



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 10

#### GENERAL PROVISIONS

#### CHAPTER 1

#### INTRODUCTION

#### 864 Overview of Part 10

This Part —

- (a) contains general rules which are of wider application than to a particular Part of this Act including certain calculation rules (see Chapter 2), and
- (b) deals with supplementary matters including general definitions (see Chapter 3).

#### CHAPTER 2

#### GENERAL CALCULATION RULES ETC.

#### *Unpaid remuneration*

#### 865 Unpaid remuneration: non-trades and non-property businesses

- (1) This section applies if, in calculating profits or other income of a period of account for income tax purposes—

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- (a) an amount is charged in the accounts for the period in respect of employees' remuneration, and
  - (b) a deduction for the remuneration would otherwise be allowable for the period.
- (2) For this purpose “profits or other income” does not include the profits of—
- (a) a trade, profession or vocation, or
  - (b) a property business,
- but see subsection (6).
- (3) No deduction is allowed for the remuneration for the period of account unless it is paid before the end of the period of 9 months immediately following the end of the period of account.
- (4) If the remuneration is paid after the end of that 9 month period, a deduction for it is allowed for the period of account in which it is paid.
- (5) Section 37 (supplementary provision) applies for the purposes of this section as it applies for the purposes of section 36 (unpaid remuneration: trades, professions and vocations).
- (6) Provision corresponding to that made by this section is made by—
- (a) sections 36 and 37 (in relation to trades, professions and vocations), and
  - (b) section 272 (in relation to property businesses).

#### *Employee benefit contributions*

### **866 Employee benefit contributions: non-trades and non-property businesses**

- (1) This section applies if, in calculating a person's profits or other income of a period for income tax purposes—
- (a) the profits or other income of the period are required to be calculated for those purposes, and
  - (b) a deduction would otherwise be allowable for the period for any employee benefit contributions made or to be made by the person (“the employer”) (but see subsection (5)).
- (2) For this purpose “profits or other income” does not include the profits of—
- (a) a trade, profession or vocation, or
  - (b) a property business,
- but see subsection (7).
- [<sup>F1</sup>(2A) No deduction is allowed under this section in respect of employee benefit contributions for a period of account which starts more than 5 years after the end of the period of account in which the contributions are made.]
- (3) No deduction is allowed for the contributions for the period except so far as—
- (a) qualifying benefits are provided, or qualifying expenses are paid, out of the contributions during the period or within 9 months from the end of it, or
  - (b) if the making of the contributions is itself the provision of qualifying benefits, the contributions are made during the period or within 9 months from the end of it.
- [<sup>F2</sup>(3A) Subsection (3) is subject to subsections (2A) and (3B).

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(3B) Where subsection (4C) applies, no deduction is allowed for an amount in respect of the contributions for the period except so far as the amount is a qualifying amount (see subsection (4D)).]

(4) An amount disallowed under subsection (3) is allowed as a deduction for a subsequent period so far as—

- (a) qualifying benefits are provided out of the contributions before the end of the subsequent period, or
- (b) if the making of the contributions is itself the provision of qualifying benefits, the contributions are made before the end of the subsequent period.

[<sup>F3</sup>(4A) Subsection (4) is subject to subsections (2A) and (4B).

(4B) Where subsection (4C) applies, an amount disallowed under subsection (3) is allowed as a deduction for a subsequent period only so far as it is a qualifying amount.

(4C) This subsection applies where the provision of qualifying benefits out of, or by way of, the contributions gives rise both to an employment income tax charge and to an NIC charge.

(4D) An amount in respect of employee benefit contributions is a “qualifying amount” if the relevant tax charges are paid before the end of the relevant period (and are not repaid).

(4E) For the purposes of subsection (4D)—

- (a) the “relevant tax charges”, in relation to an amount, are the employment income tax charge and the NIC charge arising in respect of benefits which are provided out of, or by way of, that amount, and
- (b) the “relevant period” is the period of 12 months immediately following the end of the period of account for which the deduction for the employee benefit contributions would (apart from this section) be allowable.

(4F) For the purposes of subsections (4C) and (4E), “employment income tax charge” and “NIC charge” have the meaning given by section 40(7).]

[<sup>F4</sup>(4G) Subsection (4H) applies where—

- (a) a deduction would, apart from this section, be allowable for an amount (the “remuneration amount”) in respect of employees' remuneration, and
- (b) in consequence of the payment of the employees' remuneration, employee benefit contributions are made, or are to be made, in respect of the remuneration amount.

(4H) In calculating for income tax purposes a person's profits or other income, the deduction referred to in subsection (4G)(a) is to be treated as a deduction in respect of employee benefit contributions made or to be made (and is to be treated as not being a deduction in respect of employees' remuneration).]

(5) This section does not apply to any deduction that is allowable for—

- (a) anything given as consideration for goods or services provided in the course of a trade or profession,
- (b) contributions under a registered pension scheme or under a superannuation fund to which section 615(3) of ICTA applies,
- (c) contributions under a qualifying overseas pension scheme in respect of an individual who is a relevant migrant member of the pension scheme in relation to the contributions, or

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(d) contributions under an accident benefit scheme.

For the purposes of paragraph (c) “qualifying overseas pension scheme” and “relevant migrant member” have the same meaning as in Schedule 33 to FA 2004 (see paragraphs 4 to 6 of that Schedule).

- (6) Sections 39 to 44 (supplementary provisions) apply for the purposes of this section as they apply for the purposes of section 38 (employee benefit contributions: trades, professions and vocations).
- (7) Provision corresponding to that made by this section is made by—
- (a) sections 38 to 44 (in relation to trades, professions and vocations), and
  - (b) [<sup>F5</sup>sections 272 and 272ZA] (in relation to property businesses).

#### Textual Amendments

- F1** S. 866(2A) inserted (16.11.2017) (with effect in accordance with s. 36(11) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), s. 36(7)
- F2** S. 866(3A)(3B) inserted (16.11.2017) (with effect in accordance with s. 36(11) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), s. 36(8)
- F3** S. 866(4A)-(4F) inserted (16.11.2017) (with effect in accordance with s. 36(11) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), s. 36(9)
- F4** S. 866(4G)(4H) inserted (16.11.2017) (with effect in accordance with s. 36(12) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), s. 36(10)
- F5** Words in s. 866(7)(b) substituted (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. 35

### *Business entertainment and gifts*

#### **867 Business entertainment and gifts: non-trades and non-property businesses**

- (1) This section applies for the purpose of calculating profits or other income charged to income tax which arise from the carrying on of a business.
- (2) For this purpose “business” does not include—
  - (a) a trade, profession or vocation, or
  - (b) a property business,
 but see subsection (7).
- (3) The general rule is that no deduction is allowed in calculating the profits or other income for expenses incurred in providing entertainment or gifts in connection with the business.
- (4) A deduction for expenses which are incurred—
  - (a) in paying sums to or on behalf of an employee of the person carrying on the business, or
  - (b) in putting sums at the disposal of an employee of that person,
 is prohibited by the general rule if (and only if) the sums are paid, or put at the employee's disposal, exclusively for meeting expenses incurred or to be incurred by the employee in providing the entertainment or gift.
- (5) The general rule is subject to—

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section 46 (business entertainment: exceptions), and  
section 47 (business gifts: exceptions),

which apply in relation to a business as they apply in relation to a trade (but as if the reference to a basis period were to a tax year).

- (6) For the purposes of this section and those two sections as so applied—
- (a) “employee”, in relation to a company, includes a director of the company and a person engaged in the management of the company,
  - (b) “entertainment” includes hospitality of any kind, and
  - (c) the expenses incurred in providing entertainment or a gift include expenses incurred in providing anything incidental to the provision of entertainment or a gift.
- (7) Provision corresponding to that made by this section is made by—
- (a) sections 45 to 47 (in relation to trades, professions and vocations), and
  - (b) [<sup>F6</sup>sections 272 and 272ZA] (in relation to property businesses).

#### Textual Amendments

- F6** Words in s. 867(7)(b) substituted (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. 36](#)

### *Social security contributions*

#### **868 Social security contributions: non-trades etc.**

- (1) This section applies for the purpose of calculating profits or other income charged to income tax.
- (2) For this purpose “profits or other income” does not include—
- (a) the profits of a trade, profession, or vocation,
  - (b) the profits of a property business, or
  - (c) employment income,
- but see subsection (6).
- (3) No deduction is allowed for any contribution paid by any person under—
- (a) Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4), or
  - (b) Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).
- (4) But this prohibition does not apply to an employer's contribution.
- (5) For this purpose “an employer's contribution” means—
- (a) a secondary Class 1 contribution,
  - (b) a Class 1A contribution, or
  - (c) a Class 1B contribution,
- within the meaning of Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4) or of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

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- (6) Provision corresponding to that made by this section is made by—
- (a) section 53 (in relation to trades, professions and vocations),
  - (b) [F7 sections 272 and 272ZA] (in relation to property businesses), and
  - (c) section 360A of ITEPA 2003 (in relation to employment income).

#### Textual Amendments

- F7** Words in s. 868(6)(b) substituted (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. 37](#)

#### *Penalties<sup>F8</sup>, interest and VAT surcharges<sup>F8</sup> and interest ]*

#### Textual Amendments

- F8** Words in s. 869 cross-heading substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by [Finance Act 2021 \(c. 26\)](#), s. 118(2), [Sch. 27 para. 34](#); [S.I. 2022/1278](#), reg. 2(3)(4)(b); [S.I. 2024/440](#), reg. 2

#### **869 Penalties<sup>F9</sup>, interest and VAT surcharges<sup>F9</sup> and interest] : non-trades etc.**

- (1) This section applies for the purpose of calculating profits or other income charged to income tax.
- (2) For this purpose “profits or other income” does not include the profits of—
  - (a) a trade, profession, or vocation, or
  - (b) a property business,
 but see subsection (6).
- (3) No deduction is allowed for any penalty or interest mentioned in the first column of the following table.
- (4) This is the table—

| <i>Penalty or interest</i>   | <i>Description of tax, levy or duty</i>           |
|--|---|
| Interest under any provision of Part 9 of TMA 1970   | Income tax, capital gains tax and corporation tax |
| Interest required to be paid by regulations made under section 71 of FA 2004 (construction industry) |   |
| Penalty under any of sections 60 to 70 of VATA 1994  | Value added tax                                   |
| [F10 Interest under section 101 of FA 2009 in respect of an amount of value added tax]               |   |
| Penalty under any of sections 8 to 11 of FA 1994   | Excise duties                                     |

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|  |                                  |
|--|----------------------------------|
| Penalty under any of paragraphs 12 to 19 of Schedule 7 to FA 1994  | Insurance premium tax            |
| [ <sup>F11</sup> Interest under section 60(8) of FA 1994 or paragraph 21 to Schedule 7 to FA 1994]   |                                  |
| Penalty under any provision of Part 5 of Schedule 5 to FA 1996   | Landfill tax                     |
| [ <sup>F12</sup> Interest under section 56(5) of, or paragraph 26 or 27 of Schedule 5 to, FA 1996]   |                                  |
| Penalty under any provision of Schedule 6 to FA 2000   | Climate change levy              |
| Interest under any of paragraphs 70, 81 to 85[ <sup>F13</sup> , 109 and 123(6)] of that Schedule   |                                  |
| Penalty under any provision of Part 2 of FA 2001   | Aggregates levy                  |
| Interest under [ <sup>F14</sup> section 42(6) of, or] any of paragraphs 5 to 9 of Schedule 5 to, paragraph 6 of Schedule 8 to and paragraph 5 of Schedule 10 [ <sup>F15</sup> to, FA 2001] |                                  |
| Penalty under section 25 or 26 of FA 2003  | [ <sup>F16</sup> Customs duties] |
| Penalty under any provision of Part 4 of FA 2003   | Stamp duty land tax              |
| Interest under any provision of that Part  |                                  |
| [ <sup>F17</sup> Penalty under Schedule 24 to FA 2007  | Various taxes and excise duties] |
| [ <sup>F18</sup> Penalty under Schedule 41 to FA 2008  | Various taxes and excise duties] |

- (5) [<sup>F19</sup>No deduction is allowed for any surcharge under section 59 of VATA 1994.]
- (6) Provision corresponding to that made by this section is made by—
- section 54 (in relation to trades, professions and vocations), and
  - [<sup>F20</sup>sections 272 and 272ZA] (in relation to property businesses).

#### Textual Amendments

- F9** Words in s. 869 heading substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 35(a)**; S.I. 2022/1278, **reg. 2(3)(4)(b)**; S.I. 2024/440, **reg. 2**
- F10** Words in s. 869(4) table substituted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and

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Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), 4(4)

- F11** Words in s. 869(4) table substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 442(3)**
- F12** Words in s. 869(4) table substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 442(4)**
- F13** Words in s. 869(4) table inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 442(5)**
- F14** Words in s. 869(4) table inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 442(6)(a)**
- F15** Words in s. 869(4) table substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 442(6)(b)**
- F16** Words in s. 869(4) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 155** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F17** Words in s. 869(4) table added (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), **Sch. 1 para. 29**
- F18** Words in s. 869(4) table added (1.4.2010) by The Finance Act 2008 (Penalties for Errors and Failure to Notify etc) (Consequential Amendments) Order 2010 (S.I. 2010/530), art. 1, **Sch. para. 9**
- F19** S. 869(5) omitted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 35(b)**; S.I. 2022/1278, reg. 2(3)(4)(b); S.I. 2024/440, reg. 2
- F20** Words in s. 869(6)(b) substituted (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. 38**

### *Crime-related payments*

#### **870 Crime-related payments: non-trades and non-property businesses**

- (1) This section—
- (a) applies for the purpose of calculating profits or other income charged to income tax, but
  - (b) does not apply for the purpose of calculating the profits of a trade, profession or vocation or of a property business (but see subsection (4)).
- (2) No deduction is allowed for expenses incurred—
- (a) in making a payment if the making of the payment constitutes a criminal offence, or
  - (b) in making a payment outside the United Kingdom if the making of a corresponding payment in any part of the United Kingdom would constitute a criminal offence in that part.
- (3) No deduction is allowed for expenses incurred in making a payment induced by a demand which constitutes—
- (a) the offence of blackmail under section 21 of the Theft Act 1968 (c. 60) (England and Wales),
  - (b) the offence of extortion (Scotland), or
  - (c) the offence of blackmail under section 20 of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (Northern Ireland).



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- (4) Provision corresponding to that made by this section is made by—
- (a) section 55 (in relation to trades, professions and vocations), and
  - (b) [F21sections 272 and 272ZA] (in relation to property businesses).

#### Textual Amendments

- F21** Words in s. 870(4)(b) substituted (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. 39](#)

### *Apportionment of profits*

#### **871 Apportionment etc. of miscellaneous profits to tax year**

- (1) This section applies if—
- (a) income is chargeable to income tax under or by virtue of any provision to which [F22section 1016 of ITA 2007] applies, and
  - (b) any period for which the accounts are drawn up (a “period of account”) does not coincide with a tax year.
- (2) For this purpose the reference to any provision to which [F23section 1016 of ITA 2007] applies is to be read as if [F24subsection (3)(a)] of that section were omitted (exclusion for relevant foreign income charged under this Act).
- (3) Any of the following steps may be taken if they are necessary in order to arrive at the profits or losses of the tax year—
- (a) apportioning the profits or losses of a period of account to the parts of that period falling in different tax years, and
  - (b) adding the profits or losses of a period of account (or part of a period) to profits or losses of other periods of account (or parts).
- (4) The steps must be taken by reference to the number of days in the periods concerned.
- (5) But the person to whom the profits or losses arise may use a different way of measuring the length of the periods concerned if—
- (a) it is reasonable to do so, and
  - (b) the way of measuring the length of periods is used consistently for the purpose of charging to income tax the income in question.

#### Textual Amendments

- F22** Words in s. 871(1)(a) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 581\(a\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F23** Words in s. 871(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 581\(b\)\(i\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F24** Words in s. 871(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 581\(b\)\(ii\)](#) (with transitional provisions and savings in [Sch. 2](#))

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### Calculation of losses

#### 872 Losses calculated on same basis as miscellaneous income

- (1) The same rules apply for income tax purposes in calculating miscellaneous losses as apply in calculating corresponding miscellaneous income.
- (2) This is subject to any express provision to the contrary.
- (3) In this section—
  - (a) “miscellaneous income” means profits or other income charged to income tax under or by virtue of a provision to which [<sup>F25</sup>section 1016 of ITA 2007] applies, and
  - (b) “miscellaneous losses” means losses arising from a transaction which is of such a nature that, if profits or other income had arisen from it, the income would have been charged to income tax under or by virtue of such a provision.
- (4) Provision corresponding to that made by this section is made by—
  - (a) section 26 (in relation to trades, professions and vocations), and
  - (b) [<sup>F26</sup>sections 272 and 272ZA] (in relation to property businesses).

#### Textual Amendments

- F25** Words in s. 872(3)(a) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 582](#) (with transitional provisions and savings in Sch. 2)
- F26** Words in s. 872(4)(b) substituted (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. 40](#)

## CHAPTER 3

### SUPPLEMENTARY AND GENERAL PROVISIONS

#### Orders and regulations

#### 873 Orders and regulations made by Treasury or [<sup>F27</sup>Commissioners]

- (1) Any power of the Treasury or [<sup>F28</sup>the Commissioners for Her Majesty’s Revenue and Customs] to make any order or regulations under this Act is exercisable by statutory instrument.
- (2) Any statutory instrument containing any order or regulations made by the Treasury or [<sup>F28</sup>the Commissioners for Her Majesty’s Revenue and Customs] under this Act is subject to annulment in pursuance of a resolution of the House of Commons.
- (3) Subsection (2) does not apply in relation to any order or regulations made under—
  - (a) section 86 (meaning of “urban regeneration company”),
  - (b) section 724 (purchased life annuity payments),
  - [<sup>F29</sup>(ba) section 608N (offshore receipts in respect of intangible property),]

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- (c) section 774 (income from securities issued by designated international organisations), or
- (d) section 883(5) (transitional or saving provision).

[<sup>F30</sup>(4) Further, subsection (2) does not apply if any other Parliamentary procedure is expressly provided to apply in relation to the order or regulations.]

#### Textual Amendments

- F27** Word in s. 873 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50, 53(1), [Sch. 4 para. 132\(3\)\(h\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)
- F28** Words in s. 873(1)(2) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50, 53(1), [Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)
- F29** S. 873(3)(ba) inserted (with effect in accordance with Sch. 3 para. 7 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 3 para. 5](#)
- F30** S. 873(4) inserted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 19 para. 8](#)

#### Modifications etc. (not altering text)

- C1** S. 873(4) excluded by 2009 c. 10, Sch. 19 para. 14(3) (as inserted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 66\(3\)](#))

### Interpretation

#### 874 Activities in UK sector of continental shelf

- (1) Any profits—
  - (a) from exploration or exploitation activities carried on in the UK sector of the continental shelf, or
  - (b) from exploration or exploitation rights,are treated for income tax purposes as profits from activities or property in the United Kingdom.

- (2) In this section—
  - “exploration or exploitation activities” means activities carried on in connection with the exploration or exploitation of so much of the seabed and subsoil and their natural resources as is situated in the United Kingdom or the UK sector of the continental shelf,
  - “exploration or exploitation rights” means rights to assets to be produced by exploration or exploitation activities or interests in or to the benefit of such assets, and
  - “the UK sector of the continental shelf” means the areas designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (c. 29).

#### 875 Meaning of “caravan”

- (1) In this Act “caravan” means—
  - (a) a structure designed or adapted for human habitation which is capable of being moved by being towed or being transported on a motor vehicle or trailer, or
  - (b) a motor vehicle designed or adapted for human habitation,

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but does not include railway rolling stock which is on rails forming part of a railway system or any tent.

- (2) A structure composed of two sections—
  - (a) separately constructed, and
  - (b) designed to be assembled on a site by means of bolts, clamps or other devices,
 is not prevented from being a caravan just because it cannot, when assembled, be lawfully moved on a highway (or, in Scotland or Northern Ireland, road) by being towed or being transported on a motor vehicle or trailer.

**876 Meaning of “farming” and related expressions**

F31 .....

**Textual Amendments**

**F31** S. 876 repealed (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, Sch. 1 para. 583, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

**877 Meaning of grossing up**

F32 .....

**Textual Amendments**

**F32** S. 877 repealed (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, Sch. 1 para. 584, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

**878 Other definitions**

- (1) In this Act, unless otherwise indicated (whether expressly or by implication)—

F33 .....

F34 .....

“houseboat” means a boat or similar structure designed or adapted for use as a place of human habitation, [F35 and]

F36 “income” includes amounts treated as income (whether expressly or by implication),

F33 .....

“non-UK resident” means not resident in the United Kingdom (and references to a non-UK resident or a non-UK resident person are to a person who is not resident there),

“normal self-assessment filing date”, in relation to a tax year, means the 31st January following the tax year,

“personal representatives”, in relation to a person who has died, means—

- (a) in the United Kingdom, persons responsible for administering the estate of the deceased, and

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(b) in a territory outside the United Kingdom, those persons having functions under its law equivalent to those of administering the estate of the deceased,

“tax year”, in relation to income tax, means a year for which any Act provides for income tax to be charged,

“the tax year 2005-06” means the tax year beginning on 6th April 2005 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way), and

“UK resident” means resident in the United Kingdom (and references to a UK resident or a UK resident person are to a person who is resident there).

<sup>F37</sup>(2) .....

- (3) In this Act any reference to a claim or election is to a claim or election in writing or in any form authorised (in relation to the case in question) by directions under [<sup>F38</sup>section 43E(1) of TMA 1970].
- (4) For further information about claims and elections, see TMA 1970 [<sup>F39</sup>more generally (but in] particular, section 42(2), (10) and (11) and Schedule 1A).
- (5) [<sup>F40</sup>Section 993 of ITA 2007] (how to tell whether persons are connected) applies for the purposes of this Act unless otherwise indicated (whether expressly or by implication).
- (6) [<sup>F41</sup> Section 995 of ITA 2007 (meaning of “control”)] applies for the purposes of this Act unless otherwise indicated (whether expressly or by implication).

#### Textual Amendments

- F33** S. 878(1): definitions of "the Board of Inland Revenue" and "the Inland Revenue" repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50, 52, 53(1), [Sch. 4 para. 134\(1\)](#), [Sch. 5](#); [S.I. 2005/1126](#), [art. 2\(2\)\(h\)\(i\)](#)
- F34** S. 878(1): definition of 'charity' repealed (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, [Sch. 1 para. 585\(2\)\(a\)](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))
- F35** Word in [s. 878\(1\)](#) inserted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 585\(2\)\(b\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F36** By [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, [Sch. 1 para. 585\(2\)\(c\)](#), [Sch. 3 Pt. 1](#) it is provided that the words in [s. 878\(1\)](#) after the definition of 'income' are repealed (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) (with transitional provisions and savings in [Sch. 2](#))
- F37** S. 878(2) omitted (with effect in accordance with [Sch. 7 para. 81](#) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 71](#)
- F38** Words in [s. 878\(3\)](#) substituted (1.4.2010) (with effect in accordance with [s. 381\(1\)](#) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), [s. 381\(1\)](#), [Sch. 7 para. 90\(2\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F39** Words in [s. 878\(4\)](#) substituted (1.4.2010) (with effect in accordance with [s. 381\(1\)](#) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), [s. 381\(1\)](#), [Sch. 7 para. 90\(3\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F40** Words in [s. 878\(5\)](#) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 585\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

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**F41** Words in s. 878(6) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 585\(4\)](#) (with transitional provisions and savings in [Sch. 2](#))

## 879 Interpretation: Scotland

(1) In the application of this Act to Scotland—

<sup>F42</sup> .....

“mortgage” means—

- (a) a standard security, or
- (b) a heritable security, as defined in the Conveyancing (Scotland) Act 1924 (c. 27), but including a security constituted by ex facie absolute disposition or assignation,<sup>F42</sup> . . .

<sup>F42</sup> .....

(2) <sup>F43</sup> .....

(3) In the application of section 755 (interest on foreign currency securities etc. owned by non-UK residents) to Scotland, “Act” includes an Act of the Scottish Parliament.

(4) In the application of sections 769 (housing grants) and 882 (consequential amendments) and Part 1 of Schedule 2 (transitionals and savings: general provisions) to Scotland, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

(5) The express provision made by subsection (4) does not affect the construction of “enactment” in the application of section 631 (retained and accumulated income) to Scotland.

### Textual Amendments

**F42** [S. 879\(1\)](#): definitions of 'assignment' and 'surrender' and word preceding definition of 'surrender' repealed (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, [Sch. 1 para. 586\(a\)](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

**F43** [S. 879\(2\)](#) repealed (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, [Sch. 1 para. 586\(b\)](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

## 880 Interpretation: Northern Ireland

(1) In the application of section 755 (interest on foreign currency securities etc. owned by non-UK residents) to Northern Ireland, “Act” includes any Act, Order in Council or Measure constituting Northern Ireland legislation.

(2) In the application of section 769 (housing grants) and 882 (consequential amendments) and Part 1 of Schedule 2 (transitionals and savings: general provisions) to Northern Ireland, “enactment” includes an enactment comprised in, or in an instrument made under, Northern Ireland legislation.

*Status: Point in time view as at 01/01/2023.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 10. (See end of Document for details)*

- (3) The express provision made by subsection (2) does not affect the construction of “enactment” in the application of section 631 (retained and accumulated income) to Northern Ireland.

### *General and final*

## **F44 881 Disapplication of corporation tax: section 9 of ICTA**

.....

### **Textual Amendments**

- F44** S. 881 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 644, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

## **882 Consequential amendments**

- (1) Schedule 1 (which contains consequential amendments) has effect.
- (2) The Treasury may by order make such modifications of any enactment or provision made under an enactment as the Treasury consider appropriate in consequence of this Act.
- (3) In subsection (2) “modifications” includes amendments or repeals.
- (4) An order under subsection (2)—
- (a) must not change the effect of the law as it was immediately before 6th April 2005, and
  - (b) may include such transitional or saving provision as the Treasury consider appropriate.
- (5) Subsection (4)(a) does not apply so far as an order contains provision made in consequence of a change already made by this Act in the effect of the law.

### **Commencement Information**

- II** S. 882 wholly in force at 6.4.2005; s. 882(2)-(5) in force at Royal Assent and s. 882(1) in force at 6.4.2005 see s. 883

## **883 Commencement and transitional provisions etc.**

- (1) This Act comes into force on 6th April 2005 and has effect—
- (a) for income tax purposes, for the tax year 2005-06 and subsequent tax years, and
  - (b) for corporation tax purposes, for accounting periods ending after 5th April 2005.
- (2) Subsection (1) is subject to subsections (3) to (5) (including Schedule 2).
- (3) Subsection (1) does not apply to the following provisions of this Act (which therefore come into force on the passing of this Act)—

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- (a) section 873 (orders and regulations made by Treasury or [<sup>F45</sup>Commissioners]),
  - (b) sections 875 to 881 (certain interpretation and general provisions),
  - (c) section 882(2) to (5) (power to make consequential amendments),
  - (d) this section other than subsection (4) below,
  - (e) section 885 and Schedule 4 (abbreviations and general index),
  - (f) section 886 (short title), and
  - (g) paragraphs 78 and 148(5) of Schedule 2 (powers relating to open-ended investment companies and periodical payments of personal injury damages etc.) and subsection (4) below so far as it applies for the purposes of those provisions.
- (4) Schedule 2 (which contains transitional provisions and savings etc.) has effect.
- (5) The Treasury may by order make such transitional or saving provision as the Treasury consider appropriate in connection with the coming into force of this Act.

#### Textual Amendments

**F45** Word in s. 883(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005](#) (c. 11), ss. 50, 53(1), [Sch. 4 para. 132\(3\)\(i\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

#### Commencement Information

**I2** [S. 883](#) wholly in force at 6.4.2005; [s. 883\(1\)-\(3\)\(5\)](#) in force at Royal Assent and [s. 883\(4\)](#) in force for certain purposes at Royal Assent and [s. 883\(4\)](#) in force at 6.4.2005 in so far as not already in force see [s. 883](#)

### 884 Repeals and revocations

Schedule 3 (which contains repeals and revocations of enactments including certain spent enactments) has effect.

### 885 Abbreviations and general index in Schedule 4

- (1) Schedule 4 (which contains abbreviations and defined expressions that apply for the purposes of this Act) has effect.
- (2) Part 1 of that Schedule gives the meaning of the abbreviated references to Acts used in this Act.
- (3) Part 2 of that Schedule lists the places where expressions used in this Act are defined or otherwise explained—
  - (a) in this Act for the purposes of this Act or for purposes including this Act,
  - (b) in this Act for the purposes of a Part or Chapter of this Act, or
  - (c) in [<sup>F46</sup>another Act] for the purposes of this Act.

#### Textual Amendments

**F46** Words in [s. 885\(3\)\(c\)](#) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007](#) (c. 3), ss. 1027, 1034, [Sch. 1 para. 587](#) (with transitional provisions and savings in [Sch. 2](#))



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**Changes to legislation:** *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 10. (See end of Document for details)*

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**886 Short title**

This Act may be cited as the Income Tax (Trading and Other Income) Act 2005.

**Status:**

Point in time view as at 01/01/2023.

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 10.