



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 3

PROPERTY INCOME

CHAPTER 10

POST-CESSATION RECEIPTS

Charge to tax on post-cessation receipts

349 Charge to tax on post-cessation receipts

Income tax is charged on post-cessation receipts arising from a UK property business.

350 Extent of charge to tax

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

351 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—

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

- (a) sections 254 and 255 (allowable deductions), and
- (b) section 257 (election to carry back),

which apply for the purposes of this Chapter as they apply for the purposes of Chapter 18 of Part 2 (but as if any reference to a trade were to a UK property business).

352 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”

353 Basic meaning of “post-cessation receipt”

- (1) In this Chapter “post-cessation receipt” means a sum—
 - (a) which is received after a person permanently ceases to carry on a UK property business, and
 - (b) which arises from the carrying on of the business before the cessation.
- (2) Subsection (3) applies if—
 - (a) a firm carries on a UK property business,
 - (b) a person ceases to be a partner in the firm, and
 - (c) at least one of the persons with whom the partner carried on the business before ceasing to be a partner continues to carry it on afterwards.
- (3) The partner is treated for the purposes of this Chapter as permanently ceasing to carry on the business.

Modifications etc. (not altering text)

C1 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), s. 51(2)

354 Other rules about what counts as a “post-cessation receipt”

- (1) Section 355 (transfer of rights if transferee does not carry on UK property business) treats certain amounts as being, or not being, post-cessation receipts for the purposes of this Chapter.
- (2) The following provisions (which treat certain amounts as post-cessation receipts) apply for the purposes of this Chapter as they apply for the purposes of Chapter 18 of Part 2 (but as if any reference to a trade were to a UK property business)—
 - 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 248 (debts paid after cessation) [^{F1}(reading the reference in subsection (3) to section 96 of ITA 2007 as a reference to section 125 of that Act)],
 - section 249 (debts released after cessation), as qualified, where appropriate, by section 48(4) (car ^{F2}... hire), and

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section 250 (receipts relating to post-cessation expenditure) [^{F3}(reading the reference in subsection (1) to section 96 of ITA 2007 as a reference to section 125 of that Act)] .

- (3) This Chapter also needs to be read with—
- (a) section 310(3) (which treats certain amounts as not being post-cessation receipts), and
 - (b) section 844 (which treats certain income as a post-cessation receipt: unremittable income).

Textual Amendments

- F1** Words in s. 354(2) 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. 512\(a\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F2** Words in s. 354(2) 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. 43](#)
- F3** Words in s. 354(2) 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. 512\(b\)](#) (with transitional provisions and savings in [Sch. 2](#))

Modifications etc. (not altering text)

- C2** Ss. 353-368 modified (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [s. 51\(2\)](#)

355 Transfer of rights if transferee does not carry on UK property business

- (1) This section applies if—
- (a) a person (“the transferor”) permanently ceases to carry on a UK property business,
 - (b) the transferor transfers to another person (“the transferee”) for value the right to receive sums arising from the carrying on of any business (“the transferred business”) comprised in the transferor's UK property business, and
 - (c) the transferee does not subsequently carry on the transferred business.
- (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 property business are not post-cessation receipts.

Modifications etc. (not altering text)

- C3** Ss. 353-368 modified (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [s. 51\(2\)](#)

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Supplementary

356 Application to [^{F4}businesses within the charge to corporation tax]

- (1) In this Chapter (except in section 355) any reference to a UK property business includes [^{F5}one within the charge to corporation tax] .
- (2) In this Chapter (except in section 355) any reference to a person permanently ceasing to carry on a UK property business [^{F6}includes, in the case of a company, the occurrence of an event treated under section 289 of CTA 2009 (company starting or ceasing to be within the charge to corporation tax) as the company permanently ceasing to carry on the business.]
- (3) In applying any provision of Chapter 18 of Part 2 for the purposes of this Chapter references to the calculation of the profits of a trade for corporation tax purposes are to be read as references to the calculation of the profits of a [^{F7}UK property business] for corporation tax purposes.

Textual Amendments

- F4** Words in s. 356 title 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. 629\(5\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F5** Words in s. 356(1) 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. 629\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F6** Words in s. 356(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. 629\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F7** Words in s. 356(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. 629\(4\)](#) (with [Sch. 2 Pts. 1, 2](#))

Modifications etc. (not altering text)

- C4** Ss. 353-368 modified (7.4.2005) by [Finance Act 2005 \(c. 7\), s. 51\(2\)](#)

Status:

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Changes to legislation:

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