



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 3

PROPERTY INCOME

CHAPTER 4

PROFITS OF PROPERTY BUSINESSES: LEASE PREMIUMS ETC.

Introduction

276 Introduction

- (1) This Chapter provides for certain amounts (which would otherwise generally be amounts of a capital nature) to be brought into account as receipts in calculating the profits of a property business.
- (2) The amounts relate to short-term leases in the case of—
section 277 (lease premiums),
section 278 (amount treated as lease premium where work required),
section 280 (sums payable for surrender of lease), and
section 282 (assignments for profit of lease granted at undervalue).
- (3) The amounts relate to any lease in the case of—
section 279 (sums payable instead of rent), and
section 281 (sums payable for variation or waiver of [^{F1}terms] of lease).
- (4) The amounts relate to the sale of any estate or interest in land in the case of—
section 284 (sales with right to reconveyance), and
section 285 (sale and leaseback transactions).

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

- (5) This Chapter also permits certain deductions in calculating the profits of property businesses carried on by tenants under certain leases (see sections 291 and 292).
- (6) In this Chapter “short-term lease” means a lease whose effective duration is 50 years or less.

Textual Amendments

F1 Word in s. 276(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. 614** (with Sch. 2 Pts. 1, 2)

Amounts treated as receipts: leases

277 Lease premiums

- (1) This section applies if a premium is required to be paid—
- (a) under a short-term lease, or
 - (b) otherwise under the terms subject to which a short-term lease is granted.
- (2) The person to whom the premium is due is treated as—
- (a) entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the lease is granted.
- (4) The amount of the receipt is given by the formula—

$$P \times \left(\frac{50 - Y}{50} \right)$$

where—

P is the premium, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

- (5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.

Modifications etc. (not altering text)

C1 Ss. 277-281 excluded (with effect as mentioned in Sch. 6 para. 6(2)-(7) of the amending Act) by 1981 c. 1, s. 774G(7) as inserted by Finance Act 2006 (c. 25), s. 76, **Sch. 6 para. 6(1)**

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

278 Amount treated as lease premium where work required

- (1) This section applies if the terms subject to which a lease is granted impose on the tenant an obligation to carry out work on the premises.
- (2) The lease is treated for the purposes of section 277 (lease premiums) as requiring the payment of a premium to the landlord (in addition to any other premium).
- (3) The amount of the premium is the amount by which the value of the landlord's estate or interest immediately after the commencement of the lease exceeds what its value would have been at that time if the terms of the lease did not impose the obligation on the tenant.
- (4) An obligation, or part of an obligation, that requires the carrying out of excepted work is ignored for the purposes of this section.
- (5) Work is “excepted work” if the payment for carrying it out would, if the landlord and not the tenant were obliged to carry it out, be deductible as an expense in calculating the profits of the landlord's property business.

Modifications etc. (not altering text)

- C2** Ss. 277-281 excluded (with effect as mentioned in [Sch. 6 para. 6\(2\)-\(7\)](#) of the amending Act) by [1981 c. 1, s. 774G\(7\)](#) as inserted by [Finance Act 2006 \(c. 25\), s. 76, Sch. 6 para. 6\(1\)](#)

279 Sums payable instead of rent

- (1) This section applies if—
 - (a) under the terms subject to which a lease is granted a sum becomes payable by the tenant instead of the whole or a part of the rent for a period, and
 - (b) the period is 50 years or less.
- (2) The person to whom the sum is due is treated as—
 - (a) entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists [^{F2}of or] includes that transaction for the tax year in which the sum becomes payable.
- (4) The amount of the receipt is given by the formula—

$$S \times \left(\frac{50 - Y}{50} \right)$$

where—

S is the sum payable instead of rent, and

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Y is the number of complete periods of 12 months (other than the first) comprised in the period in relation to which the sum is payable.

- (5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.
- (6) In determining for the purposes of this Chapter the duration of the period in relation to which the sum is payable, any part of the period that falls after the expiry of the effective duration of the lease is excluded.

Textual Amendments

F2 Words in s. 279(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. 615** (with Sch. 2 Pts. 1, 2)

Modifications etc. (not altering text)

C3 Ss. 277-281 excluded (with effect as mentioned in Sch. 6 para. 6(2)-(7) of the amending Act) by 1981 c. 1, s. 774G(7) as inserted by Finance Act 2006 (c. 25), s. 76, **Sch. 6 para. 6(1)**

280 Sums payable for surrender of lease

- (1) This section applies if, under the terms subject to which a short-term lease is granted, a sum becomes payable by the tenant as consideration for the surrender of the lease.
- (2) The person to whom the sum is due is treated as—
- (a) entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the sum becomes payable.
- (4) The amount of the receipt is given by the formula—

$$S \times \left(\frac{50 - Y}{50} \right)$$

where—

S is the sum payable as consideration for the surrender of the lease, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

- (5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

Modifications etc. (not altering text)

- C4 Ss. 277-281 excluded (with effect as mentioned in [Sch. 6 para. 6\(2\)-\(7\)](#) of the amending Act) by [1981 c. 1, s. 774G\(7\)](#) as inserted by [Finance Act 2006 \(c. 25\), s. 76, Sch. 6 para. 6\(1\)](#)

281 Sums payable for variation or waiver of [^{F3} terms] of lease

- (1) This section applies if—
- a sum becomes payable by the tenant (otherwise than by way of rent) as consideration for the variation or waiver of a term of a lease,
 - the sum is due to the landlord or a person who is connected with the landlord, and
 - the period for which the variation or waiver has effect is 50 years or less.
- (2) The person to whom the sum is due is treated as—
- entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and
 - receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the contract providing for the variation or waiver is entered into.
- (4) The amount of the receipt is given by the formula—

$$S \times \left(\frac{50 - Y}{50} \right)$$

where—

S is the sum payable as consideration for the variation or waiver, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period for which the variation or waiver has effect.

- (5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.
- (6) In determining for the purposes of this Chapter the duration of the period for which the variation or waiver has effect, any part of the period that falls after the expiry of the effective duration of the lease is excluded.

Textual Amendments

- F3 Word in s. 281 title substituted (1.4.2009) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 616](#) (with [Sch. 2 Pts. 1, 2](#))

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

Modifications etc. (not altering text)

- C5** Ss. 277-281 excluded (with effect as mentioned in [Sch. 6 para. 6\(2\)-\(7\)](#) of the amending Act) by 1981 c. 1, s. 774G(7) as inserted by [Finance Act 2006 \(c. 25\)](#), s. 76, [Sch. 6 para. 6\(1\)](#)

[^{F4}281A Sums to which sections 277 to 281 do not apply

- (1) This section applies if a grant of a lease constitutes a disposal of an asset for the purposes of section 809BZA(2)(b) or 809BZF(2)(a) of ITA 2007 (disposals under finance arrangements).
- (2) Sections 277 to 281 do not apply in relation to a premium paid in respect of the grant.]

Textual Amendments

- F4** S. 281A inserted (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 270](#) (with [Sch. 9 paras. 1-9, 22](#))

282 Assignments for profit of lease granted at undervalue

- (1) This section applies to an assignment of a short-term lease if—
 - (a) the lease was granted at an undervalue, and
 - (b) a profit is made on the assignment.
- (2) The person who assigns the lease is treated as—
 - (a) entering into a transaction mentioned in section 264 (if the land to which the lease relates is in the United Kingdom) or section 265 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the consideration for the assignment becomes payable.
- (4) The amount of the receipt is given by the formula—

$$P \times \left(\frac{50 - Y}{50} \right)$$

where—

P is the lesser of—

- (a) the profit on the assignment, and
- (b) the amount by which the undervalue exceeds the total of the profits (if any) made on previous assignments of the lease, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

- (5) But, if the rule in section 288 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 288.
- (6) Section 283 explains references in this section to the grant of a lease at an undervalue and the making of a profit on an assignment of a lease.

283 Provisions supplementary to section 282

- (1) This section operates for the purposes of section 282.
- (2) A lease is granted at an undervalue if the terms subject to which it was granted are such that the landlord who granted it could have required the payment of an additional sum by way of premium, or additional premium, for its grant.
- (3) The additional sum is the undervalue.
- (4) The test in subsection (2) must be applied—
 - (a) having regard to values prevailing at the time the lease was granted, and
 - (b) on the assumption that the negotiations for the lease were at arm's length.
- (5) A profit is made on an assignment of a lease if the consideration for the assignment exceeds—
 - (a) if the lease has not previously been assigned, any premium for which it was granted, or
 - (b) in any other case, any consideration for which it was last assigned.
- (6) The amount of the excess is the profit.

Other amounts treated as receipts

284 Sales with right to reconveyance

- (1) This section applies if—
 - (a) an estate or interest in land is sold subject to terms which provide that it is to be, or may be required to be, reconveyed on a future date to the seller or a person connected with the seller,
 - (b) the period beginning with the sale and ending with the earliest date on which under the terms of the sale the estate or interest would fall to be reconveyed is 50 years or less, and
 - (c) the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed.
- (2) The seller is treated as—
 - (a) entering into a transaction mentioned in section 264 (if the land is in the United Kingdom) or section 265 (if the land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsection (4) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the estate or interest is sold.

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(4) The amount of the receipt is given by the formula—

$$E \times \left(\frac{50 - Y}{50} \right)$$

where—

E is the amount by which the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period beginning with the sale and ending with the earliest date on which under the terms of the sale the estate or interest would fall to be reconveyed.

(5) See section 286 for some provisions which are supplementary to this section.

285 Sale and leaseback transactions

(1) This section applies if—

- (a) an estate or interest in land is sold subject to terms which provide for the grant of a lease directly or indirectly out of the estate or interest to the seller or a person connected with the seller,
- (b) the period beginning with the sale and ending with the earliest date on which under the terms of the sale the lease would fall to be granted is 50 years or less, and
- (c) the price at which the estate or interest is sold exceeds the total of—
 - (i) the amount of any premium for the lease, and
 - (ii) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run.

(2) This section does not apply if the lease is granted and begins to run within one month after the sale.

(3) The seller is treated as—

- (a) entering into a transaction mentioned in section 264 (if the land is in the United Kingdom) or section 265 (if the land is outside the United Kingdom), and
- (b) receiving the amount calculated under subsection (5) as a result of that transaction.

(4) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the tax year in which the estate or interest is sold.

(5) The amount of the receipt is given by the formula—

$$E \times \left(\frac{50 - Y}{50} \right)$$

where—

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E is the amount by which the price at which the estate or interest is sold exceeds the total of—

- (a) the amount of any premium for the lease, and
- (b) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period beginning with the sale and ending with the earliest date on which under the terms of the sale the lease would fall to be granted.

- (6) See section 286 for some provisions which are supplementary to this section.

286 Provisions supplementary to sections 284 and 285

- (1) This section operates for the purposes of sections 284 (sales with right to reconveyance) and 285 (sale and leaseback transactions).
- (2) Subsection (3) explains how to determine for the purposes of section 284 the price at which an estate or interest is to be reconveyed when—
 - (a) the date on which the estate or interest would fall to be reconveyed is not fixed under the terms of the sale, and
 - (b) the price at which it is to be reconveyed varies with the date.
- (3) The price is taken to be the lowest possible under the terms of the sale.
- (4) Subsection (5) explains how to determine for the purposes of section 285 the total of—
 - (a) the amount of any premium for the lease, and
 - (b) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run,when the date for the grant of the lease is not fixed under the terms of the sale and the total varies with the date.
- (5) The total is taken to be the lowest possible under the terms of the sale.
- (6) For the purposes of sections 284(3) and 285(4) (receipts of property business for tax year in which estate or interest sold) an estate or interest in land is sold when any of the following occurs—
 - (a) an unconditional contract for its sale is entered into,
 - (b) a conditional contract for its sale becomes unconditional, or
 - (c) an option or right of pre-emption is exercised requiring the seller to enter into an unconditional contract for its sale.

Additional calculation rule for reducing certain receipts

287 Circumstances in which additional calculation rule applies

- (1) The rule in section 288 (the additional calculation rule) applies in relation to the calculation of receipts under—
 - section 277 (lease premiums),
 - section 279 (sums payable instead of rent),
 - section 280 (sums payable for surrender of lease),

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section 281 (sums payable for variation or waiver of [^{F5}terms] of lease), or section 282 (assignments for profit of lease granted at undervalue).

- (2) It applies if conditions A and B are met.
- (3) Condition A is that—
 - (a) in the case of a receipt under section 277, 279 or 280, the lease is granted out of a taxed lease,
 - (b) in the case of a receipt under section 281, the lease was granted out of a taxed lease, and
 - (c) in the case of a receipt under section 282, the assignment is of a taxed lease.
- (4) A lease is a “taxed lease” for the purposes of this Chapter if—
 - (a) there is a receipt under any of sections 277 to 282 in respect of the lease, ^{F6}...
 - (b) there would be such a receipt, but for the operation of the [^{F7}rule in section 288 (the additional calculation rule)] in the calculation of its amount.
 - [^{F8}(c) there is a receipt under any of sections 217 to 222 of CTA 2009 (receipts in respect of lease premiums, sums payable instead of rent, for surrender of lease and for variation or waiver of terms of lease and assignments) in respect of the lease, or
 - (d) there would be such a receipt, but for the operation of the rule in section 228 of that Act (the additional calculation rule) in the calculation of its amount.]

In this Chapter [^{F9}a receipt falling within paragraph (a), (b), (c) or (d)] is referred to as a “taxed receipt”.
- (5) Condition B is that the taxed receipt, or if there is more than one, at least one of them, has an unused amount.
- (6) See section 290 for an explanation of when a taxed receipt has an “unused amount”.

Textual Amendments

- F5** Word in s. 287(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. 617\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F6** Word in s. 287(4) repealed (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. 617\(3\)\(a\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F7** Words in s. 287(4)(b) 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. 617\(3\)\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F8** S. 287(4)(c)(d) inserted (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. 617\(3\)\(c\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F9** Words in s. 287(4) 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. 617\(3\)\(d\)](#) (with [Sch. 2 Pts. 1, 2](#))

288 The additional calculation rule

- (1) The rule in this section applies if the conditions mentioned in section 287 are met.
- (2) The additional calculation rule is that the amount given by the formula in section 277, 279, 280, 281 or 282 must be reduced by the amount calculated in accordance with this section in order to give the amount of the receipt under calculation.
- (3) The amount of the reduction is—

Status: Point in time view as at 15/09/2016.

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- (a) if there is one taxed receipt which has an unused amount, the basic relieving amount by reference to that receipt, and
 - (b) if there is more than one taxed receipt which has an unused amount, the total of the basic relieving amounts by reference to each receipt,
- adjusted, if necessary, in the light of section 289(5) (reduction not to exceed amount being reduced).
- (4) The basic relieving amount by reference to a taxed receipt is given by the formula—

$$\frac{A \times LRP}{TRP}$$

where—

A is the unreduced amount of the taxed receipt (which is, generally, the amount given by the formula in section 277, 279, 280, 281 or [F10 282 above, or in section 217, 219, 220, 221 or 222 of CTA 2009,] but see section 290(2) to (4) [F11 above]),

LRP is the receipt period of the receipt under calculation, and

TRP is the receipt period of the taxed receipt.

- (5) But the basic relieving amount is different if section 289(2) or (4) applies (certain special cases).
- (6) For the purposes of this Chapter, the “receipt period” of a receipt is—
- (a) in the case of a receipt under section 277 or 280, the effective duration of the lease,
 - (b) in the case of a receipt under section 279, the period in relation to which the sum payable instead of rent is payable,
 - (c) in the case of a receipt under section 281, the period for which the variation or waiver has effect, F12 ...
 - (d) in the case of a receipt under section 282, the effective duration of the lease remaining at the date of the assignment^{F13}, and
 - (e) in the case of a receipt under Chapter 4 of Part 4 of CTA 2009 (profits of property businesses: lease premiums etc), its receipt period within the meaning of that Chapter (see section 228(6) of that Act).]

Textual Amendments

- F10** Words in s. 288(4) 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. 618(2)(a)** (with Sch. 2 Pts. 1, 2)
- F11** Word in s. 288(4) inserted (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. 618(2)(b)** (with Sch. 2 Pts. 1, 2)
- F12** Word in s. 288(6) repealed (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. 618(3)(a), Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F13** S. 288(6)(e) and word inserted (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. 618(3)(b)** (with Sch. 2 Pts. 1, 2)

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

289 The additional calculation rule: special cases

- (1) This section explains how section 288 operates in some special cases.
- (2) If—
 - (a) the receipt under calculation is under any of sections 277 to 281, and
 - (b) the lease does not extend to the whole of the premises subject to the taxed lease,

the basic relieving amount by reference to a taxed receipt is calculated by multiplying the amount given by the formula in subsection (4) of section 288 by the fraction of those premises which is subject to the lease.
- (3) This fraction is calculated on a just and reasonable basis.
- (4) If the basic relieving amount given by section 288(4) or subsection (2) above by reference to a taxed receipt would otherwise exceed the unused amount of the taxed receipt, the basic relieving amount is the unused amount.
- (5) If the amount of the reduction under section 288 would otherwise exceed the amount given, in respect of the receipt under calculation, by the formula in section 277, 279, 280, 281 or 282, the amount of the reduction is equal to the amount given by the formula.

290 Meaning of “unused amount” and “unreduced amount”

- (1) For the purposes of this Chapter, a taxed receipt has an “unused amount” if the unreduced amount exceeds the total of the reductions and deductions referred to in subsection (5).
- (2) In this Chapter the “unreduced amount” of a taxed receipt is the amount given, in respect of the taxed receipt, by the ^[F14]formula in—
 - (a) section 277, 279, 280, 281 or 282 above, or
 - (b) section 217, 219, 220, 221 or 222 of CTA 2009 (corporation tax provisions corresponding to those listed in paragraph (a)).]
- ^[F15](3) Subsection (4) applies—
 - (a) to a taxed receipt under section 277 (lease premiums) as a result of section 278 (amount treated as lease premium where work required), and
 - (b) to a taxed receipt under section 217 of CTA 2009 (lease premiums) as a result of section 218 of that Act (amount treated as lease premium where work required).]
- (4) If the obligation to carry out work included the carrying out of work which gives, or will give, rise to qualifying expenditure under CAA 2001, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.
- (5) The reductions and deductions mentioned in subsection (1) are—
 - (a) the reductions under section 288 ^[F16]above or section 228 of CTA 2009 (the additional calculation rule)] by reference to the taxed receipt,
 - (b) the deductions allowed in calculating the profits of a trade, profession or vocation for expenses under section 61 ^[F17]above or section 63 of CTA 2009] (tenant under taxed lease who uses land in connection with trade treated as incurring expenses) by reference to the taxed receipt, and

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- (c) the deductions allowed in calculating the profits of a property business for expenses under section 292 [^{F18}below or section 232 of CTA 2009] (tenant under taxed lease who uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt.
- (6) For the purposes of this Chapter references to a reduction under section 288 [^{F19}above or section 228 of CTA 2009] by reference to a taxed receipt are to a reduction under [^{F20}the section concerned] so far as attributable to the taxed receipt.

Textual Amendments

- F14** Words in s. 290(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. 619(2)** (with Sch. 2 Pts. 1, 2)
- F15** S. 290(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. 619(3)** (with Sch. 2 Pts. 1, 2)
- F16** Words in s. 290(5)(a) inserted (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. 619(4)(a)** (with Sch. 2 Pts. 1, 2)
- F17** Words in s. 290(5)(b) inserted (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. 619(4)(b)** (with Sch. 2 Pts. 1, 2)
- F18** Words in s. 290(5)(c) inserted (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. 619(4)(c)** (with Sch. 2 Pts. 1, 2)
- F19** Words in s. 290(6) inserted (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. 619(5)(a)** (with Sch. 2 Pts. 1, 2)
- F20** Words in s. 290(6) 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. 619(5)(b)** (with Sch. 2 Pts. 1, 2)

Deductions in relation to certain receipts

291 Deductions for expenses under section 292

- (1) Section 292 (tenants under taxed leases treated as incurring expenses) applies in calculating the profits of a property business carried on by the tenant under a taxed lease for the purpose of making deductions for the expenses of the property business.
- (2) A deduction is allowed for an expense under section 292 for a qualifying day on which the whole or part of the premises subject to the taxed lease is—
- occupied by the tenant for the purpose of carrying on the property business, or
 - sublet.
- (3) But any deduction for an expense under section 292 is subject to the application of any provision of Chapter 4 of Part 2 (as applied to property businesses by section 272).
- (4) The amount of the deduction for an expense under section 292 for a qualifying day by reference to a taxed receipt may be reduced in order to comply with section 295 (limit on reductions and deductions).
- (5) For the meaning of expressions used in this section, see in particular—
- section 287(4) (“taxed lease”), and
 - section 287(4) (“taxed receipt”).

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

292 Tenants under taxed leases treated as incurring expenses

- (1) The tenant under a taxed lease is treated as incurring an expense of a revenue nature in respect of the premises subject to the taxed lease for each qualifying day.
- (2) If there is more than one taxed receipt, this section applies separately in relation to each of them.
- (3) A day is a “qualifying day”, in relation to a taxed receipt, if it falls within the receipt period of the taxed receipt.
- (4) The amount of the expense for the qualifying day by reference to the taxed receipt is given by the formula—

$$\frac{A}{\text{TRP}}$$

where—

A is the unreduced amount of the taxed receipt, and

TRP is the number of days in the receipt period of the taxed receipt.

- [^{F21}(4A) No expense is to be determined under this section by reference to the taxed receipt if subsection (4B) or (4C) applies.
- (4B) This subsection applies if there would have been no taxed receipt but for the application of Rule 1 in section 303 in determining the effective duration of the lease.
- (4C) This subsection applies if there would have been no taxed receipt but for the application of Rule 1 in section 243 of CTA 2009 in determining the effective duration of the lease for the purposes of Chapter 4 of Part 4 of that Act.]
- (5) This section is subject to sections 293 and 294 (restrictions on expenses where the additional calculation rule is relevant).
 - (6) For the meaning of expressions used in this section, see in particular—
 section 288(6) (“receipt period”), and
 section 290(2) to (4) (“unreduced amount”).

Textual Amendments

F21 S. 292(4A)-(4C) inserted (with effect in accordance with Sch. 28 para. 4 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 28 para. 3](#)

293 Restrictions on section 292 expenses: the additional calculation rule

- [^{F22}(1) This section applies if—
- (a) in calculating the amount of a receipt under this Chapter there is a reduction under section 288 (the additional calculation rule) by reference to a taxed receipt, or
 - (b) in calculating the amount of a receipt under Chapter 4 of Part 4 of CTA 2009 (profits of a property business: lease premiums etc) there is a reduction under

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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 4. (See end of Document for details)

section 228 of that Act (the additional calculation rule) by reference to a taxed receipt.

The receipt that is so reduced is referred to in this section as the “lease premium receipt”.]

- (2) Subsections (3) to (5) provide for the application of section 292 for a qualifying day that falls within the receipt period of the lease premium receipt.
- (3) The tenant under the taxed lease is treated as incurring an expense under section 292 for the qualifying day by reference to the taxed receipt only if the daily amount of the taxed receipt exceeds the daily reduction of the lease premium receipt.
- (4) If the condition in subsection (3) is met, the amount of the expense under section 292 for the qualifying day by reference to the taxed receipt is equal to that excess.
- (5) If the qualifying day falls within the receipt periods of more than one lease premium receipt, the reference in subsection (3) to the daily reduction of the lease premium receipt is to be read as a reference to the total of the daily reductions of each of the lease premium receipts whose receipt period includes the qualifying day.
- (6) In this section—
the “daily amount” of the taxed receipt is given by the formula—

$$\frac{A}{\text{TRP}}$$

where—

A is the unreduced amount of the taxed receipt (see section 290(2) to (4)), and

TRP is the number of days in the receipt period of the taxed receipt, and
the “daily reduction” of a lease premium receipt is given by the formula—

$$\frac{\text{AR}}{\text{RRP}}$$

where—

AR is the reduction under section 288 [^{F23}above or section 228 of CTA 2009] by reference to the taxed receipt (see section 290(6)), and

RRP is the number of days in the receipt period of the lease premium receipt.

- (7) Section 294 explains how this section operates if the lease premium receipt is in respect of a lease that has been granted out of the taxed lease and does not extend to the whole of the premises subject to the taxed lease.

Textual Amendments

- F22** S. 293(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. 620\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

F23 Words in s. 293(6) inserted (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. 620(3)** (with Sch. 2 Pts. 1, 2)

294 Restrictions on section 292 expenses: lease of part of premises

- (1) This section applies if—
- (a) a lease has been granted out of the taxed lease,
 - (b) the lease does not extend to the whole of the premises subject to the taxed lease, and
 - ^{F24}(c) the condition in subsection (1A) is met.

(1A) The condition is that—

- (a) in calculating the amount of a receipt under any of sections 277 to 281 (receipts in respect of lease premiums or sums payable instead of rent, for surrender of lease or for variation or waiver of terms of lease) in respect of the lease, there is a reduction under section 288 by reference to a taxed receipt, or
- (b) in calculating the amount of a receipt under any of sections 217 to 221 of CTA 2009 (receipts in respect of lease premiums or sums payable instead of rent, for surrender of lease or for variation or waiver of terms of lease) in respect of the lease, there is a reduction under section 228 of that Act (the additional calculation rule) by reference to a taxed receipt.

The receipt that is so reduced is referred to in this section as the “lease premium receipt”.]

- (2) Subsections (3) to (5) apply for a qualifying day that falls within the receipt period of the lease premium receipt.
- (3) Sections 292 and 293 apply separately in relation to the part of the premises subject to the lease and to the remainder of the premises.
- (4) If—
 - (a) more than one lease that does not extend to the whole of the premises subject to the taxed lease has been granted out of the taxed lease, and
 - (b) the qualifying day falls within the receipt period of two or more lease premium receipts that relate to different leases,
 sections 292 and 293 apply separately in relation to each part of the premises subject to a lease to which such a receipt relates and to the remainder of the premises.
- (5) Where sections 292 and 293 apply in relation to a part of the premises, A becomes the amount calculated by multiplying the unreduced amount of the taxed receipt by the fraction of the premises constituted by the part.
- (6) This fraction is calculated on a just and reasonable basis.

Textual Amendments

F24 S. 294(1)(c)(1A) substituted for s. 294(1)(c) (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. 621** (with Sch. 2 Pts. 1, 2)

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

Limit on effect of additional calculation rule and deductions

295 Limit on reductions and deductions

- (1) The total of—
 - (a) the reductions under section 288 by reference to a taxed receipt, and
 - (b) the deductions allowed in calculating the profits of a property business for expenses under section 292 (tenant under taxed lease who uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt,must not exceed the amount referred to in subsection (2).
- (2) The amount mentioned in subsection (1) is the difference between—
 - (a) the unreduced amount of the taxed receipt, and
 - [^{F25}(b) the total of the amounts mentioned in subsection (3).
- (3) Those amounts are—
 - (a) the reductions under section 228 of CTA 2009 (the additional calculation rule) by reference to the taxed receipt,
 - (b) the deductions allowed in calculating the profits of a property business for expenses under section 232 of CTA 2009 (tenant under taxed lease which uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt, and
 - (c) the deductions allowed in calculating the profits of a trade, profession or vocation for expenses under section 61 above or section 63 of CTA 2009 (tenant under taxed lease who uses land in connection with trade treated as incurring expenses) by reference to the taxed receipt.]

Textual Amendments

F25 S. 295(2)(b)(3) substituted for s. 295(2)(b) (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. 622](#) (with [Sch. 2 Pts. 1, 2](#))

Relationship with ICTA

296 Corporation tax receipts treated as taxed receipts

- (1) This section applies if in respect of a lease—
 - (a) there is a receipt of a Schedule A business or an overseas property business (within the meaning of section 70A(4) of ICTA) as a result of section 34 or 35 of ICTA (treatment of premiums etc. as rent and assignments for profit of lease granted at an undervalue) for an accounting period ending after 5th April 2005 [^{F26}but before 1st April 2009], or
 - (b) there would be such a receipt, but for the operation of section 37(2) or (3) of ICTA (reductions in certain receipts under section 34 or 35 of ICTA).

In this Chapter such a receipt is referred to as a “corporation tax receipt”.

- (2) For the purposes of this Chapter—
 - (a) the lease is treated as a taxed lease, and

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

- (b) the corporation tax receipt is treated as a taxed receipt.
- (3) For the purposes of this Chapter, the “receipt period” of a taxed receipt which is a corporation tax receipt is—
 - (a) in the case of a corporation tax receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (b) in the case of a corporation tax receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.
- (4) For the purposes of this Chapter the “unreduced amount” of a taxed receipt which is a corporation tax receipt is the amount of the corporation tax receipt as a result of section 34 or 35 of ICTA, before the operation of section 37(2) or (3) of ICTA.
- (5) Subsection (6) applies to a taxed receipt which is a corporation tax receipt arising as a result of section 34(2) of ICTA (obligation on tenant to carry out work under lease).
- (6) If the obligation to carry out work includes the carrying out of work which gives, or will give, rise to qualifying expenditure under CAA 2001, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.

Textual Amendments

F26 Words in s. 296(1)(a) inserted (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. 623](#) (with [Sch. 2 Pts. 1, 2](#))

297 Taking account of reductions in corporation tax receipts

- (1) This section applies if—
 - (a) in calculating the amount of a corporation tax receipt, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and
 - (b) the amount chargeable on the superior interest is the taxed receipt for the purposes of this Chapter.
- (2) For the purposes of this Chapter references to a reduction under section 37(2) or (3) of ICTA in a corporation tax receipt by reference to the amount chargeable on the superior interest are to the difference between—
 - (a) the amount of the corporation tax receipt before the operation of section 37(2) or (3) of ICTA, and
 - (b) the amount of the receipt after the operation of that subsection, so far as attributable to the amount chargeable on the superior interest for the purposes of section 37 of ICTA.
- (3) In sections 290(5)(a) (meaning of “unused amount”) and 295(1)(a) (limit on reductions and deductions) references to reductions under section 288 by reference to the taxed receipt include references to reductions under section 37(2) or (3) of ICTA in corporation tax receipts by reference to the amount chargeable on the superior interest.
- (4) Sections 292 to 294 apply as follows—

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

- (a) the corporation tax receipt is treated as if it were a lease premium receipt for the purposes of sections 293 and 294,
- (b) references in those sections to the reduction under section 288 by reference to the taxed receipt are, in relation to the corporation tax receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and
- (c) for the purposes of those sections the receipt period of the corporation tax receipt is—
 - (i) in the case of a corporation tax receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (ii) in the case of a corporation tax receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.

298 Taking account of deductions for rent as a result of section 37(4) or 87(2) of ICTA

- (1) Subsection (2) applies if—
 - (a) in calculating the profits of a trade, profession or vocation for an accounting period ending after 5th April 2005 [^{F27}but before 1st April 2009], a company is treated as paying rent under section 87(2) of ICTA by reference to the amount chargeable for the purposes of that section, and
 - (b) the amount chargeable is the taxed receipt for the purposes of this Chapter.
- (2) References in sections 290(5)(b) and [^{F28}295(3)(c)] to the deductions allowed for expenses under section 61 by reference to the taxed receipt include references to the deductions allowed in calculating the profits of the trade, profession or vocation for the rent that the company is treated as paying under section 87(2) of ICTA by reference to the amount chargeable.
- (3) Subsection (4) applies if—
 - (a) in calculating the profits of a Schedule A business or an overseas property business (within the meaning of section 70A(4) of ICTA) for an accounting period ending after 5th April 2005 [^{F29}but before 1st April 2009], a company is treated as paying rent as a result of section 37(4) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and
 - (b) the amount chargeable on the superior interest is the taxed receipt for the purposes of this Chapter.
- (4) References in sections 290(5)(c) and 295(1)(b) to the deductions allowed for expenses under section 292 by reference to the taxed receipt include references to the deductions allowed in calculating the profits of the Schedule A business or overseas property business (within the meaning of section 70A(4) of ICTA) for the rent that the company is treated as paying as a result of section 37(4) of ICTA by reference to the amount chargeable on the superior interest.

Textual Amendments

- F27** Words in s. 298(1)(a) inserted (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. 624(a)** (with Sch. 2 Pts. 1, 2)

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

- F28** Word in s. 298(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. 624(b)** (with Sch. 2 Pts. 1, 2)
- F29** Words in s. 298(3)(a) inserted (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. 624(a)** (with Sch. 2 Pts. 1, 2)

Certain administrative provisions

299 Payment of tax by instalments

- (1) This section applies if—
- (a) there is a receipt under section 277 (lease premiums) in respect of a premium which is payable by instalments, or
 - (b) there is a receipt under any of sections 279 to 281 (sums payable instead of rent, for surrender of lease or for variation or waiver of [^{F30}terms] of lease) in respect of a sum which is payable by instalments.
- (2) The person who is liable to pay tax by reference to the receipt may choose to pay the tax by such instalments as [^{F31}an officer of Revenue and Customs] may allow.
- (3) The period over which the instalments of tax must be paid—
- (a) must be 8 years or less, and
 - (b) must end before, or at the same time as, the time when the last of the instalments mentioned in subsection (1)(a) or (b) is payable.

Textual Amendments

- F30** Word in s. 299(1)(b) 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. 625** (with Sch. 2 Pts. 1, 2)
- F31** Words in s. 299(2) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 ss. 50, 53(1), {Sch. 4 para. 132(2)}; **S.I. 2005/1126, art. 2(h)**

300 Statement of accuracy for purposes of section 282

- (1) This section applies if any of the persons mentioned in subsection (3) provides [^{F32}an officer of Revenue and Customs] with a statement showing—
- (a) whether or not there is, or may be, a receipt under section 282 (assignments for profit of lease granted at undervalue), and
 - (b) the amount of any receipt.
- (2) [^{F32}an officer of Revenue and Customs] must certify the accuracy of the statement, if satisfied as to its accuracy.
- (3) The persons referred to in subsection (1) are—
- (a) the landlord who granted the lease,
 - (b) a person who assigned it, or
 - (c) a person to whom it was assigned.

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

Textual Amendments

F32 Words in s. 300(1)(2) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 ss. 50, 53(1), {Sch. 4 para. 132(1)}; [S.I. 2005/1126, art. 2\(h\)](#)

301 Claim for repayment of tax payable by virtue of section 284

- (1) This section applies if—
 - (a) there is a receipt under section 284 (sales with right to reconveyance), and
 - (b) the date on which the estate or interest would fall to be reconveyed was not fixed under the terms of the sale.
- (2) If the seller makes a claim, the seller must be repaid the amount by which A exceeds B, where—

A is the amount of tax paid by the seller which was payable by virtue of section 284, and

B is the amount of tax that would have been so payable if the date on which the estate or interest was reconveyed had been taken as the date fixed by the terms of the sale.
- (3) The claim must be made within [^{F33}4 years] after the day on which the estate or interest was reconveyed.

Textual Amendments

F33 Words in s. 301(3) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 51; S.I. 2009/403, art. 2\(2\)](#) (with [art. 10](#))

302 Claim for repayment of tax payable by virtue of section 285

- (1) This section applies if—
 - (a) there is a receipt under section 285 (sale and leaseback transactions), and
 - (b) the date for the grant of the lease was not fixed under the terms of the sale.
- (2) If the seller makes a claim, the seller must be repaid the amount by which A exceeds B, where—

A is the amount of tax paid by the seller which was payable by virtue of section 285, and

B is the amount of tax that would have been so payable if the date on which the lease was granted had been taken as the date fixed by the terms of the sale.
- (3) The claim must be made within [^{F34}4 years] after the day on which the lease was granted.

Textual Amendments

F34 Words in s. 302(3) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 52; S.I. 2009/403, art. 2\(2\)](#) (with [art. 10](#))

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

[^{F35}Determinations affecting liability of more than one person

Textual Amendments

F35 Ss. 302A-302C and cross-heading inserted (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 7 para. 22](#) (with [Sch. 9 paras. 1-9, 22](#))

302A Appeals against proposed determinations

- (1) Subsection (2) applies if it appears to an officer of Revenue and Customs that—
 - (a) a determination is needed of an amount that is to be brought into account as a receipt under this Chapter in calculating the liability to tax of a person (“the first taxpayer”), and
 - (b) the determination may affect the liability to income tax, corporation tax or capital gains tax of other persons.
- (2) The officer may give notice (a “provisional notice of determination”) to the first taxpayer and the other persons of—
 - (a) the determination the officer proposes to make, and
 - (b) their rights under this section and section 302C.
- (3) A person to whom a provisional notice of determination is given may object to the proposed determination by giving notice (a “notice of objection”) to the officer.
- (4) The notice of objection must be given within 30 days of the date on which the provisional notice of determination was given.
- (5) If an officer gives provisional notices of determination and no person gives a notice of objection—
 - (a) a determination must be made by the officer as proposed in the provisional notices, and
 - (b) the determination is not to be called in question in any proceedings.

302B Section 302A: supplementary

- (1) A provisional notice of determination under section 302A(2) may include a statement of the grounds on which the officer proposes to make the determination.
- (2) Subsection (1) applies despite any obligation as to secrecy or other restriction on the disclosure of information.

^{F36}(3)

^{F36}(4)

Textual Amendments

F36 S. 302B(3)(4) omitted (with effect in accordance with Sch. 23 para. 65 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 23 paras. 57\(2\), 65\(1\)\(a\)](#) (with [Sch. 23 paras. 50, 65\(1\)\(b\)](#))

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

302C Determination by tribunal

- (1) If a notice of objection is given under section 302A(3), the amount mentioned in section 302A(1) must be determined in the same way as an appeal.
- (2) All persons to whom provisional notices of determination have been given under section 302A(2) may be a party to—
 - (a) any proceedings under subsection (1), and
 - (b) any appeal arising out of those proceedings.
- (3) Those persons are bound by the determination made in the proceedings or on appeal, whether or not they have taken part in the proceedings.
- (4) Their successors in title are bound in the same way.]

Effective duration of lease

303 Rules for determining effective duration of lease

- (1) The following rules apply for determining the effective duration of a lease for the purposes of this Chapter.

[^{F37}Rule 1: If-

- (a) the terms of the lease or any other circumstances make it unlikely that the lease will continue beyond a date before the end of the term for which the lease was granted, and
- (b) the premium was not substantially greater than it would have been had the term been one ending on that date,]

Rule 2: If the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant, account may be taken of any circumstances making it likely that the lease will be so extended.

Rule 3: If the tenant or a person connected with the tenant is, or may become, entitled to a further lease or the grant of a further lease (whenever commencing)—

- (a) of the same premises, or
- (b) of premises including the whole or part of the same premises,

the term of the lease may be treated as continuing until the end of the term of the further lease.

- (2) The rules are to be applied in accordance with section 304.

[^{F38}(2A) In Rule 1 “premium” includes—

- (a) an amount treated as a premium under section 278 (amount treated as lease premium where work required),
- (b) a sum payable by the tenant under the terms subject to which the lease is granted instead of the whole or a part of the rent for a period,
- (c) a sum payable by the tenant under the terms subject to which the lease is granted as consideration for the surrender of the lease, and
- (d) a sum payable by the tenant (otherwise than by way of rent) as consideration for the variation or waiver of a term of the lease.]

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

- (3) In this section and section 304, in relation to Scotland, “term”, where referring to the duration of a lease, means period.

Textual Amendments

- F37** Words in s. 303 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. 626\(2\)](#) (with Pts. 1, 2, Sch. 2 para. 44)
- F38** S. 303(2A) inserted (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. 626\(3\)](#) (with Pts. 1, 2, Sch. 2 para. 44)

Modifications etc. (not altering text)

- C6** S. 303 applied by [2001 c. 2, s. 360I\(3\)\(a\)](#) (as inserted (7.4.2005 with effect in relation to expenditure incurred on or after 11.4.2007) by [Finance Act 2005 \(c. 7\), s. 92, {Sch. 6 para. 1}; S.I. 2007/949, art. 2](#)

304 Applying the rules in section 303

- (1) The rules in section 303 apply by reference to the facts known or ascertainable—
- (a) at the time of the grant of the lease, or
 - (b) if the determination is for the purposes of section 281 (sums payable for variation or waiver of [^{F39}terms] of lease), at the time when the contract for the variation or waiver is entered into.
- (2) In applying those rules, it is assumed that all parties concerned, whatever their relationship, act as if they were at arm's length.
- (3) Subsection (5) applies if—
- (a) special benefits were conferred by the lease or in connection with its grant, or
 - (b) payments were made which one would not expect to be made by parties acting at arm's length unless such benefits had been conferred.
- (4) But subsection (5) does not apply if it can be shown that the special benefits were not conferred nor the payments made for the purpose of [^{F40}securing—
- (a) an income tax advantage in the application of this Chapter, or
 - (b) a corporation tax advantage in the application of Chapter 4 of Part 4 of CTA 2009 (profits of property business: lease premiums etc).]
- (5) In applying [^{F41}paragraph (b) of] rule 1 in section 303, it is assumed that the special benefits would not have been conferred nor the payments made if the lease had been granted for a term ending on the date mentioned in that rule.
- (6) In this section “special benefits” means benefits other than—
- (a) vacant possession and beneficial occupation of the premises, or
 - (b) the right to receive rent at a reasonable commercial rate in respect of the premises.

Textual Amendments

- F39** Word in s. 304(1)(b) 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. 627\(2\)](#) (with Sch. 2 Pts. 1, 2)
- F40** Words in s. 304(4) 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. 627\(3\)](#) (with Sch. 2 Pts. 1, 2)

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4. (See end of Document for details)

F41 Words in s. 304(5) inserted (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. 627(4)** (with Sch. 2 Pts. 1, 2)

F42 305 Information about effective duration of lease

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Textual Amendments

F42 S. 305 omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, **Sch. para. 44**

Other interpretative provisions

306 Provisions about premiums

- (1) For the purposes of this Chapter, the presumption is that a sum paid on or in connection with the granting of a tenancy has been paid by way of premium.
- (2) This does not apply if the sum is rent.
- (3) This also does not apply so far as other sufficient consideration for the payment can be shown to have been given.
- (4) In this section “sum” includes the value of any consideration.
- (5) Where rule 3 in section 303 (rules for determining effective duration of lease) applies, the premium, or an appropriate part of it, payable for or in connection with either lease mentioned in that rule may be treated for the purposes of this Chapter as having been required under the other.

307 Interpretation

- (1) In this Chapter “premium” includes any similar sum payable to the immediate or a superior landlord or to a person connected with such a person.
- (2) In subsection (1) “sum” includes the value of any consideration.
- (3) In the application of this Chapter to Scotland—
 - “premium” includes, in particular, a grassum payable to the landlord under the lease in respect of which the grassum is payable or the landlord under any other lease of the property, and
 - “reversion” means the interest of the landlord in the property subject to the lease.
- (4) In the application of this Chapter to Scotland—
 - (a) references to a lease being granted out of a taxed lease are to the grant of a sublease of land subject to the taxed lease, and
 - (b) references to the lease so granted are to be read as references to the sublease.

Status:

Point in time view as at 15/09/2016.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 4.