



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 2

TRADING INCOME

CHAPTER 18

POST-CESSATION RECEIPTS

Introduction

241 Professions and vocations

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

Charge to tax on post-cessation receipts

242 Charge to tax on post-cessation receipts

Income tax is charged on post-cessation receipts arising from a trade.

243 Extent of charge to tax

- (1) A post-cessation receipt is chargeable to tax under this Chapter only so far as it is not otherwise chargeable to income or corporation tax.
- (2) Accordingly, a post-cessation receipt arising from a trade is not chargeable to tax under this Chapter so far as it is brought into account in calculating the profits of the trade for any period.

Status: Point in time view as at 01/04/2011.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 18. (See end of Document for details)

- (3) A post-cessation receipt is not chargeable to tax under this Chapter if—
- (a) it is received by or on behalf of a non-UK resident who is beneficially entitled to it, and
 - (b) it represents income arising outside the United Kingdom.
- (4) A post-cessation receipt is not chargeable to tax under this Chapter if it arises from a trade carried on wholly outside the United Kingdom.
- (5) A post-cessation receipt is not chargeable to tax under this Chapter in the case of a partner in a firm if—
- (a) it represents income arising outside the United Kingdom from a trade carried on by the firm, and
 - (b) the partner's share of the firm's income arising out of the United Kingdom is treated as relevant foreign income by section 857(3) (partners to whom the remittance basis applies).

244 Income charged

- (1) Tax is charged under this Chapter on the full amount of the receipts received in the tax year.
- (2) This is subject to—
- (a) sections 254 and 255 (allowable deductions), and
 - (b) section 257 (election to carry back).

245 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the receipts.

Meaning of “post-cessation receipts”

246 Basic meaning of “post-cessation receipt”

- (1) In this Part “post-cessation receipt” means a sum—
- (a) which is received after a person permanently ceases to carry on a trade, and
 - (b) which arises from the carrying on of the trade before the cessation.
- (2) For this purpose the reference to a person permanently ceasing to carry on a trade includes [^{F1}a reference to a company ceasing to be within the charge to corporation tax in respect of a trade.]
- (3) Subsection (4) applies if—
- (a) a firm carries on a trade,
 - (b) a person ceases to be a partner in the firm, and
 - (c) the departure results in the partner permanently ceasing to carry on the notional trade (see section 852).
- (4) The partner is treated for the purposes of this Chapter as permanently ceasing to carry on the trade.

Status: Point in time view as at 01/04/2011.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 18. (See end of Document for details)

Textual Amendments

- F1** Words in s. 246(2) substituted (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. 612** (with Sch. 2 Pts. 1, 2)

247 Other rules about what counts as post-cessation receipts

- (1) The following provisions treat certain amounts as post-cessation receipts for the purposes of this Part—
- section 82(6) (contributions to local enterprise organisations or urban regeneration companies),
 - section 104(3) (distribution of assets of mutual concerns),
 - section 109(2) (receipt by donor or connected person of benefit attributable to certain gifts),
 - section 185(1) (election for valuation at cost),
 - section 248 (debts paid after cessation),
 - section 249 (debts released after cessation), as qualified, where appropriate, by section 48(4) (car ^{F2}... hire),
 - section 250 (receipts relating to post-cessation expenditure),
 - section 251 (transfer of rights if transferee does not carry on trade), and
 - section 844 (income charged on withdrawal of relief after source ceases: unremittable income).
- (2) Section 98 (acquisition of trade: receipts from transferor's trade) and section 251 (transfer of rights if transferee does not carry on trade) treat certain amounts as not being post-cessation receipts for the purposes of this Part.

Textual Amendments

- F2** Words in s. 247(1) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 11 para. 40**

Sums treated as post-cessation receipts

248 Debts paid after cessation

- (1) Subsection (2) applies if, in calculating the profits of a trade for income or corporation tax purposes, a deduction is made in respect of a debt under—
- (a) section 35 (bad and doubtful debts), or
 - (b) section 74(1)(j) of ICTA (corresponding corporation tax provision),
- and a person permanently ceases to carry on the trade.
- (2) A sum received after the cessation is treated as a post-cessation receipt so far as the deduction is made.
- (3) Subsection (4) applies if relief is given under [^{F3}section 96 of ITA 2007](relief for post-cessation expenditure) [^{F4}as a result of subsection (1)(b) of that section] in respect of a debt owed to a person who has permanently ceased to carry on a trade.

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- (4) A sum received by the person in payment of the debt is treated as a post-cessation receipt so far as relief is given in respect of the sum.

Textual Amendments

- F3** Words in s. 248(3) 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. 503\(a\)](#)
- F4** Words in s. 248(3) 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. 503\(b\)](#)

249 Debts released after cessation

- (1) This section applies if—
- in calculating the profits of a trade for any period for income or corporation tax purposes, a deduction is allowed for the expense giving rise to a debt owed by the person who carried on the trade,
 - the person has permanently ceased to carry on the trade at or after the end of that period,
 - after the cessation, all or part of the debt is released, and
 - the release is not part of a statutory insolvency arrangement.
- (2) The amount released is treated as a post-cessation receipt.
- (3) For the purposes of this section the reference to a person permanently ceasing to carry on a trade includes [^{F5}a reference to a company ceasing to be within the charge to corporation tax in respect of a trade.]

Textual Amendments

- F5** Words in s. 249(3) substituted (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. 613](#) (with [Sch. 2 Pts. 1, 2](#))

250 Receipts relating to post-cessation expenditure

- (1) This section applies if a person who has permanently ceased to carry on a trade makes a payment in circumstances where relief is available under [^{F6}section 96 of ITA 2007](relief for post-cessation expenditure).
- (2) The following sums are treated as post-cessation receipts—
- in the case of a payment within [^{F7}section 97(2) or (3) of ITA 2007](payment to remedy defective work etc. or to defray expenses of a claim), the proceeds of insurance, or other sum received, for the purpose of enabling the payment to be made or by means of which it is reimbursed,
 - in the case of a payment within [^{F8}section 97(4) of ITA 2007](payment to insure against claims for defective work etc.), a refund of the premium, or other sum received, in connection with the insurance, and
 - in the case of a payment within [^{F9}section 97(5) of ITA 2007](payment for the purpose of collecting a debt), any sum received towards the cost of collecting the debt.

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- (3) If a sum mentioned in subsection (2) is received in a tax year earlier than the tax year in which the related payment is made, it is treated as having been received in the later tax year (and not the earlier tax year).
- (4) Any adjustment required to give effect to subsection (3) is to be made by way of—
 - (a) amendment of an assessment, or
 - (b) discharge or repayment of tax.

Textual Amendments

- F6** Words in s. 250(1) substituted (6.4.2007 with effect as noted in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 504\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F7** Words in s. 250(2)(a) substituted (6.4.2007 with effect as noted in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 504\(3\)\(a\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F8** Words in s. 250(2)(b) substituted (6.4.2007 with effect as noted in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 504\(3\)\(b\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F9** Words in s. 250(2)(c) substituted (6.4.2007 with effect as noted in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 504\(3\)\(c\)](#) (with transitional provisions and savings in [Sch. 2](#))

251 Transfer of rights if transferee does not carry on trade

- (1) This section applies if—
 - (a) a person (“the transferor”) permanently ceases to carry on a trade,
 - (b) the transferor transfers to another person (“the transferee”) for value the right to receive sums arising from the carrying on of the trade, and
 - (c) the transferee does not subsequently carry on the trade.
- (2) The transferor is treated as receiving a post-cessation receipt.
- (3) The amount of the receipt is—
 - (a) the amount or value of the consideration for the transfer, if the transfer is at arm's length, or
 - (b) the value of the rights transferred as between parties at arm's length, if the transfer is not at arm's length.
- (4) Any sums mentioned in subsection (1)(b) which are received after the cessation of the trade are not post-cessation receipts.
- (5) This section is subject to—
 - (a) section 252 (transfer of trading stock or work in progress), and
 - (b) section 253 (lump sums paid to personal representatives for copyright etc.).

Sums that are not post-cessation receipts

252 Transfer of trading stock or work in progress

- (1) When a person permanently ceases to carry on a trade, a sum realised by—

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- (a) the transfer of trading stock, or
- (b) the transfer of work in progress,

is not a post-cessation receipt if a valuation of the stock or work is brought into account in accordance with Chapter 12 (valuation of stock and work in progress).

- (2) This does not prevent a sum from being treated as a post-cessation receipt as a result of an election under section 185 (election for valuation of work in progress at cost).
- (3) In this section—
 - (a) “trading stock” has the meaning given by section 174, and
 - (b) “work in progress” and “transfer of work in progress” have the meaning given by section 183.

253 Lump sums paid to personal representatives for copyright etc.

- (1) A lump sum which is paid to the personal representatives of the author of a literary, dramatic, musical or artistic work as consideration for the assignment by them of—
 - (a) the copyright in the work, or
 - (b) the public lending right in the work,
 is not a post-cessation receipt.
- (2) A lump sum which is paid to the personal representatives of the designer of a design in which design right subsists as consideration for the assignment by them of that right is not a post-cessation receipt.
- (3) For the purposes of this section it does not matter whether the whole or a part of the right is assigned.

Deductions

254 Allowable deductions

- (1) In calculating the amount on which tax is charged under this Chapter, deductions are allowed in accordance with—
 - (a) this section, and
 - (b) section 255,
 from the amount which would otherwise be chargeable to tax under this Chapter.
- (2) A deduction is allowed for a loss, expense or debit which, if the person carrying on the trade had not permanently ceased to do so—
 - (a) would have been deducted in calculating the profits of the trade for income or corporation tax purposes, or
 - (b) would have been deducted from or set off against the profits of the trade for income or corporation tax purposes,
 but no deduction is allowed if the loss, expense or debit arises directly or indirectly from the cessation itself.
- (3) No deduction for an amount is allowed under this section if the amount has been allowed—
 - (a) under any other provision of the Tax Acts, or

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- (b) as a result of [F10 section 261D of TCGA 1992](capital gains tax relief for post-cessation expenditure).

Textual Amendments

F10 Words in s. 254(3)(b) substituted (6.4.2007 with effect as noted in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 505](#) (with transitional provisions and savings in [Sch. 2](#))

255 Further rules about allowable deductions

- (1) An amount may not be deducted more than once under section 254.
- (2) A deduction under that section of a loss must be made from post-cessation receipts charged for an earlier tax year in preference to those charged for a later tax year.
- (3) But this does not authorise the deduction of a loss from post-cessation receipts charged for a tax year before the tax year in which the loss is made.
- (4) No deduction may be made under section 254 from any amount that is treated as a post-cessation receipt under—
 - (a) section 248(4) (debts paid after cessation), or
 - (b) section 250 (receipts relating to post-cessation expenditure).

Reliefs

256 Treatment of post-cessation receipts

- (1) This section applies if—
 - (a) an individual has permanently ceased to carry on a trade, and
 - (b) the income arising to the individual from the trade was ^{F11}. . . relevant UK earnings within section 189(2)(b) of FA 2004.
- (2) Any post-cessation receipts arising to the individual from the trade are similarly ^{F11}. . . relevant UK earnings.

Textual Amendments

F11 Words in s. 256(1)(b)(2) repealed (6.4.2007 with effect as noted in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, [Sch. 1 para. 506\(2\)\(3\)](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

257 Election to carry back

- (1) This section applies if a post-cessation receipt is received by a person (or a person's personal representatives) in a tax year beginning no later than 6 years after the person permanently ceased to carry on the trade.
- (2) The person (or the person's personal representatives) may elect that the tax chargeable in respect of the receipt is to be charged as if the receipt had been received on the date of the cessation.

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- (3) But this is subject to paragraph 5 of Schedule 1B to TMA 1970 (election given effect in the tax year in which the receipt is actually received).
- (4) The election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year.

Status:

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Changes to legislation:

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