



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 7

INCOME CHARGED UNDER THIS ACT: RENT-A-ROOM AND [F<sup>1</sup>QUALIFYING CARE] RELIEF

### CHAPTER 2

[F<sup>2</sup>QUALIFYING CARE RELIEF]

#### Textual Amendments

**F2** Pt. 7 Ch. 2 heading substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 29** (with [Sch. 1 para. 37](#))

#### *Introduction*

#### **803 Overview of Chapter 2**

[F<sup>3</sup>(1) This Chapter provides relief on income from the provision by an individual of qualifying care.

The relief is referred to in this Chapter as “qualifying care relief”.]

- (2) The form of relief depends on whether the individual's total [F<sup>4</sup>qualifying care] receipts exceed the individual's limit (see sections 807 to 811).
- (3) If they do not, the income is not charged to income tax (see sections 812 to 814).
- (4) If they do, the individual may elect for an alternative method of calculating the income (see sections 815 to 819).

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- (5) If the [<sup>F5</sup>qualifying care] receipts are the receipts of a trade, special rules apply —
- (a) if the period of account of the trade does not end on 5th April (see sections 820 to 823), and
  - (b) in relation to capital allowances (see sections 824 to 827).
- (6) The provisions of this Chapter which are expressed to apply in relation to trades also apply in relation to professions and vocations.

#### Textual Amendments

- F3** S. 803(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 2\(2\)](#) (with [Sch. 1 para. 37](#))
- F4** Words in s. 803(2) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 2\(3\)](#) (with [Sch. 1 para. 37](#))
- F5** Words in s. 803(5) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 2\(3\)](#) (with [Sch. 1 para. 37](#))

## 804 Person who qualifies for relief

- [<sup>F6</sup>(1) An individual qualifies for qualifying care relief for a tax year if the individual—
- (a) has qualifying care receipts for the tax year (see section 805), and
  - (b) does not derive any taxable income, other than qualifying care receipts, from a relevant trade or arrangement.]
- (2) “Taxable income” means receipts or other income in respect of which the individual is liable to income tax for the tax year.
- (3) A relevant trade or arrangement is one from which the individual derives [<sup>F7</sup>qualifying care] receipts for the tax year.
- [<sup>F8</sup>(4) Subsection (1) is subject to section 804A.]

#### Textual Amendments

- F6** S. 804(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 3\(2\)](#) (with [Sch. 1 para. 37](#))
- F7** Words in s. 804(3) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 3\(3\)](#) (with [Sch. 1 para. 37](#))
- F8** S. 804(4) inserted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 3\(4\)](#) (with [Sch. 1 para. 37](#))

## [<sup>F9</sup>804A Shared lives care: further condition for relief

- (1) This section applies if an individual (“N”) has qualifying care receipts for a tax year in respect of the provision of shared lives care.
- (2) N does not qualify for qualifying care relief in respect of those receipts if the placement cap is exceeded for the residence (or any of the residences) used by N to provide the care from which those receipts are derived.

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- (3) The placement cap is exceeded for a residence if, at any given time during the relevant period, shared lives care is being provided there (whether by N or anyone else) for more than 3 people in total.
- (4) The relevant period, in relation to a residence, is the period for which the residence is N's only or main residence during the income period for the receipts (see section 805).
- (5) If the placement cap is so exceeded but N also has qualifying care receipts for the tax year in respect of the provision of foster care, this Chapter is to apply to N for the tax year as if—
  - (a) references to qualifying care were to foster care, and
  - (b) accordingly, references (other than in this section) to qualifying care receipts did not include receipts in respect of the provision of shared lives care.
- (6) In determining the number of people for whom shared lives care is being provided at any given time, brothers and sisters (including half-brothers and half-sisters) count as one person.]

#### Textual Amendments

- F9** S. 804A inserted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by Finance (No. 3) Act 2010 (c. 33), **Sch. 1 para. 4** (with Sch. 1 para. 37)

#### Basic definitions

### 805 Meaning of “[<sup>F10</sup>qualifying care] receipts”

- (1) For the purposes of this Chapter an individual has [<sup>F11</sup>qualifying care] receipts for a tax year if —
    - (a) the receipts are in respect of the provision of [<sup>F12</sup>qualifying care],
    - (b) they accrue to the individual during the income period for those receipts (see subsections (2) and (3)), and
    - (c) the receipts would otherwise be brought into account in calculating the profits of a trade or chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).
  - (2) If the receipts would otherwise be brought into account in calculating the profits of a trade, the income period is the basis period for the tax year (see Chapter 15 of Part 2).
  - (3) Otherwise the income period is the tax year.
- [<sup>F13</sup>(4) Subsections (5) and (6) apply if—
- (a) the receipts would otherwise be brought into account in calculating the profits of a trade, and
  - (b) an election under section 25A (cash basis for small businesses) has effect in relation to the trade.
- (5) Any amounts brought into account under section 96A (capital receipts) as a receipt in calculating the profits of the trade are to be treated as receipts within paragraph (a) of subsection (1) above.

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- (6) The reference in subsection (1)(b) to receipts that accrue to an individual during the income period for those receipts is to be read as a reference to receipts that are received by the individual during that period.]

#### Textual Amendments

- F10** Words in s. 805 heading substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 5\(2\)](#) (with [Sch. 1 para. 37](#))
- F11** Words in s. 805(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 5\(1\)\(a\)](#) (with [Sch. 1 para. 37](#))
- F12** Words in s. 805(1)(a) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 5\(1\)\(b\)](#) (with [Sch. 1 para. 37](#))
- F13** S. 805(4)-(6) inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 42](#)

#### [<sup>F14</sup>805A Meaning of providing qualifying care

For the purposes of this Chapter qualifying care is provided if an individual (alone or in partnership) provides—

- (a) foster care but not shared lives care,
- (b) shared lives care but not foster care, or
- (c) both foster care and shared lives care.]

#### Textual Amendments

- F14** S. 805A inserted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 6](#) (with [Sch. 1 para. 37](#))

#### 806 Meaning of providing foster care

- (1) For the purposes of this Chapter foster care is provided if an individual—
- (a) provides accommodation and maintenance for a child, and
  - (b) does so as a foster carer.

[<sup>F15</sup>(2) An individual is a foster carer if the child is placed with the individual by virtue of a compulsory supervision order or interim compulsory supervision order, or under any of the following enactments, unless the individual is excluded by subsection (5).]

- (3) The enactments are—

- (a) section [<sup>F16</sup>22C] or 59(1)(a) of the Children Act 1989 (c. 41) (provision of accommodation for children by local authorities or voluntary organisations),
- [<sup>F17</sup>(aa) section 81 of the Social Services and Well-being (Wales) Act 2014 (provision of accommodation for children by local authorities).]
- (b) regulations under section 5 of the Social Work (Scotland) Act 1968 (c. 49),
- [<sup>F18</sup>(c) . . . . .]
- (d) Article 27(2)(a) or 75(1)(a) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) (provision of accommodation for children by authorities or voluntary organisations).

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[<sup>F19</sup>(4) An individual is also a foster carer if the individual is approved as a foster carer by a local authority or a voluntary organisation in accordance with regulations under section 5 of the Social Work (Scotland) Act 1968, and the child in respect of whom the accommodation is provided—

- (a) is being looked after by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995, or
- (b) is subject to an order or warrant made by the children’s hearing or sheriff under the Children’s Hearings (Scotland) Act 2011,

unless the individual is excluded by subsection (5).]

(5) The following are excluded individuals—

- (a) a parent of the child,
- (b) an individual who is not a parent of the child but who has parental responsibility (or, in Scotland, parental responsibilities) in relation to the child,

[<sup>F20</sup>(ba) where the child is in care and there was a child arrangements order in force with respect to the child immediately before the care order was made, a person named in the child arrangements order as a person with whom the child was to live,

(bb) (in Scotland) where the child is in care and there was a child arrangements order in force with respect to the child immediately before the child was placed in care, a person named in the child arrangements order as a person with whom the child was to live, spend time or otherwise have contact,]

(c) if the child is in care and there was a residence order in force with respect to the child immediately before the care order was made, an individual in whose favour the residence order was made, [<sup>F21</sup>and]

(d) (in Scotland) if the child is in care and there was a residence order or contact order in force with respect to the child immediately before the child was placed in care, an individual in whose favour the residence order or contact order was made. [<sup>F22</sup>; and

(e) an individual with whom the child is placed under a placement falling within section 22C(6)(d) of the Children Act 1989.]

[<sup>F23</sup>(f) an individual with whom the child is placed under a placement falling within section 81(6)(d) of the Social Services and Well-being (Wales) Act 2014.]

[<sup>F24</sup>(6) In this section—

“compulsory supervision order” has the meaning given by section 83 of the Children’s Hearings (Scotland) Act 2011; and

“interim compulsory supervision order” has the meaning given by section 86 of that Act.]

#### Textual Amendments

**F15** S. 806(2) substituted (24.6.2013) by The Children’s [Hearings \(Scotland\) Act 2011 \(Consequential and Transitional Provisions and Savings\) Order 2013 \(S.I. 2013/1465\)](#), art. 1(2), **Sch. 1 para. 10(a)**; S.S.I. 2013/195, **art. 2**

**F16** Word in s. 806(3)(a) substituted (1.4.2011 for E., 6.4.2016 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), s. 44(4), **Sch. 1 para. 18(2)**; S.I. 2010/2981, art. 4(a); S.I. 2016/452, art. 2(b)

**F17** S. 806(3)(aa) inserted (E.W.) (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **225(a)**

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- F18** S. 806(3)(c) omitted (24.6.2013) by virtue of The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 1 para. 10(b)**; S.S.I. 2013/195, **art. 2**
- F19** S. 806(4) substituted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 1 para. 10(c)**; S.S.I. 2013/195, **art. 2**
- F20** S. 806(5)(ba)(bb) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 69**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F21** Word in s. 806(5) repealed (1.4.2011 for E., 6.4.2016 for W.) by Children and Young Persons Act 2008 (c. 23), s. 44(4), **Sch. 1 para. 18(3)(a)**, **Sch. 4**; S.I. 2010/2981, art. 4(a)(l); S.I. 2016/452, art. 2(b)
- F22** S. 806(5)(e) and word inserted (1.4.2011 for E., 6.4.2016 for W.) by Children and Young Persons Act 2008 (c. 23), s. 44(4), **Sch. 1 para. 18(3)(b)**; S.I. 2010/2981, art. 4(a); S.I. 2016/452, art. 2(b)
- F23** S. 806(5)(f) inserted (E.W.) (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **225(b)**
- F24** S. 806(6) inserted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 1 para. 10(d)**; S.S.I. 2013/195, **art. 2**

## [<sup>F25</sup>806A Meaning of providing shared lives care

- (1) For the purposes of this Chapter shared lives care is provided by an individual if—
  - (a) the individual provides accommodation and care for an adult or child (“X”) who has been placed with the individual, and
  - (b) the conditions in subsection (2) are met.
- (2) The conditions are—
  - (a) the accommodation is in the individual's own home,
  - (b) the accommodation and care are provided on the basis that X will share the individual's home and daily family life during the placement,
  - (c) the placement is made under a specified social care scheme,
  - (d) the individual does not provide the accommodation and care as a foster carer, and
  - (e) the individual is not excluded within the meaning of section 806(5).
- (3) Section 806(5) has effect for the purposes of subsection (2)(e) as if references to the child were to X (whatever X's age).
- (4) “Specified social care scheme” means a social care scheme of a kind specified or described in an order made by the Treasury.
- (5) An order under subsection (4) may make provision having effect in relation to the tax year current on the day on which the order is made.
- (6) In this section—
  - “care” means personal care, including assistance and support;
  - “home” means an individual's only or main residence;
  - “social care scheme” means a scheme, service or arrangement for those who, by reason of age, illness, disability or other vulnerability, are in need of care.]

*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 2. (See end of Document for details)*

#### Textual Amendments

**F25** Ss. 806A, 806B inserted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 7](#) (with [Sch. 1 para. 37](#))

### [<sup>F25</sup> 806B Meaning of “residence”

- (1) In this Chapter “residence” means—
  - (a) a building, or part of a building, occupied or intended to be occupied as a separate residence, or
  - (b) a caravan or houseboat.
- (2) If a building, or part of a building, designed for permanent use as a single residence is temporarily divided into two or more separate residences, it is still treated as a single residence.]

#### Textual Amendments

**F25** Ss. 806A, 806B inserted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 7](#) (with [Sch. 1 para. 37](#))

### 807 Calculation of “total [<sup>F26</sup> qualifying care] receipts”

For the purposes of this Chapter, in calculating an individual's “total [<sup>F27</sup> qualifying care] receipts” for a tax year, no deduction is allowed for expenses or any other matter.

#### Textual Amendments

- F26** Words in s. 807 heading substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 8\(2\)](#) (with [Sch. 1 para. 37](#))
- F27** Words in s. 807 substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 8\(1\)](#) (with [Sch. 1 para. 37](#))

#### *Individual's limit*

### 808 The individual's limit

- (1) For the purposes of this Chapter an individual's limit for a tax year is the total of—
  - (a) the fixed amount for the tax year or, if section 809 or 810 applies, the individual's share of that amount, and
  - (b) each amount per [<sup>F28</sup> adult or] child for the individual for the tax year (see section 811).
- (2) For the purposes of this Chapter the fixed amount for a tax year is £10,000.
- (3) The Treasury may by order amend the sum for the time being specified in subsection (2).

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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 2. (See end of Document for details)*

#### Textual Amendments

**F28** Words in s. 808(1)(b) inserted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 9](#) (with [Sch. 1 para. 37](#))

### [<sup>F29</sup>809 Share of fixed amount: residence used by more than one carer

- (1) This section applies if in a tax year—
  - (a) the residence used to provide the qualifying care from which an individual's qualifying care receipts for the tax year are derived is also used by another individual to provide qualifying care, and
  - (b) the other individual also has qualifying care receipts for the tax year.
- (2) Each individual's share of the fixed amount for the tax year is the fixed amount divided by the total number of individuals who—
  - (a) use the residence in the tax year to provide qualifying care, and
  - (b) have qualifying care receipts for the tax year.]

#### Textual Amendments

**F29** S. 809 substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 10](#) (with [Sch. 1 para. 37](#))

### 810 Share of fixed amount: income period not a year

- (1) This section applies if in a tax year an individual's income period for the individual's [<sup>F30</sup>qualifying care] receipts is a period other than a year.
- (2) The individual's share of the fixed amount for the tax year is—

$$\frac{AS \times D}{365}$$

where—

AS is the fixed amount or (if section 809 applies) the individual's share of the fixed amount, and

D is the number of days in the individual's income period.

#### Textual Amendments

**F30** Words in s. 810(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 11](#) (with [Sch. 1 para. 37](#))

### 811 The amount per [<sup>F31</sup>adult or] child

- [<sup>F32</sup>(1) An individual's amount per adult or child for a tax year is found by multiplying—



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- (a) the number of weeks during the income period for the tax year in which the individual provides qualifying care for the adult or child, by
  - (b) the weekly amount for the adult or child.
- (1A) The weekly amount for an adult is £250.]
- (2) The weekly amount for a child is—
- (a) £200 for a week throughout which the child is under 11 years old, and
  - (b) £250 for other weeks.
- (3) The Treasury may by order amend any amount for the time being specified in [F33 subsection (1A) or (2)].
- (4) If an individual provides [F34 qualifying care for an adult or child] during an income period for only part of a week, the part is treated as a whole week.
- (5) If an income period begins or ends during a week, the week is treated as falling within the income period ending during the week.
- But if there is no such income period, the week is treated as falling within the income period beginning during the week.
- (6) A week is a period of 7 days beginning with a Monday.

#### Textual Amendments

- F31** Words in s. 811 heading inserted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 12\(5\)](#) (with [Sch. 1 para. 37](#))
- F32** S. 811(1)(1A) substituted (16.12.2010) for s. 811(1) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 12\(2\)](#) (with [Sch. 1 para. 37](#))
- F33** Words in s. 811(3) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 12\(3\)](#) (with [Sch. 1 para. 37](#))
- F34** Words in s. 811(4) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 12\(4\)](#) (with [Sch. 1 para. 37](#))

*Relief if amount does not exceed limit*

#### [F35] 812 Full qualifying care relief: introduction

- Sections 813 and 814 (which give the full form of qualifying care relief) apply if—
- (a) an individual qualifies for qualifying care relief for a tax year,
  - (b) the individual's total qualifying care receipts for the tax year do not exceed the individual's limit for the tax year, and
  - (c) sections 822 and 823 do not apply (accounting date for trade not 5 April).]

#### Textual Amendments

- F35** S. 812 substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 13](#) (with [Sch. 1 para. 37](#))

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### 813 Full [<sup>F36</sup>qualifying care] relief: trading income

- (1) This section applies if the individual's [<sup>F37</sup>qualifying care] receipts for the tax year would otherwise be brought into account in calculating the profits of a trade.
- (2) The profits or losses of the trade for the tax year are treated as nil.

#### Textual Amendments

- F36** Words in s. 813 heading substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 14\(2\)](#) (with [Sch. 1 para. 37](#))
- F37** Words in s. 813(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 14\(1\)](#) (with [Sch. 1 para. 37](#))

### 814 Full [<sup>F38</sup>qualifying care] relief: income chargeable under Chapter 8 of Part 5

- (1) This section applies if the individual's [<sup>F39</sup>qualifying care] receipts for the tax year would otherwise be chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).
- (2) For each arrangement from which those receipts arise, the amount of—
  - (a) those receipts arising in the tax year from the arrangement, less
  - (b) any expenses associated with them,
 is treated as nil.

#### Textual Amendments

- F38** Words in s. 814 heading substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 15\(2\)](#) (with [Sch. 1 para. 37](#))
- F39** Words in s. 814(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 15\(1\)](#) (with [Sch. 1 para. 37](#))

#### *Alternative calculation of profits if amount exceeds limit*

### 815 Alternative calculation of profits: introduction

Sections 816 and 817 (which provide for an alternative method of calculating profits) apply if—

- (a) an individual qualifies for [<sup>F40</sup>qualifying care] relief for a tax year,
- (b) the individual's total [<sup>F41</sup>qualifying care] receipts for the tax year exceed the individual's limit for the tax year,
- (c) sections 822 and 823 do not apply (accounting date for trade not 5th April), and
- (d) an election by the individual has effect to apply the alternative method of calculating profits for the tax year (see sections 818 and 819).

#### Textual Amendments

- F40** Words in s. 815(a) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 16](#) (with [Sch. 1 para. 37](#))

*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 2. (See end of Document for details)*

**F41** Words in s. 815(b) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 16** (with [Sch. 1 para. 37](#))

## **816 Alternative calculation of profits: trading income**

- (1) This section applies if the individual's [<sup>F42</sup>qualifying care] receipts for the tax year are the receipts of a trade.
- (2) The profits of the trade for the tax year are—
  - (a) the individual's total [<sup>F43</sup>qualifying care] receipts for the tax year, less
  - (b) the individual's limit for the tax year.

### **Textual Amendments**

**F42** Words in s. 816(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 17** (with [Sch. 1 para. 37](#))

**F43** Words in s. 816(2)(a) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 17** (with [Sch. 1 para. 37](#))

## **817 Alternative calculation of profits: income chargeable under Chapter 8 of Part 5**

- (1) This section applies if the individual has [<sup>F44</sup>qualifying care] receipts for the tax year which are chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).
- (2) The amount charged for the tax year arising from all the arrangements from which the receipts are derived is—
  - (a) the individual's total [<sup>F45</sup>qualifying care] receipts for the tax year, less
  - (b) the individual's limit for the year.

### **Textual Amendments**

**F44** Words in s. 817(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 18** (with [Sch. 1 para. 37](#))

**F45** Words in s. 817(2)(a) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 18** (with [Sch. 1 para. 37](#))

## **818 Election for alternative method of calculating profits**

- (1) An individual may elect for the alternative method of calculating profits given in sections 816 and 817 to apply if—
  - (a) the individual qualifies for [<sup>F46</sup>qualifying care] relief for a tax year,
  - (b) the individual's total [<sup>F47</sup>qualifying care] receipts for the tax year exceed the individual's limit for the tax year, and
  - (c) sections 822 and 823 do not apply (accounting date for trade not 5th April).
- (2) An election under this section—
  - (a) must specify the tax year for which it is made, and
  - (b) has effect for that year (unless withdrawn by notice given by the individual).

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- (3) An election or notice of withdrawal under this section must be made or given to the Inland Revenue on or before—
- (a) the first anniversary of the normal self-assessment filing date for the tax year for which the election is made, or
  - (b) such later date as the Inland Revenue may, in a particular case, allow.

#### **Textual Amendments**

- F46** Words in s. 818(1)(a) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 19** (with [Sch. 1 para. 37](#))
- F47** Words in s. 818(1)(b) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 19** (with [Sch. 1 para. 37](#))

### **819 Adjustment of assessment**

- (1) This section applies if—
- (a) an individual does not make an election under section 818 for a tax year on or before the date for making the election, and
  - (b) an adjustment is made after that date to the profits from the individual's provision of [<sup>F48</sup>qualifying care] on which the individual is liable to tax for the tax year.
- (2) The individual may make an election under this section to apply the alternative method of calculating profits given in sections 816 and 817 for the tax year.
- (3) The election—
- (a) must specify that tax year, and
  - (b) has effect for that tax year (unless withdrawn by notice given by the individual).
- (4) An election or notice of withdrawal under this section must be made or given to the Inland Revenue on or before—
- (a) the first anniversary of the normal self-assessment filing date for the tax year in which the adjustment is made, or
  - (b) such later date as the Inland Revenue may, in a particular case, allow.

#### **Textual Amendments**

- F48** Words in s. 819(1)(b) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 20** (with [Sch. 1 para. 37](#))

### *Periods of account not ending on 5th April*

### **820 Periods of account not ending on 5th April**

- [<sup>F49</sup>(1)] Sections 822 and 823 (which deal with the period of account of a trade not ending on 5th April) apply if—
- (a) an individual qualifies for [<sup>F50</sup>qualifying care] relief for a tax year,

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- (b) the individual's [<sup>F51</sup>qualifying care] receipts for the tax year are the receipts of a trade, and
- (c) the period of account in which those receipts accrue does not end on 5th April in the tax year.

[<sup>F52</sup>(2) Where an election under section 25A (cash basis for small businesses) has effect in relation to the trade, any reference in this section or sections 821 to 823 to the period of account in which receipts accrue is to be read as a reference to the period of account in which receipts are received.]

#### Textual Amendments

- F49** S. 820(1): s. 820 renumbered as s. 820(1) (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 43\(a\)](#)
- F50** Words in s. 820(a) substituted (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 21](#) (with [Sch. 1 para. 37](#))
- F51** Words in s. 820(b) substituted (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 21](#) (with [Sch. 1 para. 37](#))
- F52** S. 820(2) inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 43\(b\)](#)

## 821 Meaning of “relevant limit”

- (1) For the purposes of sections 822 and 823 the “relevant limit” for a period of account in which the individual's [<sup>F53</sup>qualifying care] receipts accrue is found by adding—
  - (a) the fixed amount for the tax year in which that period ends or (as the case may be) the individual's share of the fixed amount for that year (found in accordance with sections 808 to 810), and
  - (b) for each of the tax years in which the period of account falls, each amount per [<sup>F54</sup>adult or] child for the individual for each part of the period of account falling in that tax year.
- (2) For this purpose an individual's amount per [<sup>F55</sup>adult or] child for a part of the period of account is each amount that would be the individual's amount per [<sup>F55</sup>adult or] child under section 811 for the tax year in which the part falls if that part were the income period for that year.

#### Textual Amendments

- F53** Words in s. 821(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 22\(2\)\(a\)](#) (with [Sch. 1 para. 37](#))
- F54** Words in s. 821(1)(b) inserted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 22\(2\)\(b\)](#) (with [Sch. 1 para. 37](#))
- F55** Words in s. 821(2) inserted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 22\(3\)](#) (with [Sch. 1 para. 37](#))

## 822 Full relief

- (1) This section applies if the individual's total [<sup>F56</sup>qualifying care] receipts for the period of account do not exceed the individual's relevant limit for the period.

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- (2) The profits or losses of the trade for the tax year are treated as nil.

#### Textual Amendments

**F56** Words in s. 822(1) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 23](#) (with [Sch. 1 para. 37](#))

### 823 Alternative method of calculating profits

- (1) This section applies if—
- (a) the individual's total [<sup>F57</sup>qualifying care] receipts for the period of account exceed the individual's relevant limit for the period, and
  - (b) the individual makes an election under this section.
- (2) The profits of the trade for the tax year are—
- (a) the individual's total [<sup>F58</sup>qualifying care] receipts for the period of account, less
  - (b) the individual's relevant limit for the period.
- (3) Sections 818(2) and (3) and 819 (adjustment of assessment) apply for the purposes of an election under this section as they apply for the purposes of an election under those sections.

#### Textual Amendments

**F57** Words in s. 823(1)(a) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 24](#) (with [Sch. 1 para. 37](#))

**F58** Words in s. 823(2)(a) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 24](#) (with [Sch. 1 para. 37](#))

### *Capital allowances for foster carers carrying on trade*

### 824 Capital allowances: introduction

- (1) In this group of sections (that is, this section and sections 825 to 827) an individual is a “relevant individual” if in a tax year—
- (a) the full [<sup>F59</sup>qualifying care] relief in section 813 or 822 (trading income), or
  - (b) the alternative method of calculating profits under section 816 or 823 (trading income),
- applies to the individual for the tax year.
- (2) In this group of sections a period is a “relevant chargeable period” of a relevant individual if—
- (a) it is a chargeable period of the individual, and
  - (b) it corresponds to the income period for the individual's [<sup>F60</sup>qualifying care] receipts in the tax year for which the individual is a relevant individual.
- [<sup>F61</sup>(2A) In this group of sections, in relation to a relevant individual—
- (a) “the care business” means the provision of qualifying care by the individual,

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- (b) “care business expenditure” means qualifying expenditure incurred on the provision of plant or machinery wholly or partly for the care business,
  - (c) “care business pool” means a pool of care business expenditure (even if the balance for the time being is nil), and
  - (d) a reference to “another activity” is to a qualifying activity carried on by the individual other than the care business.
- (2B) In this group of sections, plant or machinery is referred to as being “in” a pool if qualifying expenditure incurred on its provision has been allocated at any time to that pool.]
- (3) Expressions—
- (a) which are used in CAA 2001 and in this group of sections, but
  - (b) which are not otherwise defined in this Chapter,
- have the same meaning in this group of sections as in CAA 2001.

#### Textual Amendments

- F59** Words in s. 824(1)(a) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 25** (with [Sch. 1 para. 37](#))
- F60** Words in s. 824(2)(b) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 25** (with [Sch. 1 para. 37](#))
- F61** S. 824(2A)(2B) inserted (16.12.2010) (with effect in accordance with s. 3(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **s. 3(2)**

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

- C1** Ss. 824-827 modified (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 1 para. 37(2)** (with [Sch. 1 para. 37](#))

### [<sup>F62</sup>825 Unallocated capital expenditure

- (1) This section applies if—
  - (a) at the beginning of a relevant chargeable period of a relevant individual, there is care business expenditure which has not been allocated to a care business pool,
  - (b) the individual is entitled under CAA 2001 to allocate the expenditure, or a part of it, to a care business pool for that period, and
  - (c) the previous chargeable period was not a relevant chargeable period.
- (2) So much of the expenditure as the individual is entitled to allocate to a care business pool for that period is to be treated for the purposes of CAA 2001 as allocated to the appropriate kind of care business pool for that period (whether or not any of it is actually so allocated).
- (3) For the different kinds of pool, see section 54 of CAA 2001.

#### Textual Amendments

- F62** Ss. 825-825D substituted (16.12.2010) for s. 825 (with effect in accordance with s. 3(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **s. 3(3)** (with [s. 3\(5\)](#))

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## 825A Deemed disposal event

- (1) Subsection (2) applies to a care business pool for a relevant chargeable period of a relevant individual if the previous chargeable period was not a relevant chargeable period.
- (2) CAA 2001 is to apply as if—
  - (a) a disposal event occurs immediately after the beginning of the relevant chargeable period in respect of plant or machinery in the pool,
  - (b) disposal receipts fall to be brought into account in the pool for the period because of that event, and
  - (c) the total of the receipts equals the sum of amount A and amount B (or nil if there are no such amounts).
- (3) Amount A is the amount of any expenditure treated as allocated to the pool for the period by virtue of section 825 (whether or not any of it is actually so allocated).
- (4) Amount B is the amount of any unrelieved qualifying expenditure carried forward in the pool from the previous chargeable period.

### Textual Amendments

**F62** Ss. 825-825D substituted (16.12.2010) for s. 825 (with effect in accordance with s. 3(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 3\(3\)](#) (with [s. 3\(5\)](#))

## 825B Plant or machinery used for care business

- (1) This section applies if—
  - (a) disposal receipts fall to be brought into account in a pool for a relevant chargeable period by virtue of section 825A, and
  - (b) on the re-start date, the relevant individual still owns any of the plant or machinery which was in that pool and is still using any of it for the purposes of the care business.
- (2) The re-start date is the first day of the first subsequent chargeable period which is not a relevant chargeable period.
- (3) A reference in this section to the retained plant or machinery is to so much of the plant or machinery in the pool as the relevant individual—
  - (a) still owns on the re-start date, and
  - (b) is still using on that date for the purposes of the care business.
- (4) The individual is to be treated under CAA 2001—
  - (a) as having brought the retained plant or machinery into use on the re-start date for the purposes of the care business,
  - (b) as having incurred capital expenditure on the provision of that plant or machinery for those purposes on that date, and
  - (c) as owning that plant and machinery as a result of having incurred that expenditure.
- (5) The total amount of expenditure which the individual is to be treated as having incurred (for all of the retained plant or machinery) is the smaller of—



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- (a) the total market value of the retained plant or machinery on the re-start date, and
  - (b) an amount equal to the disposal receipts brought into account in the pool as described in subsection (1)(a).
- (6) If the individual is treated under section 13 of CAA 2001 as having incurred notional expenditure before the re-start date as a result of bringing plant or machinery in the pool into use for the purposes of another activity, the amount mentioned in subsection (5)(b) must be reduced by the total amount of that expenditure, as determined in accordance with section 825C(2).
- (7) But subsection (6) does not apply if the plant or machinery which was brought into use for the purposes of another activity is the retained plant or machinery (for example, where it was brought into use only partly for the purposes of that other activity).
- (8) The question whether the provision of the retained plant or machinery is to be treated as wholly or only partly for the purposes of the care business is to be determined according to whether the use referred to in subsection (3)(b) is wholly or only partly for those purposes.

#### Textual Amendments

**F62** Ss. 825-825D substituted (16.12.2010) for s. 825 (with effect in accordance with s. 3(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 3(3) (with s. 3(5))

### 825C Plant or machinery used for other qualifying activities

- (1) This section applies if—
- (a) disposal receipts fall to be brought into account in a pool by virtue of section 825A because of a disposal event, and
  - (b) after that disposal event, the relevant individual brings any of the plant or machinery in that pool into use for the purposes of another activity.
- (2) Section 13 of CAA 2001 has effect as if the total amount of the notional expenditure which the individual is treated under that section as having incurred, for all of the plant or machinery in that pool which is brought into use for the purposes of the other activity, were the smaller of—
- (a) the total market value of that plant or machinery on the day on which it is brought into use for the purposes of that other activity, and
  - (b) an amount equal to the disposal receipts brought into account in the pool as mentioned in subsection (1)(a).
- (3) Subsection (2) does not apply to plant or machinery brought into use for the purposes of another activity if—
- (a) the individual is treated by virtue of section 825B as having already brought that plant or machinery into use for the purposes of the care business, or
  - (b) this section has already applied to that plant or machinery since the disposal event.
- (4) The amount mentioned in subsection (2)(b) must be reduced by the appropriate sum if some plant or machinery in the pool is brought into use for the purposes of another activity after —

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- (a) the individual is treated by virtue of section 825B as having brought other plant or machinery in that pool into use for the purposes of the care business, or
  - (b) this section has applied to other plant or machinery in that pool since the disposal event.
- (5) The appropriate sum is—
- (a) in a case within paragraph (a) of subsection (4), the total amount of expenditure which the individual is treated by virtue of section 825B as having incurred on the provision of that other plant or machinery, and
  - (b) in a case within paragraph (b) of that subsection, the total amount of the notional expenditure (as determined in accordance with subsection (2)) which the individual is treated under section 13 of CAA 2001 as having incurred on the provision of that other plant or machinery since the disposal event.

#### Textual Amendments

**F62** Ss. 825-825D substituted (16.12.2010) for s. 825 (with effect in accordance with s. 3(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **s. 3(3)** (with s. 3(5))

### 825D Subsequent disposal events

- (1) This section applies to an item of plant or machinery which a relevant individual—
  - (a) is treated by virtue of section 825B as bringing into use, or
  - (b) brings into use in circumstances where section 825C(2) applies.
- (2) The date (in either case) on which the item is brought or treated as brought into such use is referred to in this section as the applicable date.
- (3) The first disposal event to occur in respect of the item on or after the applicable date is to be regarded for the purposes of section 60(3) of CAA 2001 as the first such event.
- (4) That event requires a disposal value to be brought into account regardless of anything to the contrary in section 64(1) of that Act.
- (5) But a reference in section 62 of that Act to the amount of qualifying expenditure incurred by the individual on the provision of that item is a reference to the amount of qualifying expenditure originally incurred by the individual on its provision (and not to any proportion of the total amount treated by virtue of section 825B or 825C as having been incurred).]

#### Textual Amendments

**F62** Ss. 825-825D substituted (16.12.2010) for s. 825 (with effect in accordance with s. 3(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **s. 3(3)** (with s. 3(5))

### 826 Excluded capital expenditure

Capital expenditure (“excluded capital expenditure”) does not constitute qualifying expenditure for the purposes of CAA 2001 if it is—

- (a) incurred by a relevant individual in a relevant chargeable period, and

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- (b) incurred on the provision of plant or machinery wholly or partly for the provision of [<sup>F63</sup>qualifying care] by the individual.

#### Textual Amendments

**F63** Words in s. 826(b) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 27](#) (with [Sch. 1 para. 37](#))

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

**C1** Ss. 824-827 modified (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 37\(2\)](#) (with [Sch. 1 para. 37](#))

### 827 Excluded capital expenditure: subsequent treatment of asset

If a relevant individual incurs excluded capital expenditure in a relevant chargeable period, section 13 of CAA 2001 applies as if, on the first day of the first subsequent chargeable period which is not a relevant chargeable period—

- (a) the individual brings into use for the provision of [<sup>F64</sup>qualifying care] such of the plant or machinery on which the expenditure was incurred as the individual still owns on that day, and
- (b) the individual owns the plant or machinery as a result of incurring capital expenditure on its provision for other purposes.

#### Textual Amendments

**F64** Words in s. 827(a) substituted (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 28](#) (with [Sch. 1 para. 37](#))

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

**C1** Ss. 824-827 modified (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 1 para. 37\(2\)](#) (with [Sch. 1 para. 37](#))

### *Overlap profit*

### 828 Overlap profit

- (1) This section applies if the profits or losses of a trade for a tax year are calculated in accordance with section 813, 816, 822 or 823.
- (2) Nothing in this Chapter is to be read—
- (a) as preventing a deduction for overlap profit under section 205 or 220 in calculating the profits or losses of the trade for the tax year, or
- (b) as preventing overlap profit from arising by reference to profits of the trade calculated for the tax year in accordance with section 816 or 823 (alternative calculation of profits).
- (3) “Overlap profit” has the same meaning in this section as it has in Chapter 15 of Part 2 (see section 204).

**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 2.