



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 3

#### PROPERTY INCOME

#### CHAPTER 10

##### POST-CESSATION 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.

**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),
  - section 249 (debts released after cessation), as qualified, where appropriate, by section 48(4) (car or motor cycle hire), and
  - section 250 (receipts relating to post-cessation expenditure).
- (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).

**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.