



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 2

#### TRADING INCOME

#### [<sup>F1</sup>CHAPTER 3A

#### TRADE PROFITS: CASH BASIS

##### Textual Amendments

- F1** Pt. 2 Ch. 3A inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 5](#)

#### *Eligibility*

#### **31A Conditions to be met for profits to be calculated on cash basis**

- (1) A person may make an election under section 25A for a tax year if conditions A to C are met.
- (2) Condition A is that the aggregate of the cash basis receipts of each trade, profession or vocation carried on by the person during that tax year does not exceed any relevant maximum applicable for that tax year (see section 31B).
- (3) Condition B is that, in a case where the person is either an individual who controls a firm or a firm controlled by an individual—
  - (a) the aggregate of the cash basis receipts of each trade, profession or vocation carried on by the individual or the firm during that tax year does not exceed any relevant maximum applicable for that tax year, and

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- (b) the firm or the individual (as the case may be) has also made an election under section 25A for that tax year.
- (4) Condition C is that the person is not an excluded person in relation to the tax year (see section 31C).
- (5) For the purposes of this section, the “cash basis receipts” of a trade, profession or vocation, in relation to a tax year, are any receipts that—
  - (a) are received during the basis period for the tax year, and
  - (b) would be brought into account in calculating the profits of the trade, profession or vocation for that tax year on the cash basis.

### **31B Relevant maximum**

- (1) For the purposes of section 31A there is a “relevant maximum” applicable for a tax year in relation to a trade, profession or vocation carried on by a person if any of conditions A to C is met.
- (2) Condition A is that an election under section 25A did not have effect in relation to the trade, profession or vocation for the previous tax year.
- (3) Condition B is that the aggregate of the cash basis receipts of each trade, profession or vocation carried on by the person during the previous tax year is greater than an amount equal to twice the VAT threshold for that previous tax year.
- (4) Condition C is that, in a case where the person is either an individual who controls a firm or a firm controlled by an individual, the aggregate of the cash basis receipts of each trade, profession or vocation carried on by the individual or the firm during the previous tax year is greater than an amount equal to twice the VAT threshold for that previous tax year.
- (5) If there is a relevant maximum applicable for a tax year, the amount of the relevant maximum is—
  - (a) the VAT threshold, or
  - (b) in the case where the person is an individual who is a universal credit claimant in the tax year, an amount equal to twice the VAT threshold.
- (6) For the purposes of this section, where the basis period for a tax year is less than 12 months, the VAT threshold is proportionately reduced.
- (7) In this section—
  - “universal credit claimant”, in relation to a tax year, means a person who is entitled to universal credit under the relevant legislation for an assessment period (within the meaning of the relevant legislation) that falls within the basis period for the tax year,
  - “the relevant legislation” means—
    - (a) Part 1 of the Welfare Reform Act 2012, or
    - (b) any provision made for Northern Ireland which corresponds to that Part of that Act, and
  - “the VAT threshold”, in relation to a tax year, means the amount specified at the end of that tax year in paragraph 1(1)(a) of Schedule 1 to VATA 1994.
- (8) The Treasury may by order amend this section.

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- (9) A statutory instrument containing an order under subsection (8) that restricts the circumstances in which an election may be made under section 25A may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, the House of Commons.

### **31C Excluded persons**

- (1) A person is an excluded person in relation to a tax year if the person meets any of conditions A to H.
- (2) Condition A is that—
- (a) the person is a firm, and
  - (b) one or more of the persons who have been partners in the firm at any time during the basis period for the tax year was not an individual at that time.
- (3) Condition B is that the person was a limited liability partnership at any time during the basis period for the tax year.
- (4) Condition C is that the person is an individual who has been a Lloyd's underwriter at any time during the basis period for the tax year.
- (5) Condition D is that the person has made an election under Chapter 8 (trade profits: herd basis rules) that has effect in relation to the tax year.
- (6) Condition E is that the person has made a claim under [F<sup>2</sup>Chapter 16] (claim for averaging of fluctuating profits) in relation to the tax year.
- (7) Condition F is that, at any time within the period of 7 years ending immediately before the basis period for the tax year, the person obtained an allowance under Part 3A of CAA 2001 (business premises renovation allowances).
- (8) Condition G is that the person has carried on a mineral extraction trade at any time during the basis period for the tax year.

In this subsection “mineral extraction trade” has the same meaning as in Part 5 of CAA 2001 (see section 394(2) of that Act).

- (9) Condition H is that—
- (a) at any time before the beginning of the basis period for the tax year the person obtained an allowance under Part 6 of CAA 2001 (research and development allowances) in respect of qualifying expenditure incurred by the person, and
  - (b) the person owns an asset representing the expenditure.

In this subsection “qualifying expenditure” has the same meaning as in Part 6 of CAA 2001.

- (10) The Treasury may by order amend this section.
- (11) A statutory instrument containing an order under subsection (10) that restricts the circumstances in which an election may be made under section 25A may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, the House of Commons.

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### Textual Amendments

- F2** Words in s. 31C(6) substituted (with effect in accordance with s. 25(12) of the amending Act) by Finance Act 2016 (c. 24), s. 25(8)

### *Elections under section 25A*

#### **31D Effect of election under section 25A**

- (1) An election made by a person under section 25A has effect—
  - (a) for the tax year for which it is made, and
  - (b) for every subsequent tax year.
 This is subject to subsections (2) and (3).
- (2) An election made by a person under section 25A ceases to have effect if any of conditions A to C in section 31A is not met for a subsequent tax year.
- (3) An election made by a person under section 25A ceases to have effect if—
  - (a) there is a change of circumstances relating to any trade, profession or vocation carried on by the person which makes it more appropriate for its profits for a subsequent tax year to be calculated in accordance with generally accepted accounting practice, and
  - (b) the person elects to calculate those profits in that way.
- (4) Neither subsection (2) nor subsection (3) prevents the person making an election under section 25A for any subsequent tax year.
- (5) An election that—
  - (a) is made by a person under section 25A, and
  - (b) has effect for a tax year,
 has effect in relation to every trade, profession or vocation carried on by the person during the tax year.
- (6) For provision prohibiting a person who has made an election under section 25A from claiming any capital allowances (other than in respect of expenditure incurred on the provision of a car), see section 1(4) of CAA 2001.

### *Calculation of profits on cash basis*

#### **31E Calculation of profits on cash basis**

- (1) This section applies to professions and vocations as it applies to trades.
- (2) To determine the profits of a trade for a tax year on the cash basis—
  - Step 1* Calculate the total amount of receipts of the trade received during the basis period for the tax year.
  - Step 2* Deduct from that amount the total amount of expenses of the trade paid during the basis period for the tax year.
- (3) Subsection (2) is subject to any adjustment required or authorised by law in calculating profits for income tax purposes.

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### *Overview of rest of Part 2*

#### **31F Overview of rest of Part 2 as it applies to cash basis**

- (1) For provision about the application of Chapters 4 to 6 (rules about deductions and receipts) in relation to the cash basis, see sections 32A, 56A and 95A.
- (2) For provision about the application of Chapter 11 (trade profits: other specific trades) in relation to the cash basis, see section 148K.
- (3) The following Chapters apply only where profits are calculated on the cash basis—  
Chapter 6A (trade profits: amounts not reflecting commercial transactions),  
Chapter 17A (cash basis: adjustments for capital allowances).
- (4) The following Chapters do not apply in relation to the cash basis—  
Chapter 8 (trade profits: herd basis rules),  
Chapter 9 (trade profits: sound recordings),  
Chapter 10 (trade profits: certain telecommunication rights),  
Chapter 10A (leases of plant or machinery: special rules for long funding leases),  
Chapter 11A (trade profits: changes in trading stock),  
Chapter 13 (deductions from profits: unremittable amounts),  
Chapter 14 (disposal and acquisition of know-how),  
Chapter 16 (averaging profits of farmers and creative artists),  
Chapter 16ZA (compensation for compulsory slaughter of animal),  
Chapter 16A (oil activities).]

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