



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 2 U.K.

#### TRADING INCOME

### CHAPTER 6 U.K.

#### TRADE PROFITS: RECEIPTS

#### *Capital receipts*

#### 96 Capital receipts U.K.

- (1) Items of a capital nature must not be brought into account as receipts in calculating the profits of a trade.
- (2) But this does not apply to items which, as a result of any provision of this Part, are brought into account as receipts in calculating the profits of the trade.

#### [<sup>F1</sup>96A [<sup>F2</sup>Capital receipts under, or after leaving, cash basis] U.K.

- [<sup>F3</sup>(1) This section applies in relation to a trade carried on by a person in two cases—
- (a) Case 1 (see subsections (2) to (3A)), and
  - (b) Case 2 (see subsections (3B) to (3E)).
- (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 at a time when [<sup>F4</sup>the cash basis applies] in relation to the trade.

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For the meaning of “disposal proceeds” and “capital refund” see subsections (3F) and (3G).

(3A) Condition B is that—

- (a) an amount of capital expenditure (see subsection (3H)) relating to the asset has been brought into account in calculating the profits of the trade on the cash basis, or
- (b) an amount of capital expenditure relating to the asset which—
  - (i) has been incurred (or treated as incurred) by the person before the tax year for which the person last entered the cash basis, and
  - (ii) is cash basis deductible in relation to that tax year (see section 96B(4)),
 has been brought into account in calculating the profits of the trade for a tax year [<sup>F5</sup>in which the cash basis did not apply] in relation to the trade.

(3B) Case 2 is a case in which—

- (a) condition C is met, and
- (b) condition D or E is met.

(3C) Condition C is that disposal proceeds or a capital refund arise to the person in relation to an asset at a time—

- (a) when [<sup>F6</sup>the cash basis does not apply] in relation to the trade, and
- (b) which is after a time when [<sup>F7</sup>the cash basis did apply] in relation to the trade.

(3D) Condition D is that an amount of capital expenditure relating to the asset—

- (a) has been paid at a time when [<sup>F8</sup>the cash basis applied] in relation to the trade,
- (b) has been brought into account in calculating the profits of the trade on the cash basis, and
- (c) on the assumption that [<sup>F9</sup>the cash basis had not applied] at the time the expenditure was paid, would not have been qualifying expenditure.

(3E) Condition E is that an amount of capital expenditure relating to the asset has been brought into account in calculating the profits of the trade for a tax year—

- (a) [<sup>F10</sup>in which the cash basis did not apply] in relation to the trade, and
- (b) which is before the tax year for which the person last entered the cash basis.

The reference in this subsection to expenditure brought into account does not include a reference to expenditure brought into account under CAA 2001 (see section 96B(5)) [<sup>F11</sup>except to the extent that it is expenditure in respect of which a capital allowance is made under Part 2A of that Act].

(3F) “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 subsections (4) and (5) for circumstances in which a person is to be regarded as disposing of an asset.

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- (3G) “Capital refund” means an amount that is (in substance) a refund of capital expenditure relating to an asset.
- (3H) “Capital expenditure” means expenditure of a capital nature incurred, or treated as incurred, on or in connection with—
- (a) the provision, alteration or disposal of an asset, or
  - (b) the potential provision, alteration or disposal of an asset.
- (3I) 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 trade.
- (3J) 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 trade (whether or not on the cash basis), the amount brought into account under subsection (3I) 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 section 96B(5)).
- (3K) Subsection (3I) does not apply if the whole of the amount which would otherwise be brought into account under that subsection—
- (a) has already been brought into account as a receipt in calculating the profits of the trade under this section,
  - (b) is brought into account as a receipt in calculating the profits of the trade under any other provision of this Part (except section 240D(3) (assets not fully paid for)), or
  - (c) is brought into account under any Part of CAA 2001 as a disposal value.
- (3L) If part of the amount which would otherwise be brought into account under subsection (3I) has already been or is brought into account as mentioned in subsection (3K), subsection (3I) applies in relation to the remainder of that amount.]
- (4) If—
- (a) at any time the person ceases to use the asset or any part of it for the purposes of the trade, 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 this section as disposing of the asset (or that part) at that time for an amount equal to the market value amount.
- (5) If at any time there is a material increase in the person's non-business use of the asset or any part of it, the person is to be regarded for the purposes of this section as disposing of the asset (or that part) at that time for an amount equal to the relevant proportion of the market value amount.
- (6) For the purposes of subsection (5)—
- (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 trade 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—

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- (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 (5).

<sup>F12</sup>(7) . . . . .]

#### Textual Amendments

- F1** S. 96A inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 20](#)
- F2** S. 96A heading 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. 4\(2\)](#)
- F3** S. 96A(1)-(3L) substituted (16.11.2017) for s. 96A(1)-(3) (with effect in accordance with Sch. 2 para. 64 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 2 para. 4\(3\)](#)
- F4** Words in s. 96A(3) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 10 paras. 21\(2\)](#), 47 (with [Sch. 10 paras. 48-50](#))
- F5** Words in s. 96A(3A)(b) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 10 paras. 21\(3\)](#), 47 (with [Sch. 10 paras. 48-50](#))
- F6** Words in s. 96A(3C)(a) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 10 paras. 21\(4\)\(a\)](#), 47 (with [Sch. 10 paras. 48-50](#))
- F7** Words in s. 96A(3C)(b) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 10 paras. 21\(4\)\(b\)](#), 47 (with [Sch. 10 paras. 48-50](#))
- F8** Words in s. 96A(3D)(a) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 10 paras. 21\(5\)\(a\)](#), 47 (with [Sch. 10 paras. 48-50](#))
- F9** Words in s. 96A(3D)(c) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 10 paras. 21\(5\)\(b\)](#), 47 (with [Sch. 10 paras. 48-50](#))
- F10** Words in s. 96A(3E)(a) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 10 paras. 21\(6\)](#), 47 (with [Sch. 10 paras. 48-50](#))
- F11** Words in s. 96A(3E) inserted (5.7.2019) by virtue of [The Capital Allowances \(Structures and Buildings Allowances\) Regulations 2019 \(S.I. 2019/1087\)](#), regs. 1, [5\(2\)](#)
- F12** S. 96A(7) omitted (16.11.2017) (with effect in accordance with Sch. 2 para. 64 of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 2 para. 4\(4\)](#)

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

- C1** S. 96A(4)(5) 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](#))

### <sup>F13</sup>96B Section 96A: supplementary provision **U.K.**

- (1) This section has effect for the purposes of section 96A.
- (2) Any question as to whether or to what extent expenditure is brought into account in calculating the profits of a trade is to be determined on such basis as is just and reasonable in all the circumstances.
- (3) A person carrying on a trade “enters the cash basis” for a tax year if—
  - (a) <sup>F14</sup>the cash basis applies] in relation to the trade for the tax year, and
  - (b) <sup>F15</sup>the cash basis did not apply] in relation to the trade for the previous tax year.

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- (4) 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 trade on the cash basis for that tax year.
- (5) Expenditure is “brought into account under CAA 2001” in calculating the profits of a trade if and to the extent that—
- (a) a capital allowance made under Part 2, [F<sup>16</sup>2A,] 5, 6, 7 or 8 of that Act in respect of the expenditure is treated as an expense in calculating those profits (see, for example, section 247 of that Act), or
  - (b) qualifying expenditure (within the meaning of Part 2, 7 or 8 of CAA 2001) is allocated to a pool for the trade and is set-off against different disposal receipts.
- (6) 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 trade, 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.
- (7) For the purposes of subsection (6), 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.
- (8) In this section and in section 96A—
- “disposal value” means—
- (a) in section 96A(3K)(c)—
    - (i) a disposal value for the purposes of Part 2, 4A, 5, 6, 7 or 8 or 10 of CAA 2001 (for example, in relation to Part 2 of that Act, see (in particular) section 61 of that Act), or
    - (ii) proceeds from a balancing event for the purposes of Part 3 or 3A of that Act (see sections 316 and 360O of that Act), and
  - (b) in subsection (6), a disposal value for the purposes of—
    - (i) Part 2 of that Act (see, in particular, section 61 of that Act),
    - (ii) Part 7 of that Act (see section 462 of that Act), or
    - (iii) Part 8 of that Act (see sections 476 and 477 of that Act);
- “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;
- “pool” means—
- (a) 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),
  - (b) a pool to which qualifying expenditure is allocated under Part 7 of that Act (see section 456 of that Act), or

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- (c) a pool to which qualifying expenditure is allocated under Part 8 of that Act (see section 470 of that Act);
- “provision” includes creation, construction or acquisition;
- “qualifying expenditure” means—
- (a) qualifying expenditure within the meaning of Part 2 of CAA 2001 (see section 11(4) of that Act for the general rule),
- (b) qualifying expenditure within the meaning of Part 5 of that Act (see section 395 of that Act),
- (c) qualifying expenditure within the meaning of Part 6 of that Act (see section 439 of that Act),
- (d) qualifying expenditure within the meaning of Part 7 of that Act (see section 454 of that Act), or
- (e) qualifying trade expenditure within the meaning of Part 8 of that Act (see section 468 of that Act);
- “unrelieved qualifying expenditure” means unrelieved qualifying expenditure for the purposes of—
- (a) Part 2 of CAA 2001 (see section 59(1) and (2) of that Act),
- (b) Part 7 of that Act (see section 461 of that Act), or
- (c) Part 8 of that Act (see section 475 of that Act).]

#### Textual Amendments

- F13** S. 96B 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. 5](#)
- F14** Words in s. 96B(3)(a) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 10 paras. 22\(a\)](#), 47 (with [Sch. 10 paras. 48-50](#))
- F15** Words in s. 96B(3)(b) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 10 paras. 22\(b\)](#), 47 (with [Sch. 10 paras. 48-50](#))
- F16** Word in s. 96B(5)(a) inserted (5.7.2019) by [The Capital Allowances \(Structures and Buildings Allowances\) Regulations 2019 \(S.I. 2019/1087\)](#), regs. 1, [5\(3\)](#)

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