedule A business.

Those rules apply separately in relation to—

 - (a) an overseas property business, and
 - (b) any actual Schedule A business of the company chargeable,

as if each were the only Schedule A business carried on by that company.
- (6) Sections 503 and 504 of this Act and section 29 of the 1990 Act (provisions relating to furnished holiday accommodation) do not apply to the profits or losses of an overseas property business.
- (7) Where under this section rules expressed by reference to domestic concepts of law apply in relation to land outside the United Kingdom, they shall be interpreted so as to produce the result that most closely corresponds with the result produced for Schedule A purposes in relation to land in the United Kingdom.”

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PART II

TREATMENT OF LOSSES

Commencement Information

I2 Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

26 In Chapter I of Part X of the Taxes Act 1988 (loss relief: income tax), for the heading before section 379A (Schedule A losses) substitute “*Losses from Schedule A business or overseas property business*”.

27 After that section insert—

“379B Losses from overseas property business.

The provisions of section 379A apply in relation to an overseas property business as they apply in relation to a Schedule A business.”.

28 In Chapter II of Part X of the Taxes Act 1988 (loss relief: corporation tax), before section 393 insert—

“*Losses from Schedule A business or overseas property business*

Schedule A losses.

392A(1) Where a company incurs a Schedule A loss in an accounting period, the loss shall be set off for the purposes of corporation tax against the company’s total profits for that period.

(2) To the extent that a company’s Schedule A loss cannot be set off under subsection (1), it shall, if the company continues to carry on the Schedule A business in the succeeding accounting period, be carried forward to that period and be treated for the purposes of this section as a Schedule A loss of that period.

(3) Where an investment company ceases to carry on a Schedule A business but continues to be an investment company, any Schedule A loss that cannot be used under the preceding provisions shall be carried forward to the succeeding accounting period and be treated for the purposes of section 75 as if it had been disbursed as expenses of management for that period.

(4) In this section—

- (a) a “Schedule A loss” means a loss incurred by a company in a Schedule A business carried on by it; and
- (b) “investment company” has the same meaning as in Part IV.

(5) The preceding provisions of this section apply to a Schedule A business only to the extent that it is carried on—

- (a) on a commercial basis, or
- (b) in the exercise of statutory functions.

(6) For the purposes of subsection (5)(a)—

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- (a) a business or part is not carried on on a commercial basis unless it is carried on with a view to making a profit, but if it is carried on so as to afford a reasonable expectation of profit it is treated as carried on with a view to making a profit; and
 - (b) if there is a change in the manner in which a business or part is carried on, it is treated as having been carried on throughout an accounting period in the way in which it was being carried on by the end of the period.
- (7) In subsection (5)(b) “statutory functions” means functions conferred by or under any enactment (including an enactment contained in a local or private Act).

Losses from overseas property business.

392B) Where in any accounting period a company incurs a loss in an overseas property business (whether carried on by it solely or in partnership)—

- (a) the loss shall be carried forward to the succeeding accounting period and set against any profits of the business for that period,
- (b) if there are no profits of the business for that period, or if the profits for that period are exceeded by the amount of the loss, the loss or the remainder of it shall be carried forward again and set against any profits of the business for the next succeeding accounting period,

and so on.

(2) Subsections (5) to (7) of section 392A apply in relation to relief under subsection (1) above and an overseas property business as they apply in relation to relief under section 392A(1) to (3) and a Schedule A business.”.

29 For section 403 of the Taxes Act 1988 (losses, etc. which may be surrendered by way of group relief) substitute—

“403 Amounts which may be surrendered by way of group relief.

(1) If in an accounting period (the “surrender period”) the surrendering company has—

- (a) trading losses, excess capital allowances or a non-trading deficit on its loan relationships, or
- (b) charges on income, Schedule A losses, or management expenses which are available for group relief,

the amount may, subject to the provisions of this Chapter, be set off for the purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period.

(2) Trading losses, excess capital allowances and a non-trading deficit on the company’s loan relationships are eligible for surrender as group relief even if the surrendering company has other profits of the surrender period against which they could be set.

Further provision about relief in respect of amounts eligible for surrender under this subsection is contained in sections 403ZA to 403ZC.

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- (3) Charges on income, Schedule A losses and management expenses are available for surrender as group relief only to the extent that in aggregate they exceed the surrendering company's gross profits for the surrender period.

Any excess surrendered shall be taken to consist first of charges on income, then Schedule A losses, and finally management expenses.

Further provision about relief in respect of amounts available for surrender under this subsection is contained in section 403ZD.

- (4) This section has effect subject to—
 section 404 (limitation of group relief in relation to certain dual resident companies), and
 sections 492(8) and 494A (oil extraction activities: availability of group relief against ring fence profits).

403ZA Amounts eligible for group relief: trading losses.

- (1) For the purposes of section 403 a trading loss means a loss incurred by the surrendering company in the surrender period in carrying on a trade, computed as for the purposes of section 393A(1).
- (2) That section does not apply to a trading loss which would be excluded from section 393A(1) by—
 (a) section 393A(3) (foreign trades and certain trades not carried on with a view to gain), or
 (b) section 397 (farming and market gardening: restriction on loss relief).
- (3) Where a company owned by a consortium—
 (a) has in any relevant accounting period incurred a trading loss, and
 (b) has profits (of whatever description) of that accounting period against which that loss could be set off under section 393A(1),
 the amount of the loss available to a member of the consortium on a consortium claim shall be determined on the assumption that the company has made a claim under section 393A(1) requiring the loss to be so set off.
- (4) Where the company mentioned in subsection (3) is a group/consortium company, the amount of the loss available under that subsection shall be determined before any reduction is made under section 405(1) to (3).

403ZB Amounts eligible for group relief: excess capital allowances.

- (1) For the purposes of section 403 excess capital allowances means capital allowances falling to be made to the surrendering company for the surrender period which—
 (a) are to be given by discharge or repayment of tax, and
 (b) are to be available primarily against a specified class of income,
 to the extent to which their amount exceeds the company's income of the relevant class arising in that period.

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- (2) In determining the amount of the allowances falling to be made for the surrender period, no account shall be taken of any allowances carried forward from an earlier period.
- (3) The amount of the company's income of the relevant class means its amount before deduction of—
 - (a) losses of any other period, or
 - (b) capital allowances.

403ZC Amounts eligible for group relief: non-trading deficit on loan relationships.

- (1) For the purposes of section 403 a non-trading deficit on its loan relationships means a deficit of the surrendering company to which section 83 of the ^{M7}Finance Act 1996 applies.
- (2) Section 403 applies to such a deficit only to the extent that a claim is duly made under section 83(2) of the Finance Act 1996 for it to be treated as eligible for group relief.

403ZD Other amounts available by way of group relief.

- (1) References in section 403 to charges on income, Schedule A losses and management expenses shall be construed as follows.
- (2) Charges on income means the aggregate of the amounts paid by the surrendering company in the surrender period by way of charges on income.
- (3) A Schedule A loss means a loss incurred by the surrendering company in the surrender period in a Schedule A business carried on by the company.

It does not include—

- (a) an amount treated as such a loss by section 392A(2) (losses carried forward from earlier period), or
- (b) a loss which would be excluded from section 392A by subsection (5) of that section (certain businesses not carried on with a view to gain).
- (4) Management expenses means the aggregate of the amounts disbursed by the surrendering company for the surrender period which are deductible under section 75(1) (expenses of management of investment company).

It does not include an amount deductible only by virtue of section 75(3) or 392A(3) (amounts carried forward from earlier periods).

- (5) References in this section to section 75 do not include that section as applied by section 76 to companies carrying on life assurance business.

403ZE Computation of gross profits.

- (1) For the purposes of section 403 the surrendering company's gross profits of the surrender period means its profits for that period—
 - (a) without any deduction in respect of such losses, allowances and other amounts as are mentioned in paragraph (a) or (b) of subsection (1) of that section, and

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- (b) without any deduction falling to be made—
 - (i) in respect of losses, allowances or other amounts of any other period (whether or not of a description within subsection (1) of that section), or
 - (ii) by virtue of section 75(3) or 392A(3) (other amounts carried forward).
- (2) References in this section to section 75 do not include that section as applied by section 76 to companies carrying on life assurance business.”.

Marginal Citations

M7 1996 c.8.

- 30 In Chapter V of Part XII of the Taxes Act 1988 (oil extraction activities), after section 494 insert—

“494A Computation of amount available for surrender by way of group relief.

- (1) In section 403(3) (availability of charges, Schedule A losses and management expenses for surrender as group relief) the reference to the gross profits of the surrendering company for an accounting period does not include the company’s relevant ring fence profits for that period.
- (2) If for that period—
 - (a) there are no charges on income paid by the company that are allowable under section 338, or
 - (b) the only charges on income so allowable are charges to which section 494(3) above applies,
 all the company’s ring fence profits are relevant ring fence profits.
- (3) In any other case the company’s relevant ring fence profits are so much of its ring fence profits as exceeds the amount of the charges on income paid by the company as—
 - (a) are allowable under section 338 for that period, and
 - (b) are not charges to which section 494(3) above applies.”.

- 31 In Chapter VI of Part XVII of the Taxes Act 1988 (tax avoidance: miscellaneous provisions), after section 768C insert—

“768D Change in ownership of company carrying on property business.

- (1) This section applies where there is a change in the ownership of a company carrying on a Schedule A business and—
 - (a) in the case of an investment company, either—
 - (i) paragraph (a), (b) or (c) of section 768B(1) applies, or
 - (ii) section 768C applies;
 - (b) in the case of a company which is not an investment company, paragraph (a) or (b) of section 768(1) applies.

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- (2) Where this section applies the following provisions have effect to prevent relief being given under section 392A by setting a Schedule A loss incurred by the company before the change of ownership against profits arising after the change.
- (3) The accounting period in which the change of ownership occurs is treated for that purpose as two separate accounting periods, the first ending with the change and the second consisting of the remainder of the period.
- (4) The profits or losses of the period in which the change occurs are apportioned to those two periods—
 - (a) in the case of an investment company—
 - (i) where paragraph (a), (b) or (c) of section 768B(1) applies, in accordance with Parts II and III of Schedule 28A, or
 - (ii) where section 768C applies, in accordance with Parts V and VI of that Schedule, and
 - (b) in the case of a company which is not an investment company, according to the length of the periods,
unless in any case the specified method of apportionment would work unjustly or unreasonably in which case such other method shall be used as appears just and reasonable.
- (5) Relief under section 392A(1) against total profits of the same accounting period is available only in relation to each of those periods considered separately.
- (6) A loss made in any accounting period beginning before the change of ownership may not be set off under section 392A(2) against, or deducted by virtue of section 392A(3) from—
 - (a) in the case of—
 - (i) an investment company where paragraph (a), (b) or (c) of section 768B(1) applies, or
 - (ii) a company which is not an investment company,
profits of an accounting period ending after the change of ownership;
 - (b) in the case of an investment company where section 768C applies, from so much of those profits as represents the relevant gain within the meaning of that section.
- (7) Subsections (8) and (9) of section 768 (time limits for assessment; information powers) apply for the purposes of this section as they apply for the purposes of that section.
- (8) In this section—
 - (a) any reference to a case where paragraph (a) or (b) of section 768(1) applies includes the case where that paragraph would apply if the reference there to a trade carried on by the company were to a Schedule A business carried on by it;
 - (b) “investment company” has the same meaning as in Part IV.
- (9) The provisions of this section apply in relation to an overseas property business as they apply in relation to a Schedule A business.”.

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- 32 In section 769 of the Taxes Act 1988 (rules for ascertaining change of ownership)—
- (a) in subsections (1), (2)(d) and (5) for “and 768C” substitute “, 768C and 768D”;
 - (b) in subsection (3) for “or 768A” substitute “, 768A or 768D”; and
 - (c) in subsection (4) for “or 768C” substitute “, 768C or 768D”.

PART III

MINOR AND CONSEQUENTIAL AMENDMENTS

Commencement Information

- I3** Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

Taxes Management Act 1970 (c. 9)

^{F5}33

Textual Amendments

- F5** Sch. 5 para. 33 repealed (31.7.1998 with effect as mentioned in s. 117, Sch. 27 Pt. III(28), Note) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

Income and Corporation Taxes Act 1988 (c.1)

- 34 In section 87(1) of the Taxes Act 1988 (treatment of taxable premiums in case of land used in connection with trade, profession or vocation), for paragraphs (a) and (b) substitute—
- “(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35, or
 - (b) any amount would fall to be so treated but for the operation of section 37(2) or (3);”.
- 35 In section 118 of the Taxes Act 1988 (limited partnerships: restriction on relief)—
- (a) in the opening words of subsection (1), and
 - (b) in subsection (2), in the definition of “the aggregate amount”, for “403(1) to (3) and (7)” substitute “ 403 ”.
- 36 In section 400 of the Taxes Act 1988 (loss relief: effect of write-off of government investment), in subsection (2) after paragraph (b) insert—
- “(bb) any losses which—
 - (i) under section 392A(2) or 392B are carried forward to the next accounting period, or
 - (ii) under section 392A(3) are treated as management expenses disbursed in the next accounting period;”.
- 37 (1) Section 404 of the Taxes Act 1988 (limitation of group relief in relation to dual resident investment companies) is amended as follows.
- (2) In subsection (2), for paragraph (a) substitute—

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- “(a) in which the trading loss or Schedule A loss is incurred; or
- (aa) in which the non-trading deficit on the company’s loan relationships arises; or”.

(3) In subsection (6), omit paragraph (c).

38 In section 413(6) of the Taxes Act 1988 (interpretation: meaning of company being owned by consortium), for “403(10)” substitute “ 403ZA(3) ”.

39 In Chapter I of Part XII of the Taxes Act 1988 (insurance companies), after section 432A insert—

“432AA Schedule A business or overseas property business.

- (1) An insurance company is treated as carrying on separate Schedule A businesses, or overseas property businesses, in accordance with the following rules.
- (2) The exploitation of land held as an asset of the company’s long term business fund is treated as a separate business from the exploitation of land not so held.
- (3) The exploitation of land held as an asset of the company’s overseas life assurance fund is treated as a separate business from the exploitation of other land held as an asset of its long term business fund.
- (4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—
 - (a) pension business;
 - (b) life reinsurance business;
 - (c) basic life assurance and general annuity business;
 - (d) long term business other than life assurance business.
- (5) Accordingly, the exploitation of land held as an asset of the company’s long term business fund otherwise than as mentioned in subsection (3) or (4) is treated as a separate business from any other.
- (6) In this section “land” means any estate, interest or rights in or over land.

432AB Losses from Schedule A business or overseas property business.

- (1) This section applies to any loss arising in a Schedule A business or overseas property business.
- (2) A loss arising from any category of business mentioned in section 432A(2) shall be apportioned under that section in the same way as income.
- (3) So far as a loss is referable to basic life assurance and general annuity business, it shall be treated as if it were an amount of expenses of management under section 76 disbursed for the accounting period in which the loss arose.
- (4) Where a company is treated under section 432AA as carrying on—
 - (a) more than one Schedule A business, or
 - (b) more than one overseas property business,

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then, in relation to either kind of business, the reference in subsection (3) above to a loss referable to basic life assurance and general annuity business shall be construed as a reference to any aggregate net loss after setting the losses from those businesses which are so referable against any profits from those businesses that are so referable.

- (5) The provisions of section 392A or 392B (loss relief) do not apply to a loss referable to life assurance business or any category of life assurance business.
- (6) Where a company is treated under section 432AA as carrying on—
- (a) more than one Schedule A business, or
 - (b) more than one overseas property business,
- and, in relation to either kind of business, there are losses and profits referable to business which is not life assurance business, those losses shall be set against those profits before being used under section 392A or 392B.”.

F640

Textual Amendments

- F6** Sch. 5 para. 40 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

41 In section 441B of the Taxes Act 1988 (treatment of UK land linked to a company’s overseas life assurance business), after subsection (2) insert—

“(2A) For the purposes of subsection (2) above a Schedule A business for the exploitation of any land to which this section applies shall be treated as a separate business from any other such business.”.

42 For section 503 of the Taxes Act 1988 (letting of furnished holiday accommodation treated as a trade) substitute—

“503 Letting of furnished holiday accommodation treated as a trade for certain purposes.

- (1) For the purposes specified in subsection (2)—
- (a) a Schedule A business which consists in, or so far as it consists in, the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as if it were a trade the profits of which are chargeable to tax under Case I of Schedule D, and
 - (b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.

The “commercial letting of furnished holiday accommodation” is defined below in section 504.

- (2) Subsection (1) above applies for the purposes of—
- (a) Chapters I and II of Part X (loss relief for income tax and corporation tax), and
 - (b) sections 623(2)(c), 644(2)(c) and 833(4)(c) (income regarded as relevant earnings for pension purposes or as earned income).

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- (3) Chapter I of Part X (loss relief for income tax) as applied by this section has effect with the following adaptations—
- (a) no relief shall be given to an individual under section 381 (relief for losses in early years of trade) in respect of a year of assessment if any of the accommodation in respect of which the trade is carried on in that year was first let by that person as furnished accommodation more than three years before the beginning of that year of assessment;
 - (b) section 384 (restrictions on right of set-off) has effect with the omission of subsections (6) to (8) and the words after paragraph (b) in subsection (10) (which relate to certain losses attributable to capital allowances);
 - (c) section 390 (treatment of interest as loss) has effect as if the reference to a trade the profits of which are chargeable to tax under Case I of Schedule D were a reference to the Schedule A business so far as it is treated as a trade.
- (4) Where there is a letting of accommodation only part of which is holiday accommodation, such apportionments shall be made for the purposes of this section as are just and reasonable.
- (5) Relief shall not be given for the same loss, or the same portion of a loss, both under a provision of Part X as applied by this section and under any other provision of the Tax Acts.”.

43 In section 579 of the Taxes Act 1988, omit subsection (4) and in subsection (5) (twice) for “subsections (2), (3) and (4)” substitute “ subsections (2) and (3) ”.

44 In section 787(3) of the Taxes Act 1988 (restriction of relief for payments of interest) for “section 403(7)” substitute “ section 83(2)(b) of the Finance Act 1996 (claim to treat non-trading deficit as eligible for group relief) ”.

F745

Textual Amendments

F7 Sch. 5 para. 45 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

46 In Schedule 26 to the Taxes Act 1988 (allowance of reliefs against amounts apportioned in respect of profits of controlled foreign companies), in paragraph 1(3) (a) for “section 393A(1)” substitute “ section 392A(1) or 393A(1) ”.

Capital Allowances Act 1990 (c.1)

F847

Textual Amendments

F8 [Sch. 5 para. 47](#) repealed (22.3.2001 with effect as mentioned in [s. 579](#) of the amending Act) by [2001 c. 2](#), ss. 579, 580, [Sch. 4](#)

F948

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Textual Amendments

F9 Sch. 5 para. 48 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F10}49

Textual Amendments

F10 Sch. 5 para. 49 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F11}50

Textual Amendments

F11 Sch. 5 para. 50 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F12}51

Textual Amendments

F12 Sch. 5 para. 51 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F13}52

Textual Amendments

F13 Sch. 5 para. 52 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F14}53

Textual Amendments

F14 Sch. 5 para. 53 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F15}54

Textual Amendments

F15 Sch. 5 para. 54 repealed (22. 3. 2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F16}55

Status: Point in time view as at 06/04/2005.

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Textual Amendments

F16 Sch. 5 para. 55 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F17}56

Textual Amendments

F17 Sch. 5 para. 56 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F18}57

Textual Amendments

F18 Sch. 5 para. 57 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F19}58

Textual Amendments

F19 Sch. 5 para. 58 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F20}59

Textual Amendments

F20 Sch. 5 para. 59 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F21}60

Textual Amendments

F21 Sch. 5 para. 60 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

^{F22}61

Textual Amendments

F22 Sch. 5 para. 61 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

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Taxation of Chargeable Gains Act 1992 (c.12)

- 62 In section 241(3) of the Taxation of Chargeable Gains Act 1992 (commercial letting of furnished holiday accommodation to be treated as trade for certain purposes), for paragraph (a) substitute—
- “(a) any Schedule A business (within the meaning of the Taxes Act) which consists in the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as a trade, and”.
- 63 (1) Schedule 8 to the Taxation of Chargeable Gains Act 1992 (leases) is amended as follows.
- (2) In paragraph 5 (exclusion of premiums taxed under Schedule A, etc.)—
- (a) in sub-paragraphs (1) and (2), for “income tax has become chargeable under section 34 of the Taxes Act on any amount” substitute “any amount is brought into account by virtue of section 34 of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act)”; and
- (b) in sub-paragraph (3), for “income tax has become chargeable under section 36 of the Taxes Act (sale of land with right of re-conveyance) on any amount” substitute “any amount is brought into account by virtue of section 36 of the Taxes Act (sale of land with right of re-conveyance) as a receipt of a Schedule A business (within the meaning of that Act)”.
- (3) In paragraph 6(2), for the words from “on which tax is paid” onwards substitute “brought into account by virtue of section 35 of the Taxes Act (charge on assignment of a lease granted at an undervalue) as a receipt of a Schedule A business (within the meaning of that Act)”.
- ^{F23}(4)
- (5) For paragraph 7A substitute—
- “7A References in paragraphs 5 to 7 above to an amount brought into account as a receipt of a Schedule A business include references to an amount brought into account as a receipt of an overseas property business.”.

Textual Amendments

F23 Sch. 5 para. 63(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with Sch. 2)

Finance Act 1996 (c. 8)

- 64 (1) Schedule 8 to the Finance Act 1996 (loan relationships: claims relating to deficits) is amended as follows.
- (2) In paragraph 1 (claim to set off deficit against other profits for the same period), in sub-paragraph (3)(b) for paragraph (i) substitute—
- “(i) under section 392A(1) or 393A(1) of the Taxes Act 1988 (losses set against profits for the same or preceding accounting periods); or”.
- (3) In paragraph 2 (claim to treat deficit as eligible for group relief) for sub-paragraph (2) substitute—

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“(2) Section 403 of the Taxes Act 1988 (amounts which may be surrendered by way of group relief) applies in accordance with section 403ZC(2) of that Act.”.

PART IV

TRANSITIONAL PROVISIONS FOR CORPORATION TAX

Introduction

- 65 (1) This Part of this Schedule makes provision with respect to the application of the provisions of Parts I to III of this Schedule for corporation tax purposes.
- (2) In this Part of this Schedule—
- “before commencement” and “after commencement” mean, respectively, before 1st April 1998 and on or after that date; and
- “the new rules” means the provisions of the Tax Acts relating to Schedule A taxation or, as the case may be, to the taxation under Case V of Schedule D of income from land outside the United Kingdom, as they have effect after commencement.

Receipts and expenses not to be counted twice

- 66 (1) To the extent that receipts or expenses have been taken into account before commencement, they shall not be taken into account again under the new rules after commencement.
- (2) Nothing in section 43 of the ^{M8}Finance Act 1989 (computation of profits: effect of delayed payment of emoluments) shall be construed as affecting the rule in subparagraph (1) above.

Marginal Citations

M8 1989 c. 26.

Receipts and expenses not to be left out of account

- 67 To the extent that receipts or expenses would under the new rules have been brought into account before commencement, and were not so brought into account, they shall be brought into account immediately after commencement.

Expenses not to be carried back to before commencement

- 68 Expenses which were incurred before commencement but were not taken into account before commencement shall not, by virtue of section 25(3) or 31(3) of the Taxes Act 1988, be carried back and taken into account before commencement.

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Effect of transfer of underlying rights

- 69 If any estate, interest or rights in or over land is or are transferred from one person to another, the references in paragraphs 66 to 68 to receipts or expenses being taken into account shall be construed as references to their being taken into account in relation to either of those persons.

Bad debt relief

- 70 (1) Where relief under section 41 of the Taxes Act 1988 (relief for rent, etc. not paid) has been given in respect of an amount before commencement, any receipt after commencement shall be taken into account under the new rules.
- (2) Any writing off of an amount after commencement shall be taken into account under the new rules, even where it relates to a receipt brought into account before commencement.

Meaning of “taken into account”

- 71 For the purposes of paragraphs 66 to 70 an amount is “taken into account” if—
- (a) it is brought into account for tax purposes, or
 - (b) it would have been so brought into account if the person concerned were chargeable to tax.

Unrelieved Case VI losses

- 72 (1) A loss to which this paragraph applies which a company would, apart from this Schedule, have been entitled to carry forward under section 396 of the Taxes Act 1988 (Case VI losses) shall be treated after commencement as a loss of an earlier period within section 392A or 392B of that Act and accordingly available to be set off under those provisions.
- (2) This paragraph applies to a loss sustained in a business or transaction of a kind that after commencement would be treated as carried on or entered into in the course of a Schedule A business or overseas property business carried on by the company.

Source ceasing in transitional accounting period

- 73 (1) The provisions of Parts I to III of this Schedule do not apply in relation to a source which ceases in the course of a company’s transitional accounting period to be a source within the charge to tax under Schedule A or Case V or VI of Schedule D in relation to that company and any other person.
- (2) This paragraph does not apply if the company acquired the source in that accounting period or in the preceding twelve months.

Superseded provisions relating to finance leasing

- 74 (1) In Schedule 12 to the ^{M9}Finance Act 1997 (leasing arrangements: finance leases and loans), the following provisions (which apply concepts from Case I of Schedule D in relation to rent taxed under Schedule A) shall cease to have effect in accordance with this paragraph.

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(2) Paragraphs 3(6), 6(9)(b), 8(1) to (7) and 20(b) do not apply in relation to periods of account beginning on or after 1st April 1998.

A “period of account” means a period for which accounts are made up.

(3) Paragraph 8(8) does not apply if the time mentioned in that provision is on or after 1st April 1998.

(4) Paragraph 8(9) does not apply if the time mentioned in paragraph (a) of that provision is on or after 1st April 1998.

Marginal Citations

M9 1997 c. 16.

Computation of amounts available for surrender as group relief

75 In computing under section 403 of the Taxes Act 1988 the amounts available for surrender as group relief in a company’s transitional accounting period, the amounts referable to the period before commencement shall be computed separately from the amounts referable to the period after commencement.

Meaning of “transitional accounting period”

76 For the purposes of paragraphs 73 and 75 a “transitional accounting period” means an accounting period beginning before, and ending on or after, 1st April 1998.

Status:

Point in time view as at 06/04/2005.

Changes to legislation:

Finance Act 1998, SCHEDULE 5 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.