Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 2

TRADING INCOME

CHAPTER 15

BASIS PERIODS

Modifications etc. (not altering text)

C1 Pt. 2 Ch. 15 excluded (14.2.2006 with effect as mentioned in reg. 1(2) of the amending S.I.) by S.I. 1997/2681 reg. 6(1)(a) as amended by The Lloyd's Underwriters (Scottish Limited Partnerships) (Tax) (Amendment) Regulations 2006 (S.I. 2006/111), **reg. 8**

Introduction

196 Professions and vocations

The provisions of this Chapter apply to professions and vocations as they apply to trades.

Accounting date

197 Meaning of "accounting date"

(1) In this Chapter "accounting date", in relation to a tax year, means—

(a) the date in the tax year to which accounts are drawn up, or

(b) if there are two or more such dates, the latest of them.

(2) This is subject to—

(a) section 211(2) (middle date treated as accounting date), and

(b) section 214(3) (date treated as accounting date if date changed in tax year in which there is no accounting date).

The normal rules

198 General rule

(1) The general rule is that the basis period for a tax year is the period of 12 months ending with the accounting date in that tax year.

(2) This applies unless a different basis period is given by one of the following sections—

section 199 (first tax year),
section 200 (second tax year),
section 201 (tax year in which there is no accounting date),
section 202 (final tax year),
section 209 or 210 (first accounting date shortly before end of tax year),
section 212 (tax year in which middle date treated as accounting date),
section 215 (change of accounting date in third tax year), and
section 216 (change of accounting date in later tax year).

199 First tax year

(1) The basis period for the tax year in which a person starts to carry on a trade—

(a) begins with the date on which the person starts to carry on the trade, and

(b) ends with 5th April in the tax year.

(2) But if a person starts and permanently ceases to carry on a trade in the same tax year, the basis period for the tax year is that given by section 202(2).

200 Second tax year

(1) The basis period for the second tax year in which a person carries on a trade is determined as follows.

(2) If in that tax year—

(a) the accounting date falls less than 12 months after the date on which the person starts to carry on the trade, and

(b) the person does not permanently cease to carry on the trade,

the basis period is the period of 12 months beginning with the date on which the person starts to carry on the trade.

(3) If in that tax year—

(a) the accounting date falls 12 months or more after the date on which the person starts to carry on the trade, and

(b) the person does not permanently cease to carry on the trade,

the basis period is that given by the general rule in section 198.

(4) If in that tax year—
(a) there is no accounting date, and
(b) the person does not permanently cease to carry on the trade,
the basis period is the same as the tax year.

(5) If in that tax year the person permanently ceases to carry on the trade, the basis period is that given by section 202(1).

201 Tax year in which there is no accounting date

(1) If a person carries on a trade in a tax year and—
(a) there is no accounting date in the tax year, and
(b) the person does not start or permanently cease to carry on the trade in the tax year,
the basis period for the tax year is the period of 12 months beginning immediately after the end of the basis period for the previous tax year.

(2) But this is subject to—
(a) section 200 (second tax year), and
(b) sections 215 and 216 (change of accounting date in third tax year or later tax year).

202 Final tax year

(1) The basis period for the tax year in which a person permanently ceases to carry on a trade—
(a) begins immediately after the end of the basis period for the previous tax year, and
(b) ends with the date on which the person permanently ceases to carry on the trade.

(2) But if a person starts and permanently ceases to carry on a trade in the same tax year, the basis period—
(a) begins with the date on which the person starts to carry on the trade, and
(b) ends with the date on which the person permanently ceases to carry on the trade.

Apportionment of profits

203 Apportionment etc. of profits to basis periods

(1) This section applies if the basis period for a tax year does not coincide with a period of account.

(2) Any of the following steps may be taken if they are necessary in order to arrive at the profits or losses of the basis period—
(a) apportioning the profits or losses of a period of account to the parts of that period falling in different basis periods, 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).

(3) The steps must be taken by reference to the number of days in the periods concerned.

(4) But the person carrying on the trade 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 purposes of the trade.

Modifications etc. (not altering text)

C2 S. 203(3)(4) applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 90(4)**, 1034 (with transitional provisions and savings in Sch. 2)

Overlap profits and losses

204 Meaning of "overlap period" and "overlap profit"

In this Chapter—

"overlap period" means a period which falls within two basis periods, and

"overlap profit" means profit which arises in an overlap period.

205 Deduction for overlap profit in final tax year

(1) If a person permanently ceases to carry on a trade in a tax year, a deduction is allowed for overlap profit in calculating the profits of the trade of the tax year.

(2) The amount of the deduction is calculated as follows.

Step 1

Add together the overlap profits arising in all overlap periods.

Step 2

Subtract from that any deductions for overlap profit made under section 220 (deduction for overlap profit on change of accounting date).

The balance is the amount of the deduction allowed under this section.

206 Restriction on bringing losses into account twice

If a loss arises in, or is apportioned under section 203 to, two overlapping basis periods, the amount of the loss—

(a) is brought into account in calculating the profits of the first basis period, and

(b) is not brought into account in calculating the profits of the second basis period.

207 Treatment of business start-up payments received in an overlap period

(1) This section applies if—

(a) a person carrying on a trade receives a business start-up payment (see subsection (3)) in a period which falls within two basis periods, and

(b) the payment is not a lump sum payment.

(2) The payment—

(a) is brought into account in calculating the profits of the trade of the first basis period, and

(b) is not brought into account in calculating the profits of the trade of the second basis period.

(3) A "business start-up payment" means a payment under a Business Start-Up scheme which is of the kind originally known as enterprise allowance and is made—

(a) in England and Wales, by a training and enterprise council pursuant to arrangements under section 2(2)(d) of the Employment and Training Act 1973 (c. 50),

(b) in Scotland, by a local enterprise company under section 2(4)(c) of the Enterprise and New Towns (Scotland) Act 1990 (c. 35) in relation to arrangements under section 2(3) of that Act, or

(c) in Northern Ireland, by or on behalf of the Department for Employment and Learning under section 1(1A)(d) of the Employment and Training Act (Northern Ireland) 1950 (c. 29 (N.I.)).

Rules where first accounting date shortly before end of tax year

208 When the late accounting date rules apply

(1) Sections 209 and 210 contain rules for the purpose of—

(a) avoiding the need to apportion profits, and

(b) preventing overlap profit from arising,

in relation to the tax year in which a person ("the trader") starts to carry on a trade and the following tax year.

(2) Sections 209 and 210 apply in relation to a tax year if—

(a) the first accounting date is 31st March or 1st, 2nd, 3rd or 4th April, and

(b) that date falls in the tax year in which the trader starts to carry on the trade or in either of the following two tax years,

but the trader may elect for those sections not to apply in relation to a tax year.

(3) In this section and section 210 "the first accounting date" means—

(a) the first accounting date after the trader starts to carry on the trade, or

(b) the date that is intended to be that accounting date if, at the time the trader delivers a return for a tax year, there has been no accounting date.

(4) An election under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year to which it relates.

209 Rule if there is an accounting date

(1) This section applies if there is an accounting date in a tax year and that date is 31st March or 1st, 2nd, 3rd or 4th April.

(2) If—

(a) the basis period for the tax year would otherwise end after the accounting date, and

(b) the part of the basis period that would otherwise fall after the accounting date is included in the basis period for the following tax year,

the basis period for the tax year ends on the accounting date.

210 Rules if there is no accounting date

(1) This section applies if there is no accounting date in a tax year ("the relevant tax year").

(2) If the trader—

(a) starts to carry on the trade in the relevant tax year, and

(b) does so before 1st April,

the basis period ends on the date in the relevant tax year that corresponds to the first accounting date.

(3) If the trader started to carry on the trade in the previous tax year and there was no accounting date in the previous tax year, the basis period for the relevant tax year—

(a) begins immediately after the end of the basis period for the previous tax year, and

(b) ends on the date in the relevant tax year that corresponds to the first accounting date.

(4) If the trader—

(a) starts to carry on the trade in the relevant tax year, and

(b) does so after 31st March,

the profits or losses of the trade of the relevant tax year are treated as nil.

(5) In that case, the actual profits or losses of the trade of the relevant tax year are treated as arising in the basis period for the following tax year, so far as they do not already do so.

Slight variations in accounting date

211 Treating middle date as accounting date

(1) This section applies for the purpose of preventing the rules in sections 215 to 220 from applying if—

(a) accounts of a trade are drawn up to a particular day (rather than to a particular date), and

(b) that day is capable of falling on one of only 7 consecutive dates (or, if that day is in February, on one of only 8 consecutive dates).

(2) The person carrying on the trade may elect in relation to a tax year for the fourth of those dates ("the middle date") to be treated as the accounting date in the tax year.

(3) The election has effect for the purposes of this Chapter, but not for any other purposes.

(4) An election under this section—

(a) must specify the day to which the accounts are drawn up and the middle date, and

(b) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year to which it relates.

212 Consequence of treating middle date as accounting date

(1) If—

(a) a date ("the middle date") is treated under section 211 as the accounting date in a tax year ("the current tax year"),

(b) the basis period for the current tax year would otherwise be that given by the general rule in section 198, and

(c) subsection (2) or (3) applies,

the basis period for the current tax year begins immediately after the end of the basis period for the previous tax year and ends with the middle date.

(2) This subsection applies if—

(a) the accounting date in the previous tax year was not determined under section 211, and

(b) that accounting date was one of the 7 (or 8) dates on which the day in the current tax year to which accounts are drawn up is capable of falling.

(3) This subsection applies if—

(a) the accounting date in the previous tax year was determined under section 211, and

(b) the accounting date in the current tax year is the same as the accounting date in the previous tax year.

213 Circumstances in which middle date not treated as accounting date

(1) If—

(a) a date ("the middle date") is treated under section 211 as the accounting date in a tax year ("the earlier tax year"),

(b) the basis period for the earlier tax year ends on the middle date, and

(c) the basis period for the following tax year ("the later tax year") is that given by one of the provisions listed in subsection (2),

the basis period for the later tax year is determined as if the basis period for the earlier tax year had ended on the date to which accounts were actually drawn up in the earlier tax year.

(2) The provisions are—

(a) section 201(1) (tax year in which there is no accounting date),

(b) section 202(1) (tax year in which person permanently ceases to carry on a trade),

(c) section 215(2) (change of accounting date in third tax year), and

(d) section 216(3) (change of accounting date in later tax year).

Special rules if accounting date changes

214 When a change of accounting date occurs

(1) If there is a change from one accounting date ("the old accounting date") to another accounting date ("the new accounting date"), the change of accounting date occurs—

(a) in the first tax year in which accounts are drawn up to the new accounting date, or

(b) if earlier, in the first tax year in which accounts are not drawn up to the old accounting date.

(2) A change from a date determined under section 211 to an actual accounting date is taken to be a change from one accounting date to another, even if the two dates are the same.

(3) If, because of subsection (1)(b), a change of accounting date occurs in a tax year in which there is no actual accounting date, the date corresponding to the new accounting date is treated as the accounting date in that tax year for the purpose of determining—

(a) the basis period for that tax year, and

(b) if section 219 applies, the basis period for the following tax year.

215 Change of accounting date in third tax year

(1) This section applies if—

(a) a change of accounting date occurs in the third tax year in which a person carries on a trade,

(b) the person does not permanently cease to carry on the trade in that tax year, and

(c) the accounting date in that tax year falls more than 12 months after the end of the basis period for the second tax year in which the person carries on the trade.

(2) The basis period—

(a) begins immediately after the end of the basis period for the second tax year in which the person carries on the trade, and

(b) ends with the accounting date in the third tax year in which the person carries on the trade.

216 Change of accounting date in later tax year

(1) This section applies if—

(a) a change of accounting date occurs in a tax year in which a person carries on a trade,

(b) the tax year is later than the third tax year in which the person carries on the trade, and

(c) the person does not permanently cease to carry on the trade in the tax year.

(2) If—

(a) the conditions in section 217 are met (conditions for basis period to end with new accounting date), and

(b) the new accounting date falls less than 12 months after the end of the basis period for the previous tax year, the basis period is that given by the general rule in section 198.

(3) If—

(a) the conditions in section 217 are met, and

(b) the new accounting date falls more than 12 months after the end of the basis period for the previous tax year,

the basis period begins immediately after the end of the basis period for the previous tax year and ends with the accounting date.

(4) If the conditions in section 217 are not met, the basis period for the tax year is the period of 12 months ending with the old accounting date.

217 Conditions for basis period to end with new accounting date

(1) The conditions in this section are met if—

(a) the person carrying on the trade gives appropriate notice of the change of accounting date to **[**[F1]an officer of Revenue and Customs**]**(see subsection (2)),

(b) the 18 month test is met (see subsection (3)), and

(c) either condition A or B is met (see subsections (4) to (6)).

(2) Appropriate notice of the change of accounting date is given to **[**[F1]an officer of Revenue and Customs**]** if (and only if) the notice is given—

(a) in a return under the provision of TMA 1970 that applies to the person carrying on a trade (see section 8, 8A or 12AA of that Act), and

(b) on or before the day on which the return is required to be made and delivered under that provision.

(3) The 18 month test is met if the period of account ending—

(a) with the new accounting date in the tax year in which the change of accounting date occurs, or

(b) if there is no new accounting date in that tax year, with the new accounting date in the first tax year in which accounts are drawn up to the new accounting date,

is not longer than 18 months.

(4) Condition A is that, in the 5 tax years immediately before the tax year in which the change of accounting date occurs, there has been no change of accounting date that counts for the purposes of this condition.

(5) A change of accounting date counts for the purposes of condition A if it results in the basis period for the tax year in which the change occurs ending with the accounting date in that tax year.

(6) Condition B is that—

(a) the change of accounting date is made for commercial reasons (see section 218), and

(b) the notice under subsection (2) sets out the reasons for the change.

Textual Amendments

F1 Words in s. 217(1)(2) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), **Sch. 4 para. 132(1)**; S.I. 2005/1126, **art. 2(h)**

218 Commercial reasons for change of accounting date

(1) If the Inland Revenue [F2does] not give notice under this section to the person carrying on the trade, a change of accounting date is treated for the purposes of condition B in section 217 as made for commercial reasons.

(2) If the Inland Revenue [F2does] give notice under this section to the person carrying on the trade, a change of accounting date is treated for the purposes of condition B in section 217 as made for reasons which are not commercial.

(3) The notice must—

(a) state that [F3the officer is not] satisfied that the change of accounting date is made for commercial reasons, and

(b) be given within the period of 60 days beginning with the date on which the notice under section 217(2) is received.

(4) A person to whom notice is given under this section may appeal against it within the period of 30 days beginning with the date on which it is given.

(5) On an appeal [F4that is notified to the tribunal] —

(a) if the [F5tribunal is] satisfied that the change is made for commercial reasons, [F6the tribunal] may set aside the notice, and

(b) if [F7the tribunal is] not satisfied that the change is made for commercial reasons, [F8the tribunal may] confirm the notice.

(6) For the purposes of this section obtaining a tax advantage is not a commercial reason.

(7) Part 5 of TMA 1970 (appeals against assessments to tax), apart from section 50, applies in relation to an appeal under this section as it applies in relation to an appeal against an assessment to tax.

Textual Amendments

F2 Words in s. 218(1)(2) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 ss. 50, 53(1), {Sch. 4 para. 133(2)(a)}; S.I. 2005/1126, **art. 2(h)**

F3 Words in s. 218(3)(a) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 ss. 50, 53(1), {Sch. 4 para. 133(2)(b)}; S.I. 2005/1126, **art. 2(h)**

F4 Words in s. 218(5) 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. 440(2)(a)**

F5 Words in s. 218(5)(a) 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. 440(2)(b)(i)**

F6 Words in s. 218(5)(a) 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. 440(2)(b)(ii)**

F7 Words in s. 218(5)(b) 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. 440(2)(c)(i)**

F8 Words in s. 218(5)(b) 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. 440(2)(c)(ii)**

219 The year after an ineffective change of accounting date

(1) This section applies to a tax year in which a person carries on a trade if—

(a) the tax year falls immediately after a tax year in which a change of accounting date occurs, and

(b) the basis period for the tax year in which the change occurs ends with the old accounting date.

(2) If the accounting date in the tax year is the new accounting date, a change of accounting date is treated as occurring in that tax year for the purposes of sections 216 to 220 (including this section).

(3) If the accounting date in the tax year reverts to the old accounting date, that change of accounting date is ignored for the purposes of—

(a) section 214, and
(b) sections 216 to 220 (including this section).

220 Deduction for overlap profit on change of accounting date

(1) This section applies for the purpose of calculating the profits of a trade of a tax year if—

(a) a change of accounting date occurs in the tax year, and
(b) the basis period for the tax year is longer than 12 months.

(2) A deduction must be made for overlap profit.

(3) The amount of the deduction is calculated as follows.

Step 1

Add together the overlap profit arising in all overlap periods ending before the end of the tax year.

Step 2

Subtract from that any deductions made under this section for previous tax years.

The balance is "the remaining overlap profit".

Step 3

Add together the number of days in all overlap periods ending before the end of the tax year.

Subtract from that the total number of days given by Step 5 on any previous occasions on which a deduction was made under this section.

The balance is "the number of days on which the remaining overlap profit arises".

Step 4

Divide the remaining overlap profit by the number of days on which the remaining overlap profit arises.

The result of this step is "one day's worth of remaining overlap profit".

Step 5

Subtract the number of days in the tax year from the number of days in the basis period.

The balance is "the number of days' worth of overlap profit that may be deducted on this occasion".

Step 6

Multiply one day's worth of remaining overlap profit (see Step 4) by the number of days' worth of overlap profit that may be deducted on this occasion (see Step 5).

The result of this step is the amount of the deduction.

(4) The above steps are expressed in terms of numbers of days in periods, but the person carrying on the trade 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 purposes of the trade.

(5) If the accounting date in the tax year is 31st March or 1st, 2nd, 3rd or 4th April, the person carrying on the trade may treat the basis period for the tax year as ending on 5th April for the purpose of calculating the amount of the deduction.

(6) If a period used in calculating the amount of the deduction contains a 29th February and—
- (a) the accounting date in the tax year is 5th April, or
- (b) the basis period for the tax year is treated under subsection (5) as ending on 5th April,

the person carrying on the trade may ignore the 29th February for the purpose of calculating the amount of the deduction.

Status:
Point in time view as at 15/09/2016.

Changes to legislation:
There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 15.