



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 3

PROPERTY INCOME

CHAPTER 2

PROPERTY BUSINESSES

Introduction

263 Introduction

- (1) This Chapter explains for the purposes of this Act what is meant by—
 - (a) a person's UK property business (see section 264), and
 - (b) a person's overseas property business (see section 265).
- (2) Both those sections need to be read with—
 - (a) section 266 (which explains what is meant by generating income from land), and
 - (b) section 267 (which provides that certain activities do not count as activities for generating income from land).
- (3) In the case of the property business of a firm, the basic rules in sections 264 and 265 are explained in section 859(2) and (3).
- (4) References in this Act to an overseas property business are to an overseas property business so far as any profits of the business are chargeable to tax under Chapter 3 (as to which see, in particular, section 269).

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 2. (See end of Document for details)

- (5) Accordingly, nothing in Chapter 4 or 5 is to be read as treating an amount as a receipt of an overseas property business if the profits concerned would not be chargeable to tax under Chapter 3.
- (6) In this Act “property business” means a UK property business or an overseas property business.

Basic meaning of UK and overseas property business

264 UK property business

A person's UK property business consists of—

- (a) every business which the person carries on for generating income from land in the United Kingdom, and
- (b) every transaction which the person enters into for that purpose otherwise than in the course of such a business.

265 Overseas property business

A person's overseas property business consists of—

- (a) every business which the person carries on for generating income from land outside the United Kingdom, and
- (b) every transaction which the person enters into for that purpose otherwise than in the course of such a business.

Generating income from land

266 Meaning of “generating income from land”

- (1) In this Chapter “generating income from land” means exploiting an estate, interest or right in or over land as a source of rents or other receipts.
- (2) “Rents” includes payments by a tenant for work to maintain or repair leased premises which the lease does not require the tenant to carry out.
- (3) “Other receipts” includes—
 - (a) payments in respect of a licence to occupy or otherwise use land,
 - (b) payments in respect of the exercise of any other right over land, and
 - (c) rentcharges and other annual payments reserved in respect of, or charged on or issuing out of, land.
- (4) For the purposes of this section a right to use a caravan or houseboat at only one location is treated as a right deriving from an estate or interest in land.

267 Activities not for generating income from land

For the purposes of this Chapter the following activities are not carried on for generating income from land—

- (a) farming or market gardening in the United Kingdom (but see section 9 (UK farming or market gardening treated as trade)),

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- (b) any other occupation of land (but see section 10 (certain commercial occupation of UK land treated as trade)), and
- (c) activities for the purposes of a concern to which section 12 applies (profits of mines, quarries etc.).

Changes to legislation:

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