



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 3

PROPERTY INCOME

CHAPTER 5

PROFITS OF PROPERTY BUSINESSES: OTHER RULES ABOUT RECEIPTS AND DEDUCTIONS

^{F1}Property businesses that use, or have used, cash basis

Textual Amendments

- F1** Ss. 307A-307F and cross-headings inserted (16.11.2017) (with effect in accordance with Sch. 2 para. 64 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 2 para. 23](#)

307E Capital receipts under, or after leaving, cash basis

- (1) This section applies in relation to a property business carried on by a person in two cases—
 - (a) Case 1 (see subsections (2) to (4)), and
 - (b) Case 2 (see subsections (5) to (8)).
- (2) Case 1 is a case in which conditions A and B are met.
- (3) Condition A is that the person receives disposal proceeds or a capital refund in relation to an asset in a tax year for which the profits of the property business are calculated on the cash basis (see section 271D).

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For the meaning of “disposal proceeds” and “capital refund” see subsections (9) and (10).

- (4) Condition B is that—
- (a) an amount of capital expenditure (see subsection (11)) relating to the asset has been brought into account in calculating the profits of the property business on the cash basis, or
 - (b) an amount of relevant capital expenditure (see subsection (17)) relating to the asset has been brought into account in calculating the profits of the property business in accordance with GAAP (see section 271B)—
 - (i) by means of a deduction allowed under section 58 or 59 (incidental costs of obtaining finance) (as applied by section 272) or section 311A (replacement domestic items relief), or
 - (ii) under CAA 2001 (see subsection (20)).
- (5) Case 2 is a case in which—
- (a) condition C is met, and
 - (b) condition D or E is met.
- (6) Condition C is that disposal proceeds or a capital refund arise to the person in relation to an asset in a tax year—
- (a) for which the profits of the property business are calculated in accordance with GAAP, and
 - (b) which is after a tax year for which the profits of the business had been calculated on the cash basis.
- (7) Condition D is that an amount of capital expenditure relating to the asset—
- (a) has been paid in a tax year for which the profits of the property business were calculated on the cash basis,
 - (b) has been brought into account in calculating the profits of the business on the cash basis, and
 - (c) on the assumption that the profits had not been calculated on the cash basis at the time the expenditure was paid, would not have been qualifying expenditure.
- (8) Condition E is that—
- (a) an amount of capital expenditure relating to the asset has been brought into account in calculating the profits of the property business for a tax year in accordance with GAAP by means of a deduction allowed under section 58 or 59 (as applied by section 272) or section 311A, and
 - (b) that tax year is before the tax year for which the person last entered the cash basis.
- (9) “Disposal proceeds” means—
- (a) any proceeds arising from the disposal of an asset or any part of it,
 - (b) any proceeds arising from the grant of any right in respect of, or any interest in, the asset, or
 - (c) any amount of damages, proceeds of insurance or other compensation received in respect of the asset.

See also section 307F for circumstances in which a person is to be regarded as disposing of an asset.

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- (10) “Capital refund” means an amount that is (in substance) a refund of capital expenditure relating to an asset.
- (11) “Capital expenditure” means expenditure of a capital nature incurred, or treated as incurred, on or in connection with—
- the provision, alteration or disposal of an asset, or
 - the potential provision, alteration or disposal of an asset.
- (12) The disposal proceeds or capital refund mentioned in condition A or (as the case may be) condition C are to be brought into account as a receipt in calculating the profits of the property business.
- (13) In a case where only part of the total capital expenditure incurred, or treated as incurred, by the person in relation to the asset has been brought into account in calculating the profits of the property business (whether or not on the cash basis), the amount brought into account under subsection (12) is proportionately reduced. The reference in this subsection to expenditure brought into account includes a reference to expenditure brought into account under CAA 2001 (see subsection (20)).
- (14) Subsection (12) does not apply if the whole of the amount which would otherwise be brought into account under that subsection—
- has already been brought into account as a receipt in calculating the profits of the property business under this section,
 - is brought into account as a receipt in calculating the profits of the business under any other provision of this Part (except section 334D(4) (assets not fully paid for)), or
 - is brought into account under Part 2 or 3A of CAA 2001 as a disposal value.
- The reference to any other provision of this Part in paragraph (b) includes a reference to any provision applied by section 272 or 272ZA.
- (15) If part of the amount which would otherwise be brought into account under subsection (12) has already been or is brought into account as mentioned in subsection (14), subsection (12) applies in relation to the remainder of that amount.
- (16) For the purposes of this section, any question as to whether or to what extent expenditure is brought into account in calculating the profits of a property business is to be determined on such basis as is just and reasonable in all the circumstances.
- (17) In subsection (4)(b) “relevant capital expenditure” means capital expenditure which—
- has been incurred (or treated as incurred) by the person before the tax year for which the person last entered the cash basis, and
 - is cash basis deductible in relation to that tax year.
- (18) For the purposes of this section, a person carrying on a property business “enters the cash basis” for a tax year if the profits of the business are calculated—
- on the cash basis for the tax year, and
 - in accordance with GAAP for the previous tax year.
- (19) Expenditure is “cash basis deductible” in relation to a tax year if, on the assumption that the expenditure was paid in that tax year, a deduction would be allowed in respect of the expenditure in calculating the profits of the property business on the cash basis for that tax year.

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- (20) For the purposes of this section, expenditure is “brought into account under CAA 2001” in calculating the profits of a property business if and to the extent that—
- (a) a capital allowance made under Part 2 of that Act in respect of the expenditure is treated as an expense in calculating those profits (see sections 248 to 250A of that Act), or
 - (b) qualifying expenditure (within the meaning of Part 2 of CAA 2001) is allocated to a pool for a relevant qualifying activity and is set-off against different disposal receipts.
- (21) An amount of qualifying expenditure is “set-off against different disposal receipts” if—
- (a) the amount would have been unrelieved qualifying expenditure carried forward in the pool for the relevant qualifying activity, but
 - (b) the amount is not so carried forward because (and only because) one or more disposal values in respect of one or more assets, other than the asset in respect of which the qualifying expenditure was incurred (or treated as incurred), have at any time been brought into account in that pool.
- (22) For the purposes of subsections (20) and (21), an activity is a “relevant qualifying activity” if—
- (a) it is a qualifying activity mentioned in section 15(1)(b) to (da) of CAA 2001 (property business activities), and
 - (b) the property business consists of or includes that qualifying activity.
- (23) For the purposes of subsection (21), an amount of qualifying expenditure incurred (or treated as incurred) by a person is not to be regarded as not carried forward because the person enters the cash basis.
- (24) In this section—
- “disposal value” means—
- (a) in subsection (14)(c)—
 - (i) a disposal value for the purposes of Part 2 of CAA 2001 (see, in particular, section 61 of that Act), or
 - (ii) proceeds from a balancing event for the purposes of Part 3A of that Act (see section 360O of that Act), and
 - (b) in subsection (21), a disposal value for the purposes of Part 2 of that Act;

“pool” means the main pool or a class pool to which qualifying expenditure is allocated under Part 2 of CAA 2001 (see section 54 of that Act);

“provision” includes creation, construction or acquisition;

“qualifying expenditure” means qualifying expenditure within the meaning of Part 2 of CAA 2001 (see section 11(4) of that Act for the general rule);

“unrelieved qualifying expenditure” means unrelieved qualifying expenditure for the purposes of Part 2 of CAA 2001 (see section 59(1) and (2) of that Act).

307F Deemed capital receipts under, or after leaving, cash basis

- (1) This section makes provision supplementary to section 307E.
- (2) If—

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- (a) at any time a person ceases to use an asset or any part of it for the purposes of a property business (other than in the circumstances mentioned in subsection (5)), but
 - (b) the person does not dispose of the asset (or that part) at that time,

the person is to be regarded for the purposes of section 307E as disposing of the asset (or that part) at that time for an amount equal to the market value amount.
- (3) If at any time there is a material increase in the person's non-business use of an asset or any part of it, the person is to be regarded for the purposes of section 307E as disposing of the asset (or that part) at that time for an amount equal to the relevant proportion of the market value amount.
- (4) For the purposes of subsection (3)—
 - (a) there is an increase in a person's non-business use of an asset (or part of an asset) if—
 - (i) the proportion of the person's use of the asset (or that part) that is for the purposes of the property business decreases, and
 - (ii) the proportion of the person's use of the asset (or that part) that is for other purposes (the “non-business use”) increases;
 - (b) “the relevant proportion” is the difference between—
 - (i) the proportion of the person's use of the asset (or part of the asset) that is non-business use, and
 - (ii) the proportion of the person's use of the asset (or that part) that was non-business use before the increase mentioned in subsection (3).
- (5) If—
 - (a) the property business in respect of which capital expenditure relating to an asset has been brought into account as mentioned in section 307E is an overseas property business, and
 - (b) there is a move overseas,

the person is to be regarded for the purposes of section 307E as disposing of the asset at the time of the move overseas for an amount equal to the market value amount.
- (6) For the purposes of subsection (5) there is a “move overseas” if—
 - (a) the person ceases to be UK resident, or
 - (b) the tax year is, as respects the person, a split year, and the overseas part of the tax year is the later part.
- (7) The move overseas occurs—
 - (a) in a case falling within subsection (6)(a), on the last day of the tax year for which the person is UK resident, or
 - (b) in a case falling within subsection (6)(b), on the last day of the UK part of the tax year.
- (8) In this section—
 - “capital expenditure” has the same meaning as in section 307E,
 - “market value amount” means the amount that would be regarded as normal and reasonable—
 - (a) in the market conditions then prevailing, and
 - (b) between persons dealing with each other at arm's length in the open market.]

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Modifications etc. (not altering text)

- C1** S. 307F excluded in part (16.11.2017) by 1992 c. 12, s. 37(1A)-(1C) (as inserted (with effect in accordance with Sch. 2 para. 64 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 2 para. 44](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A-7D inserted by [2022 c. 3 Sch. 1 para. 3](#)
- s. 24A and cross-heading inserted by [2024 c. 3 Sch. 10 para. 2](#)
- s. 25B inserted by [2024 c. 3 Sch. 10 para. 11](#)
- s. 25C inserted by [2024 c. 3 Sch. 10 para. 5](#)
- s. 31E(4) inserted by [2022 c. 3 Sch. 1 para. 7\(3\)](#)
- s. 649(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 11\(2\)](#)
- s. 679(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(5\)\(b\)](#)
- s. 679A(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(6\)\(b\)](#)
- s. 680(1A) inserted by [2023 c. 30 Sch. 2 para. 11\(7\)\(a\)](#)