

Status: Point in time view as at 29/04/2009.

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

SCHEDULES

SCHEDULE 2

Section 883

TRANSITIONALS AND SAVINGS ETC.

PART 1

GENERAL PROVISIONS

Continuity of the law: general

- 1 The repeal of provisions and their enactment in a rewritten form by this Act does not affect the continuity of the law.
- 2 Paragraph 1 does not apply to any change made by this Act in the effect of the law.
- 3 Any subordinate legislation or other thing which—
- (a) has been made or done, or has effect as if made or done, under or for the purposes of a superseded enactment so far as it applied for relevant tax purposes, and
 - (b) is in force or effective immediately before the commencement of the corresponding rewritten provision,
- has effect after that commencement as if made or done under or for the purposes of the rewritten provision.
- 4 (1) Any reference (express or implied) in this Act, another enactment or an instrument or document to a rewritten provision is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes, a reference to the superseded enactment so far as applying for those relevant tax purposes.
- (2) In particular, any reference (express or implied) in this Act, another enactment or an instrument or document to—
- (a) the profits of a UK property business,
 - (b) relevant foreign income, or
 - (c) similar concepts created by this Act,
- is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding concept in a superseded enactment had effect for income tax purposes, a reference to that concept so far as applying for income tax purposes.
- (3) Any reference (express or implied) in this Act, another enactment or an instrument or document to—
- (a) things done under or for the purposes of a rewritten provision, or
 - (b) things falling to be done under or for the purposes of a rewritten provision,
- is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes,

Status: Point in time view as at 29/04/2009.

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

a reference to things done or falling to be done under or for the purposes of the superseded enactment so far as applying for those relevant tax purposes.

- 5 (1) Any reference (express or implied) in any enactment, instrument or document to a superseded enactment in its application for relevant tax purposes is to be read, so far as is required for those relevant tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten provision has effect, a reference to the rewritten provision.
- (2) In particular, any reference (express or implied) in any enactment, instrument or document to Schedule A, D or F or the Cases of Schedule D in their application for income tax purposes is to be read, so far as is required for income tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten concept has effect, a reference to the rewritten concept.
- (3) Any reference (express or implied) in any enactment, instrument or document to—
- (a) things done under or for the purposes of a superseded enactment in its application for relevant tax purposes, or
 - (b) things falling to be done under or for the purposes of a superseded enactment in its application for relevant tax purposes,
- is to be read, so far as is required for those relevant tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten provision has effect, a reference to things done or falling to be done under or for the purposes of the rewritten provision.
- 6 (1) Paragraphs 1 to 5 have effect instead of section 17(2) of the Interpretation Act 1978 (c. 30) (but are without prejudice to any other provision of that Act).
- (2) Paragraphs 4 and 5 apply only so far as the context permits.

General saving for old transitional provisions and savings

- 7 (1) The repeal by this Act of a transitional or saving provision relating to the coming into force of a provision rewritten in this Act does not affect the operation of the transitional or saving provision, so far as it is not specifically rewritten in this Act but remains capable of having effect in relation to the corresponding provision of this Act.
- (2) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.
- (3) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the operation of the saving so far as it is not specifically rewritten in this Act but remains capable of having effect.

General saving for section 9(5) of ICTA

- 8 (1) Sub-paragraph (2) applies if—
- (a) as a result of this Act, an enactment which applies to both income tax and corporation tax (“the original enactment”) has become an enactment which applies to income tax and an enactment which applies to corporation tax (“the successor enactments”),
 - (b) immediately before 6th April 2005, section 9(5) of ICTA (taxes treated as one in certain circumstances) had effect in relation to the original enactment, and

Status: Point in time view as at 29/04/2009.

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

- (c) no express provision is made by this Act to preserve this effect.
- (2) The successor enactments are not to be affected in their operation by the fact that income tax and corporation tax are distinct taxes but they are to apply in relation to income tax and corporation tax as if they were one tax so far as is—
 - (a) consistent with the Corporation Tax Acts, and
 - (b) required to preserve the effect of section 9(5) of ICTA,and the successor enactments are to be read accordingly.

Partnerships involving companies

- 9 (1) References in this Act to any person are to be read, in the case of a person acting in partnership with other persons of whom at least one is a company chargeable to corporation tax, as references to all the partners so far as is required for the purposes of preserving the continuity of the law.
- (2) References to a company or other person in any provision amended in its application for corporation tax purposes by this Act are to be read, in the case of a company acting in partnership with other persons of whom at least one is not a company, as references to all the partners so far as is required for the purposes of preserving the continuity of the law.

Interpretation

- 10 (1) In this Part—
 - “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),
 - “relevant tax purposes” means, in relation to a superseded enactment, tax purposes for which the enactment has been rewritten by this Act, and
 - “superseded enactment” means an earlier enactment which has been rewritten by this Act for certain tax purposes (whether it applied only for those purposes or for those and other tax purposes).
- (2) References in this Part to the repeal of a provision include references to its revocation and to its express or implied disapplication for income tax purposes of this Act.
- (3) References in this Part to tax purposes are not limited to income tax purposes.

PART 2

CHANGES IN THE LAW

- 11 (1) This paragraph applies if, in the case of any person—
 - (a) a thing is done or an event occurs before 6th April 2005, and
 - (b) because of a change in the law made by this Act, the tax consequences of that thing or event for the relevant period are different from what they would otherwise have been.
- (2) If that person so elects, this Act applies with such modifications as may be necessary to secure that the tax consequences for the relevant period are the same as they would have been if the change in the law had not been made.
- (3) In sub-paragraphs (1) and (2) “the relevant period” means—

Status: Point in time view as at 29/04/2009.

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

- (a) for income tax purposes, any period of account beginning before and ending on or after 6th April 2005, and
 - (b) for corporation tax purposes, any accounting period beginning before and ending on or after 6th April 2005.
- (4) If this paragraph applies in the case of two or more persons in relation to the same thing or event, an election made under this paragraph by any one of those persons is of no effect unless a corresponding election is made by the other or each of the others.
- (5) An election under this paragraph must be made—
- (a) for income tax purposes, on or before the first anniversary of the normal self-assessment filing date for the tax year in which the period of account ends, and
 - (b) for corporation tax purposes, no later than two years after the end of the accounting period.

PART 3

TRADING INCOME

Unpaid remuneration

- 12 (1) This paragraph applies for the purposes of section 36.
- (2) In relation to a period of account ending before 27th November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount which is held by an intermediary with a view to its becoming employees' remuneration.
- (3) In relation to a period of account ending on or after 27th November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount—
- (a) in respect of employee benefit contributions (within the meaning of sections 38 to 44) made before that date, and
 - (b) which is held by an intermediary,
- with a view to its becoming employees' remuneration.

Employee benefit contributions

- 13 Sections 38 to 44 do not apply to deductions that would otherwise be allowed—
- (a) for a period ending before 27th November 2002, or
 - (b) in respect of employee benefit contributions made before that date.
- 14 (1) In relation to any time before the coming into force of ITEPA 2003—
- (a) section 40(7) applies as if, in the definition of “employment income tax charge”, for “tax under ITEPA 2003” there were substituted “ income tax under Schedule E ”,
 - (b) section 41(1) applies as if for “treated as received” to the end there were substituted “ treated as received for the purposes of section 202A(1)(a) of ICTA (applying the rules in section 202B(1) to (6) of that Act (receipts basis of assessment for Schedule E)). ”, and
 - (c) section 41(3) applies as if for “tax under ITEPA 2003” there were substituted “ income tax under Schedule E ”.

Status: Point in time view as at 29/04/2009.

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

- (2) The express provision made by this paragraph does not affect the construction of other provisions of this Act as a result of the operation of paragraph 5 of this Schedule on paragraph 4 of Schedule 7 to ITEPA 2003 (references in enactment to rewritten provisions include corresponding repealed provisions) or on any similar provision (for example paragraph 4 of Schedule 3 to CAA 2001).
- 15 (1) Subject to sub-paragraph (7), sections 38 to 44 apply before 6th April 2006 with the following amendments.
- (2) In section 38(4)—
- (a) for paragraphs (b) and (c) and the word “or” at the end of paragraph (c) substitute—
 - “(b) contributions under a retirement benefits scheme within the meaning of Chapter 1 of Part 14 of ICTA (see section 611 of that Act),
 - (c) contributions under a personal pension scheme approved under Chapter 4 of that Part (see section 630 of that Act), or”, and
 - (b) omit “For the purposes of paragraph (c)” to the end.
- (3) In section 39—
- (a) in subsection (1)(b) omit “, or in respect of, present or former”, and
 - (b) in subsection (2) omit “present or former”.
- (4) In section 40—
- (a) in subsection (1) for “, C or D” substitute “ or C ”, and
 - (b) omit subsection (5).
- (5) In section 41(1) omit paragraph (b) and the word “and” before it.
- (6) In section 44(1) omit the definition of “employer-financed retirement benefits scheme”.
- (7) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained an amendment substituting sections 38 to 44 of this Act for those sections as amended by sub-paragraphs (2) to (6) above.

Car or motor cycle hire

- 16 In relation to expenditure incurred under a contract entered into before 11th March 1992, section 48(1) and (2) apply with the substitution of “£8,000” for “ £12,000 ”.
- 17 Section 50 does not apply to expenditure which is incurred—
- (a) before 17th April 2002, or
 - (b) on the hiring of a car mentioned in that section which is first registered before that date.

Crime-related payments

- 18 Section 55(1)(b) does not apply to expenditure which was incurred before 1st April 2002.

Status: Point in time view as at 29/04/2009.

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

Tenants under taxed leases

- 19 (1) This paragraph relates to the operation of sections 60 to 67 where, 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 65A(4) or 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 a tax year before the tax year 2005-06 or an accounting period ending before 6th April 2005, 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 paragraph and paragraph 20 such a receipt is referred to as a “pre-commencement receipt”.

- (2) For the purposes of sections 60 to 67—
 - (a) the lease is treated as a taxed lease, and
 - (b) the pre-commencement receipt is treated as a taxed receipt.
 - (3) For the purposes of those sections, the “receipt period” of a taxed receipt which is a pre-commencement receipt is—
 - (a) in the case of a pre-commencement 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 pre-commencement 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 sections 60 to 67 the “unreduced amount” of a taxed receipt which is a pre-commencement receipt is the amount of the pre-commencement receipt as a result of section 34 or 35 of ICTA, before the operation of section 37(2) or (3) of ICTA.
 - (5) Sub-paragraph (6) applies to a taxed receipt which is a pre-commencement 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 included the carrying out of work which gave or will give rise to expenditure for which an allowance has been, or may be, made under the enactments relating to capital allowances, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.
- 20 (1) This paragraph provides for the application of section 61 as a result of section 63 if—
- (a) a lease is a taxed lease as a result of paragraph 19,
 - (b) another lease is granted out of the taxed lease,
 - (c) in calculating the amount of a pre-commencement receipt in respect of the other lease, 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
 - (d) as a result of paragraph 19 the amount chargeable on the superior interest is the taxed receipt for the purposes of section 61.

- (2) Sections 61 to 65 apply as follows—

Status: Point in time view as at 29/04/2009.

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

- (a) the pre-commencement receipt is treated as if it were a lease premium receipt for the purposes of sections 64 and 65,
 - (b) references in those sections to the reduction under section 288 by reference to the taxed receipt are, in relation to the pre-commencement 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 pre-commencement receipt is—
 - (i) in the case of a pre-commencement 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 pre-commencement 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.
- (3) References to a reduction under section 37(2) or (3) of ICTA in a pre-commencement receipt by reference to the amount chargeable on the superior interest are to the difference between—
- (a) the amount of the pre-commencement 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.

Seconded employees

- 21 (1) This paragraph applies if—
- (a) the period of account of a trade begins before 1st April 2003 and ends on or after 6th April 2005, and
 - (b) in that period of account the person carrying on the trade made the services of a person employed for the purposes of the trade available to a self-governing school within the meaning of the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39) on a basis that was stated and intended to be temporary.
- (2) For the purposes of section 70 an “educational establishment”, in Scotland, includes such a school (despite the fact that, following the abolition of such schools on 1st April 2003, section 86(5)(d) of ICTA is not re-written in this Act).
- (3) This paragraph applies to professions and vocations as it applies to trades.

Training courses for employees

- 22 (1) This paragraph applies if, without the modifications to section 588 of ICTA (training courses for employees) made by this Act—
- (a) section 588(5) of ICTA would operate in relation to an employee by virtue of paragraph (a) of that provision and paragraph 37 of Schedule 7 to ITEPA 2003 (savings in relation to tax years before 2003-04),
 - (b) section 588(5) of ICTA would operate in relation to an employer by virtue of paragraph (b) of that provision and paragraph 37 of Schedule 7 to ITEPA 2003, or

Status: Point in time view as at 29/04/2009.

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

- (c) section 588(6) and (7) of ICTA would operate in relation to an employer by virtue of paragraph 37 of Schedule 7 to ITEPA 2003.
- (2) Those modifications do not apply in relation to—
- (a) the operation of section 588(5) of ICTA in relation to the employee as mentioned in sub-paragraph (1)(a),
 - (b) the operation of section 588(5) of ICTA in relation to the employer as mentioned in sub-paragraph (1)(b), and
 - (c) the operation of section 588(6) and (7) of ICTA in relation to the employer as mentioned in sub-paragraph (1)(c).
- 23 (1) This paragraph applies if—
- (a) at any time during the period beginning with 6th April 2003 and ending with 5th April 2005, a person (“the employer”) incurred expenditure in paying or reimbursing retraining course expenses within the meaning of section 311 of ITEPA 2003,
 - (b) the employer's liability to income tax for any tax year has been determined (before or after the passing of this Act, and by assessment or otherwise) on the assumption that, by virtue only of section 588(3) of ICTA, the employer is entitled to a deduction on account of the expenditure, and
 - (c) before 6th April 2005, no assessment has been made under section 29(1) of TMA 1970 by virtue of section 588(5) of ICTA of an amount due in consequence of the failure by the person in respect of whom the expenditure was incurred to meet a condition of the kind mentioned in section 312(1)(b) (i) or (ii) of ITEPA 2003.
- (2) Section 75 (retraining courses: recovery of tax) applies in relation to the employer as if the condition in subsection (1) were met.
- (3) In the application of that section to the employer, references to “the employee” are to the person in respect of whom the expenditure was incurred by the employer.

Contributions to urban regeneration companies

- 24 Section 82 does not apply to any contribution which was made to an urban regeneration company before 1st April 2003.

Local enterprise agencies

- 25 To the extent that any function of the Scottish Ministers under section 79 of ICTA was, before 6th April 2005, also exercisable by the Secretary of State for the purposes specified in section 2(2) of the European Communities Act 1972 (c. 68) that function as rewritten in—
- (a) section 83(2) (meaning of “local enterprise agency”),
 - (b) section 84 (approval of local enterprise agencies), or
 - (c) section 85 (supplementary provisions with respect to approvals),
- continues to be also exercisable by the Secretary of State for those purposes.

Expenses connected with patents, designs and trade marks

- 26 (1) This paragraph applies if—

Status: Point in time view as at 29/04/2009.

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

- (a) fees have been incurred, but not paid, for the purposes of a trade in connection with any of the matters mentioned in section 89 or 90,
 - (b) the fees were incurred in a period of account no part of which falls in the basis period for the tax year 2005-06 or a subsequent tax year, and
 - (c) the fees have not been taken into account in calculating the profits of the trade of any tax year.
- (2) A deduction is allowed for the fees in calculating the profits of the period of account in which they are paid.

Payments to Export Credits Guarantee Department

- 27 (1) This paragraph applies if—
- (a) a sum is payable, but not paid, by the person carrying on a trade to the Export Credits Guarantee Department under an agreement mentioned in section 91(1)(a) or with a view to entering into such an agreement,
 - (b) the sum was incurred in a period of account no part of which falls in the basis period for the tax year 2005-06 or a subsequent tax year, and
 - (c) the sum has not been taken into account in calculating the profits of the trade of any tax year.
- (2) A deduction is allowed for the sum in calculating the profits of the period of account in which it is paid.
- (3) This paragraph applies to professions and vocations as it applies to trades.

Reverse premiums

- 28 (1) Sections 101 and 102 do not apply to a reverse premium—
- (a) which was received before 9th March 1999, or
 - (b) to which the recipient was entitled immediately before that date.
- (2) In determining whether a reverse premium was one to which the recipient was entitled immediately before 9th March 1999, no account is to be taken of any arrangements made on or after that date.

Sums recovered under insurance policies etc.

- 29 (1) Section 106 does not apply if—
- (a) a person carrying on a trade recovers a sum mentioned in that section, and
 - (b) the sum has been taken into account in calculating the profits of the trade of a tax year before the tax year 2005-06.
- (2) This paragraph applies to professions and vocations as it applies to trades.

Meaning of “designated educational establishment”

- 30 To the extent that the power of the National Assembly for Wales to make regulations under section 84(5) of ICTA was, before 6th April 2005, also exercisable by the Secretary of State for the purpose of—
- (a) implementing any Community obligation of the United Kingdom,
 - (b) enabling any such obligation to be implemented,

Status: Point in time view as at 29/04/2009.

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

- (c) enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of the Community Treaties to be exercised, or
- (d) dealing with matters arising out of or related to any such obligation or rights or the operation of section 2(1) of the European Communities Act 1972 (c. 68),

that power as rewritten in section 110 continues to be also exercisable by the Secretary of State for those purposes.

Films and sound recordings

- 31 (1) This paragraph applies to—
- (a) production expenditure in respect of the original master version of a film which (within the meaning of Chapter 9 of Part 2) was completed before 21st March 2000,
 - (b) production expenditure in respect of the original master version of a film which (within the meaning of that Chapter) is completed on or after that date, if the first day of principal photography was before that date (but see sub-paragraph (4)), and
 - (c) acquisition expenditure in respect of the original master version of a film which was incurred before 6th April 2000.
- (2) For this purpose acquisition expenditure in respect of the original master version of a film includes the acquisition of any description of rights in the original master version of a film (whether or not held or acquired with it).
- (3) In relation to expenditure to which this paragraph applies—
- (a) section 130(4) applies with the omission of “that are held or acquired with it”,
 - (b) section 131(5) applies with the insertion at the end of “ or, if the expenditure is acquisition expenditure and the acquisition takes place after that time, at the time of the acquisition ”, and
 - (c) section 134(1) applies with the insertion after “acquisition expenditure,” of “ and the expenditure would otherwise constitute capital expenditure on the provision of plant or machinery for the purposes of Part 2 of CAA 2001, ”.
- (4) This paragraph does not apply to expenditure falling within sub-paragraph (1)(b) if the person incurring the expenditure so elects.
- (5) Any such election is irrevocable.
- 32 (1) Sections 134 and 135 do not apply in relation to expenditure incurred by a person carrying on a trade which consists of or includes the exploitation of original master versions of films if—
- (a) the expenditure is incurred on the production or acquisition of an original master version of a film completed before 10th March 1992 (within the meaning of Chapter 9 of Part 2),
 - (b) the original master version is a certified master version,
 - (c) its value is expected to be realised over a period of not less than two years, and
 - (d) the film is genuinely intended for theatrical release.
- (2) Sub-paragraph (1)(d) does not apply if—

Status: Point in time view as at 29/04/2009.

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

- (a) the original master version of the film was certified before 17th April 2002 by the Secretary of State under Schedule 1 to the Films Act 1985 (c. 21) as a qualifying film, tape or disc, or
 - (b) an application for such certification was received by the Secretary of State before that date.
- 33 Section 137 does not apply in relation to expenditure which was incurred before 10th March 1992.
- 34 ^{[F1}Sections 138 and 138A do] not apply in relation to production or acquisition expenditure in respect of the original master version of a film which was completed before 10th March 1992.

Textual Amendments

F1 Words in [Sch. 2 para. 34](#) substituted (with effect as mentioned in [Sch. 3 para. 31\(2\)](#) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 59, Sch. 3 para. 30\(4\)](#)

- 35 (1) Any requirement in Chapter 9 of Part 2 for a film to be genuinely intended for theatrical release does not apply to a film completed (within the meaning of that Chapter)—
- (a) on or after 17th April 2002 if—
 - (i) an application for certification was received by the Secretary of State before that date, or
 - (ii) the film is a qualifying drama (see sub-paragraph (2)),
 - (b) before 1st January 2002 if—
 - (i) the film was certified by the Secretary of State before 17th April 2002, or
 - (ii) an application for certification was received by the Secretary of State before 17th April 2002, or
 - (c) at any time in the period beginning with 1st January 2002 and ending with 16th April 2002.

References in this sub-paragraph to certification are to certification of the original master version of the film under Schedule 1 to the Films Act 1985 (c. 21) as a qualifying film, tape or disc.

- (2) A film is a qualifying drama if—
- (a) it is a drama with an average production expenditure per hour of running time of the completed film greater than £500,000,
 - (b) it was commissioned on or before 17th April 2002, and
 - (c) the first day of principal photography was on or before 30th June 2002.
- (3) For the purposes of sub-paragraph (2) “drama” does not include—
- (a) anything in the nature of—
 - (i) an advertisement or promotional film,
 - (ii) a discussion programme, news or current affairs programme, quiz show, panel show, variety show or similar entertainment, or
 - (iii) a training film, or
 - (b) a film of a live event or of a theatrical or artistic performance given otherwise than for the purpose of being filmed,

Status: Point in time view as at 29/04/2009.

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

but it includes a documentary involving the dramatic reconstruction of events if the dramatic content forms 50% or more of the running time.

- (4) For the purposes of sub-paragraph (2) the production expenditure on a film means the total production expenditure in respect of the original master version of the film (as defined by section 141).
- 36 Sections 139 and 140 do not apply if—
- (a) the expenditure was incurred before 2nd July 1997 (as determined by section 142), or
 - (b) the film was completed before that date (within the meaning of Chapter 9 of Part 2).
- 37 Sections 139(4) and 141(3) do not apply to any film which was completed before 17th April 2002.
- 38 The requirement in section 140 for the acquisition to be a relevant acquisition does not apply in relation to expenditure which was incurred before 30th June 2002 (as determined by section 142).

Certain telecommunication rights

- 39 Chapter 10 of Part 2 does not apply to an indefeasible right to use a telecommunications cable system (“IRU”) acquired before 21st March 2000.
- 40 (1) That Chapter also does not apply to an IRU acquired by a person on or after that date (directly or indirectly) from an associate or an associated company if the associate or associated company acquired the IRU before that date.
- (2) In sub-paragraph (1)—
- “associate” has the meaning given by section 417(3) and (4) of ICTA, and
 - “associated company”—
- (a) in relation to another company, has the meaning given by section 416(1) of that Act, and
 - (b) in relation to any other person, means a company of which that person has control within the meaning of subsections (2) to (6) of that section.

Dealers in securities etc: taxation of amounts taken to reserves

- 41 (1) Section 149 does not apply in relation to periods of account beginning before 1st January 2005.
- (2) But, in the case of a company required to prepare accounts—
- (a) under the Companies Act 1985 (c. 6), or
 - (b) under the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)),
- that section does apply in relation to a period of account beginning before that date for which the company is required or permitted to prepare such accounts in accordance with international accounting standards.

Purchase or sale of woodlands

- 42 Section 156 does not apply if the purchase mentioned in subsection (2) of that section was made under a contract entered into before 1st May 1963.

Status: Point in time view as at 29/04/2009.

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

Ministers of religion

- 43 (1) This paragraph applies if—
- (a) expenses have been incurred, but not borne, by a minister of a religious denomination on any of the matters mentioned in section 159(3),
 - (b) the expenses were incurred in a period of account no part of which falls in the basis period for the tax year 2005-06 or a subsequent tax year, and
 - (c) the part of the expenses corresponding to the amount under section 159(4) has not been taken into account in calculating the profits of the profession or vocation of the minister of any tax year.
- (2) A deduction is allowed under section 159(3) for that part of the expenses in calculating the profits of the period of account in which the expenses are borne.

Waste disposal

- 44 If the predecessor ceased to carry on the trade carried on by the trader, or ceased to carry on a trade so far as relating to the site, before 21st March 2000, section 165 applies as if—
- (a) “, or a predecessor,” in subsection (1) were omitted, and
 - (b) subsections (3) and (4) were omitted.
- 45 If the trade carried on by the trader was started before 1st April 1993, the definition of “waste disposal licence” in section 167(1) applies for the purposes of sections 165 and 166 as if paragraphs (d) and (e) of the definition were omitted (radioactive waste and nuclear site authorisations or licences).
- 46 Section 167(2) does not apply for the purposes of sections 165 and 166 if the trade was started before 1st April 1993.

Valuation of trading stock on cessation

- 47 (1) This paragraph applies if—
- (a) a period of account of a trade begins before 6th April 2004 and ends on or after 6th April 2005 (“the straddling period of account”), and
 - (b) as a result of paragraph 48, the profits or losses of the period of account are to be calculated in accordance with Part 2 of this Act.
- (2) Subsection (2) of section 173 (valuation of trading stock on cessation) does not apply in relation to the part of the period of account which—
- (a) begins with the straddling period of account, and
 - (b) ends with 5th April 2004,
- and the profits or losses of the trade are to be calculated accordingly.

Apportionment of profits or losses to tax years before tax year 2005-06

- 48 (1) This paragraph applies if—
- (a) a period of account of a trade, profession or vocation begins before 6th April 2005 and ends on or after that date,
 - (b) the period of account, or part of the period of account, falls in the basis period for the tax year 2005-06,
 - (c) part of the period of account also falls in the basis period (or periods) for an earlier tax year (or years), and

Status: Point in time view as at 29/04/2009.

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

- (d) in order to arrive at the profits or losses of the basis period for any earlier tax year it is necessary to apportion the profits or losses of the period of account to any part of the period of account falling in that basis period.
- (2) The profits or losses of the period of account—
 - (a) are calculated in accordance with Part 2 of this Act (and therefore, to that extent, that Part has effect for tax years before the tax year 2005-06), and
 - (b) may be apportioned in accordance with section 203 to any part of the period of account falling in a basis period for a tax year before the tax year 2005-06.

Treatment of business start-up payments received in an overlap period

- 49 (1) There is an exception to the rule that, subject to Part 8, the charge to tax under Chapter 2 of Part 2 on the profits of a trade, profession or vocation of a tax year operates by reference to the profits of the basis period for the tax year (which may include a period falling before 6th April 2005).
- (2) The exception is that section 207 does not apply to payments received before 6th April 2005.

Profits or losses of a trade, profession or vocation previously chargeable in accordance with section 65(1) of ICTA

- 50 (1) This paragraph applies if—
- (a) a person carries on a trade, profession or vocation wholly outside the United Kingdom, and
 - (b) the trade, profession or vocation was chargeable to income tax in accordance with section 65(1) of ICTA (Case IV and V assessments: general) for a tax year before 2005-06.
- (2) If the trade, profession or vocation was so chargeable for the tax year 2004-05, the person is treated for the purpose of determining the basis period for the tax year 2005-06 and subsequent tax years as if the person started to carry on the trade, profession or vocation on 6th April 2005.
- (3) ^{F2}

Textual Amendments

F2 Sch. 2 para. 50(3) repealed (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by *Income Tax Act 2007 (c. 3)*, ss. 1027, 1031, 1034, Sch. 1 para. 588, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

Profits of mines, quarries and other concerns not chargeable by reference to a basis period

- 51 (1) This paragraph applies if any profits or losses arising out of land in the case of any concern specified in section 55(2) of ICTA—
- (a) arose in the tax year 2004-05, and
 - (b) were calculated for that tax year otherwise than by reference to a basis period.

Status: Point in time view as at 29/04/2009.

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

- (2) For the purpose of determining the basis period for the tax year 2005-06 and subsequent tax years, the concern is treated as if it were a trade which was started to be carried on by a person on 6th April 2005.
- (3) Paragraph 48 of this Schedule applies in relation to any case to which this paragraph applies as if references to a basis period for a tax year (an “earlier tax year”) before the tax year 2005-06 were references to that earlier tax year.

Overlap profit: pre-April 1994 trades, professions and vocations

- 52
- (1) This paragraph applies in the case of a trade, profession or vocation which was—
 - (a) set up and commenced by a person before 6th April 1994, and
 - (b) continued by the person after 5th April 1997,and the profits of which were chargeable to income tax under Case I or II of Schedule D for the tax year 1997-98.
 - (2) For the purposes of Chapter 15 of Part 2 “overlap profit” includes the amount of profits or gains of the basis period for the tax year 1997-98 which—
 - (a) arose after the end of the basis period for the tax year 1996-97 or, in the case of a trade or profession carried on by a firm, the basis period of the firm for that year, and
 - (b) arose before 6th April 1997.
 - (3) In calculating the amount of the profits or gains of the basis period for the tax year 1997-98 which arose as mentioned above—
 - (a) any deduction of a capital allowance, and
 - (b) any addition of a balancing charge,are ignored.
 - (4) But sub-paragraph (3) does not apply in the case of a trade or profession carried on by a firm which included both an individual and a company.
 - (5) For the purposes of this paragraph the basis period for the tax year 1996-97 is determined in accordance with paragraph 1 of Schedule 20 to FA 1994 despite the repeal by this Act of that paragraph.
 - (6) This paragraph is subject to Schedule 22 to FA 1995 (prevention of exploitation of the transitional rules facilitating self-assessment).
- 53
- (1) This paragraph applies in the case of income which—
 - (a) was immediately derived from the carrying on of a trade, profession or vocation set up and commenced by a person before 6th April 1994 and continued by the person after 5th April 1998, and
 - (b) was chargeable to income tax under Case IV or V of Schedule D for the tax year 1997-98.
 - (2) But, in the case of income which was chargeable to tax by reference to the amounts of income received in the United Kingdom, this paragraph applies only if the date on which the first amount of income was received in the United Kingdom was before 6th April 1994.

Status: Point in time view as at 29/04/2009.

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

- (3) For the purposes of Chapter 15 of Part 2 “overlap profit” includes the amount of profits or gains of the basis period for the tax year 1997-98 which arose before 6th April 1997.
- (4) This paragraph is subject to Schedule 22 to FA 1995 (prevention of exploitation of the transitional rules facilitating self-assessment).
- 54 The repeal by this Act of paragraphs 2, 6 and 10 of Schedule 20 to FA 1994 (changes for facilitating self-assessment: transitional provisions and savings) does not affect the continuing application of the assumptions mentioned in paragraph 11(4) of that Schedule (double taxation relief).

Averaging profits of farmers and creative artists

- 55 (1) The first tax years which may be the subject of an averaging claim under section 222 are the tax years 2004-05 and 2005-06.
- (2) If—
- (a) an individual carries on a trade of farming or market gardening in the United Kingdom in partnership, and
 - (b) but for the repeal by this Act of section 96 of ICTA the individual could have made a claim under that section in relation to the profits of that trade for the tax years 2004-05 and 2005-06,
- the individual may make an averaging claim under section 222 of this Act in relation to those profits for those tax years (despite anything in Chapter 16 of Part 2 of this Act to the contrary).

Adjustment on change of basis

- 56 (1) Chapter 17 of Part 2 applies to a change of basis taking effect for a period of account which ends on or after 6th April 2005.
- (2) For this purpose the period of account for which a change of basis takes effect is the first period of account for which the new basis is adopted.
- 57 (1) Subject to sub-paragraph (3), section 232 applies before 6th April 2006 with the following amendment.
- (2) In subsection (4)—
- (a) before paragraph (a) insert—

“(aa) relevant earnings within section 623(2)(c) or 644(2)(c) of ICTA, or”,
 - (b) omit paragraph (b) and the word “or” before it, and
 - (c) for “earned income or relevant UK earnings” substitute “relevant earnings or earned income”.
- (3) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained an amendment substituting section 232(4) of this Act for that subsection as amended by sub-paragraph (2) above.
- 58 If—
- (a) an individual has made an election under paragraph 12 of Schedule 22 to FA 2002 (election by barrister or advocate to accelerate adjustment charge),

Status: Point in time view as at 29/04/2009.

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

- (b) as a result of the election sub-paragraph (4) of that paragraph applies in relation to the tax year 2004-05, and
- (c) the election is in force immediately before 6th April 2005,
- the election continues to apply in relation to the tax year 2005-06 and subsequent tax years (despite paragraph 3 of this Schedule).
- 59 Section 104(4) of ICTA (which, despite its repeal, applies in relation to any change of accounting basis occurring before 6th April 1999) does not apply if the person who would be liable to tax as a result of the change was born before 6th April 1917.

Post-cessation receipts

- 60 (1) Subject to sub-paragraph (4), section 256 applies before 6th April 2006 with the following amendments.
- (2) In subsection (1)(b)—
- (a) after “from the trade was” insert “ relevant earnings within section 623(2)(c) or 644(2)(c) of ICTA or ”, and
- (b) omit “or relevant UK earnings within section 189(2)(b) of FA 2004”.
- (3) In subsection (2) for “earned income or relevant UK earnings” substitute “ relevant earnings or earned income ”.
- (4) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained an amendment substituting section 256 of this Act for that section as amended by sub-paragraphs (2) and (3) above.
- 61 Chapter 18 of Part 2 does not apply in relation to a post-cessation receipt if—
- (a) the person who would be liable to tax on the receipt was born before 6th April 1917, and
- (b) the cessation of the trade occurred before 6th April 2000.

PART 4

PROPERTY INCOME

Apportionment of profits or losses to tax years before tax year 2005-06

- 62 (1) This paragraph applies if—
- (a) a period of account of a property business begins before 6th April 2005 and ends on or after that date, and
- (b) in order to arrive at the profits or losses of a tax year before the tax year 2005-06 it is necessary to apportion the profits or losses of the period of account to any part of that period falling in a tax year before the tax year 2005-06.
- (2) The profits or losses of the period of account—
- (a) are calculated in accordance with Part 3 of this Act (and therefore, to that extent, that Part has effect for tax years before the tax year 2005-06), and
- (b) may be apportioned in accordance with section 275 to any part of the period of account falling in a tax year before the tax year 2005-06.

Status: Point in time view as at 29/04/2009.

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

Lease premiums

- 63 Section 277 does not apply in relation to a lease granted pursuant to a contract entered into before 4th April 1963.

Lease premiums: sums payable instead of rent

- 64 Section 279 does not apply in relation to a lease granted—
- (a) before 6th April 1963, or
 - (b) pursuant to a contract entered into before 4th April 1963.

Lease premiums: sums payable for surrender of lease

- 65 Section 280 does not apply in relation to a lease granted—
- (a) before 6th April 1963, or
 - (b) pursuant to a contract entered into before 4th April 1963.

Lease premiums: assignments for profit of lease granted at undervalue

- 66 Section 282 does not apply in relation to a lease granted —
- (a) before 6th April 1963, or
 - (b) pursuant to a contract entered into before 4th April 1963.

Lease premiums: pre-commencement receipts treated as taxed receipts

- 67 (1) This paragraph relates to the operation of sections 287 to 298 where, 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 65A(4) or 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 a tax year before the tax year 2005-06 or an accounting period ending before 6th April 2005, 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 paragraph and paragraphs 68 and 69 such a receipt is referred to as a “pre-commencement receipt”.

- (2) For the purposes of Chapter 4 of Part 3—
 - (a) the lease is treated as a taxed lease, and
 - (b) the pre-commencement receipt is treated as a taxed receipt.
- (3) For the purposes of that Chapter, the “receipt period” of a taxed receipt which is a pre-commencement receipt is—
 - (a) in the case of a pre-commencement 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 pre-commencement 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 that Chapter the “unreduced amount” of a taxed receipt which is a pre-commencement receipt is the amount of the pre-commencement receipt as

Status: Point in time view as at 29/04/2009.

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

a result of section 34 or 35 of ICTA, before the operation of section 37(2) or (3) of ICTA.

- (5) Sub-paragraph (6) applies to a taxed receipt which is a pre-commencement 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 included the carrying out of work which gave or will give rise to expenditure for which an allowance has been, or may be, made under the enactments relating to capital allowances, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.

Lease premiums: taking account of reductions in pre-commencement receipts

- 68 (1) This paragraph applies if—
- (a) in calculating the amount of a pre-commencement 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) as a result of paragraph 67 the amount chargeable on the superior interest is the taxed receipt for the purposes of Chapter 4 of Part 3.
- (2) References to a reduction under section 37(2) or (3) of ICTA in a pre-commencement receipt by reference to the amount chargeable on the superior interest are to the difference between—
- (a) the amount of the pre-commencement 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 pre-commencement receipts by reference to the amount chargeable on the superior interest.
- (4) Sections 292 to 294 apply as follows—
- (a) the pre-commencement 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 pre-commencement 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 pre-commencement receipt is—
 - (i) in the case of a pre-commencement 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 pre-commencement 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.

Status: Point in time view as at 29/04/2009.

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

Lease premiums: taking account of deductions for rent as a result of section 37(4) or 87(2) of ICTA

- 69 (1) Sub-paragraph (2) applies if—
- (a) in calculating the profits of a trade, profession or vocation for a tax year before the tax year 2005-06 or an accounting period ending before 6th April 2005, a person 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) as a result of paragraph 67 the amount chargeable is the taxed receipt for the purposes of Chapter 4 of Part 3.
- (2) References in sections 290(5)(b) and 295(2)(b) 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 person is treated as paying under section 87(2) of ICTA by reference to the amount chargeable.
- (3) Sub-paragraph (4) applies if—
- (a) in calculating the profits of a Schedule A business or an overseas property business (within the meaning of section 65A(4) or 70A(4) of ICTA) for a tax year before the tax year 2005-06 or an accounting period ending before 6th April 2005, a person 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) as a result of paragraph 67 the amount chargeable on the superior interest is the taxed receipt for the purposes of Chapter 4 of Part 3.
- (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 65A(4) or 70A(4) of ICTA) for the rent that the person is treated as paying as a result of section 37(4) of ICTA by reference to the amount chargeable on the superior interest.

Lease premiums: rules for determining effective duration of lease

- 70 (1) In relation to a lease granted after 12th June 1969 and before 25th August 1971, for sections 303 and 304 substitute—

“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.

Rule 1: Where the terms of a lease include provision for the determination of the lease by notice given by the landlord, the lease is not to be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice so given.

Rule 2: A lease is not to be treated as having been granted for a term longer than one ending on a date before the end of the term for which the lease was granted, if the terms of the lease or any other circumstances make it unlikely that the lease will continue beyond that date.

Status: Point in time view as at 29/04/2009.

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

Rule 3: Where 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.

- (2) Rule 2 applies by reference to the facts known or ascertainable at the time of the grant of the lease.
 - (3) In applying the rules, it is assumed that all parties concerned, whatever their relationship, act as if they were at arm's length.
 - (4) In this section, in relation to Scotland, “term”, where referring to the duration of a lease, means period.”
- (2) This paragraph does not apply if the determination is for the purposes of section 281 (sums payable for variation or waiver of [^{F3}terms] of lease).

Textual Amendments

F3 Word in [Sch. 2 para. 70\(2\)](#) 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. 646\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))

- 71 (1) In relation to a lease granted before 13th June 1969, for sections 303 to 305 substitute—

“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.

Rule 1: Where the effective duration of a lease is being determined after the date on which the lease has for any reason come to an end, the duration is taken to have extended from its commencement to that date.

Rule 2: Where the terms of the lease include provision for the determination of the lease by notice given either by the landlord or by the tenant, the lease is not to be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice.

Rule 3: A lease is not to be treated as having been granted for a term longer than one ending on a date before the end of the term for which the lease was granted, if the terms of the lease or any other circumstances make it unlikely that the lease will continue beyond that date.

- (2) Rules 2 and 3 are subject to rule 1.
 - (3) Rules 2 and 3 apply in accordance with circumstances prevailing at the time of the determination.
 - (4) In this section, in relation to Scotland, “term”, where referring to the duration of a lease, means period.”
- (2) This paragraph does not apply if the determination is for the purposes of section 281 (sums payable for variation or waiver of [^{F4}terms] of lease).

Status: Point in time view as at 29/04/2009.

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

Textual Amendments

- F4** Word in [Sch. 2 para. 71\(2\)](#) 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. 646\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))

Reverse premiums

- 72 (1) Section 311 does not apply to a reverse premium—
- (a) which was received before 9th March 1999, or
 - (b) to which the recipient was entitled immediately before that date.
- (2) In determining whether a reverse premium was one to which the recipient was entitled immediately before 9th March 1999, no account is to be taken of any arrangements made on or after that date.

Deductions for expenditure on energy-saving items

- 73 Sections 312 to 314 do not apply to expenditure incurred before 6th April 2004.

Commercial letting of furnished holiday accommodation

- 74 (1) Subject to sub-paragraph (4), Chapter 6 of Part 3 applies before 6th April 2006 with the following amendments.
- (2) In section 322(2)—
- (a) after paragraph (b) insert—
 - “(ba) section 623(2)(c) or 644(2)(c) of ICTA (income regarded as relevant earnings for pension purposes: see section 504A of that Act),”
 - (b) at the end of paragraph (d) insert “ and ”, and
 - (c) omit paragraph (f) and the word “and” before it.
- (3) In section 328(2)—
- (a) before paragraph (a) insert—
 - “(aa) income regarded as relevant earnings for pension purposes under section 623(2)(c) or 644(2)(c) of ICTA, or”, and
 - (b) omit paragraph (b) and the word “or” before it.
- (4) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained amendments substituting sections 322(2) and 328(2) of this Act for those subsections as amended by sub-paragraphs (2) and (3) above.
- 75 (1) Subject to sub-paragraph (3), section 504A of ICTA (as inserted by Schedule 1 to this Act) applies before 6th April 2006 with the following amendment.
- (2) In subsection (2)—
- (a) after paragraph (a) insert—
 - “(ab) section 623(2)(c) or 644(2)(c) (income regarded as relevant earnings for pension purposes), and”, and
 - (b) omit paragraph (c) and the word “and” before it.

Status: Point in time view as at 29/04/2009.

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

- (3) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained an amendment substituting section 504A of ICTA (as inserted by Schedule 1 to this Act) for that section as amended by sub-paragraph (2) above.

Adjustment on change of basis

- 76 (1) Chapter 7 of Part 3 applies to a change of basis taking effect for a period of account which ends on or after 6th April 2005.
- (2) For this purpose the period of account for which a change of basis takes effect is the first period of account for which the new basis is adopted.

Meaning of “mineral royalties”

- 77 The definition of “mineral royalties” in section 341(2) does not include any rent receivable before 6th April 1970.

PART 5

SAVINGS AND INVESTMENT INCOME: GENERAL

Open-ended investment companies: saving for powers to make provision corresponding to provisions applicable to unit trusts

- 78 (1) Despite the enactment by this Act in the OEIC sections of provisions previously contained in regulations made under section 152 of FA 1995, the Treasury may continue to make regulations under that section for achieving any purpose that could be achieved by such regulations before the coming into force of the OEIC sections.
- (2) Accordingly—
- (a) regulations under that section may make provision for securing, in relation to the matters mentioned in subsection (1)(a) to (c) of that section, that the provision made by the OEIC sections corresponds, subject to such modifications as the Treasury consider appropriate, to the provision made by the enactments mentioned in subsection (2) of that section in relation to—
- (i) unit trusts,
- (ii) rights under, and the assets subject to, such trusts, and
- (iii) transactions for purposes connected with such trusts, and
- (b) that section has effect with such modifications as are required for the purposes of this paragraph.
- (3) In this paragraph—
- “the OEIC sections” means—
- (a) sections 373 to 375 of this Act (under which certain amounts are treated as interest paid by open-ended investment companies), and
- (b) sections 386 to 388 of this Act (under which certain amounts are treated as dividends paid by open-ended investment companies), and
- “unit trust” has the same meaning as in section 152 of FA 1995 (see subsection (7)).

Status: Point in time view as at 29/04/2009.

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

Deeply discounted securities issued in accordance with qualifying earn-out right

- 79 Despite the repeal by this Act of section 104(4) of FA 2002, sections 430(5) and 442 (securities issued in accordance with qualifying earn-out right) apply whenever the security was issued.

Deeply discounted securities: deemed transfers of strips on 5th April

- 80 (1) Despite the repeal by this Act of paragraph 14(4) of Schedule 13 to FA 1996, a person who was deemed under that paragraph to have transferred a strip on 5th April 2005 is treated for the purposes of Chapter 8 of Part 4 (profits from deeply discounted securities) as if the person had re-acquired the strip under that paragraph on 6th April 2005 for an amount equal to the amount for which it was deemed to have been transferred.
- (2) That Chapter and this Part of this Schedule apply to a deemed transfer and reacquisition under that paragraph (including a reacquisition within subparagraph (1)) as if it were a transfer and reacquisition under section 445(2) and (3).
- (3) Section 452 (power to modify that Chapter for strips) applies as if this paragraph were in that Chapter.

Deeply discounted securities: restriction of profits and losses on strips

- 81 (1) Sections 447 and 448 (restriction of profits and losses on strips by reference to original acquisition cost) do not apply to a strip acquired before 15th January 2004.
- (2) For the purposes of paragraph (1) any deemed acquisitions under paragraph 14(4) of Schedule 13 to FA 1996 or section 445(3) of this Act are ignored.

Deeply discounted securities: saving for charities' losses

- 82 The references in section 454(4) and (5) to trustees include any person who, had the loss been a profit—
- (a) would have been eligible for relief from tax for the tax year in which the loss is sustained as a result of [^{F5}any of sections 521(4), 522(5), 523(5), 524, 529 to 533, 536 and 537 of ITA 2007 (certain exemptions: special rules about charitable trusts)], or
- (b) would have been so eligible but for section [^{F6}541 of that Act (restrictions on exemptions: attributing items of income to the non-exempt amount)] .

Textual Amendments

- F5** Words in *Sch. 2 para. 82(a)* substituted (6.4.2007 with effect as stated in *s. 1034(1)* of the amending Act) by *Income Tax Act 2007 (c. 3)*, ss. 1027, 1034, **Sch. 1 para. 589(2)** (with transitional provisions and savings in *Sch. 2*)
- F6** Words in *Sch. 2 para. 82(b)* substituted (6.4.2007 with effect as stated in *s. 1034(1)* of the amending Act) by *Income Tax Act 2007 (c. 3)*, ss. 1027, 1034, **Sch. 1 para. 589(3)** (with transitional provisions and savings in *Sch. 2*)

Status: Point in time view as at 29/04/2009.

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

Deeply discounted securities: saving for pension trustees' losses

- 83 The references in section 454(4) and (5) to trustees include any person who, had the loss been a profit, would have been eligible for relief from tax for the tax year in which the loss is sustained as a result of—
- (a) section 592(2) of ICTA (exemption from income tax for income from investments or deposit held for exempt approved pension schemes),
 - (b) section 608(2)(a) of ICTA (corresponding exemption for superannuation funds approved before 6th April 1980),
 - (c) section 613(4) of ICTA (corresponding exemption for parliamentary pension funds),
 - (d) section 614(2), (3), (4) or (5) of ICTA (corresponding exemption for certain overseas pension funds),
 - (e) section 620(6) of ICTA (corresponding exemption for retirement annuity funds), or
 - (f) section 643(2) of ICTA (corresponding exemption for approved personal pension schemes).

Exclusion of deeply discounted securities from section 711 to 728 of ICTA (accrued income profits)

84 F7

Textual Amendments

F7 Sch. 2 para. 84 repealed (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1031, 1034, [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

Gains from contracts for life insurance etc: foreign policies of life insurance

- 85 (1) This paragraph modifies the application of—
- (a) section 474(4) (foreign policies of life insurance which are not qualifying policies),
 - (b) section 531(6) (foreign policies of life insurance to which section 530 applies), and
 - (c) section 532 (relief for policies and contracts with European Area Insurers),
- in relation to a policy of life insurance which meets conditions A and B.
- (2) Condition A is that the policy is a foreign policy of life insurance by virtue of paragraph (a) of the definition of that term in section 476(3).
- (3) Condition B is that the income of the company which issued the policy was charged to corporation tax under section 445 of ICTA for an accounting period ending on or after the day on which the policy was issued.
- (4) The policy is treated as having been a qualifying policy for any part of the chargeable period when—
- (a) it would have been treated as a qualifying policy apart from section 474(4), and
 - (b) the conditions in either sub-paragraph (3) or sub-paragraph (4) of paragraph 24 of Schedule 15 to ICTA (as it then had effect) were met.

Status: Point in time view as at 29/04/2009.

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

- (5) The policy meets condition B in section 531(6) if—
- (a) the conditions in either sub-paragraph (3) or sub-paragraph (4) of paragraph 24 of Schedule 15 to ICTA (as it then had effect) were met throughout the chargeable period, and
 - (b) the conditions in sub-paragraph (3) of that paragraph are met throughout the period—
 - (i) beginning immediately after the end of the chargeable period, and
 - (ii) ending with the date on which the gains mentioned in section 531(1) arise.
- (6) Despite the definition of “policy period” in section 532(5), for the purposes of determining whether conditions A to C in that section have been met in relation to the policy or contract throughout the policy period, that period is to be taken not to include—
- (a) any part of the chargeable period when the conditions in either sub-paragraph (3) or sub-paragraph (4) of paragraph 24 of Schedule 15 to ICTA (as it then had effect) were met, and
 - (b) any subsequent period when the conditions in sub-paragraph (3) of that paragraph are met.
- (7) In this paragraph “the chargeable period” means the period—
- (a) beginning with the date on which the policy was issued, and
 - (b) ending with the last day of the last accounting period for which the company which issued the policy was liable to tax under section 445 of ICTA.

Gains from contracts for life insurance etc: exclusion of pension policies

- 86 (1) Subject to sub-paragraph (4), before 6th April 2006 Chapter 9 of Part 4 applies with the following amendments.
- (2) For section 479 (exclusion of pension policies) substitute—

“479 Exclusion of pension policies

- (1) This Chapter does not apply to a pension policy.
- (2) In this section “pension policy” means—
 - (a) a policy of life insurance issued in connection with an approved scheme,
 - (b) a policy of insurance which is, or is evidence of, a contract for the time being approved under section 621 of ICTA (contracts to provide for surviving spouses [^{F8}and surviving civil partners] and dependants), or
 - (c) a policy of life insurance held in connection with an approved personal pension scheme.
- (3) In this section—

“approved scheme” has the meaning given by section 612(1) of ICTA, and

“personal pension scheme” and “approved”, in relation to such a scheme, have the meaning given by section 630(1) of ICTA.”

Status: Point in time view as at 29/04/2009.

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

^{F9}(3)

- (4) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained amendments—
- (a) substituting section 479 of this Act for that section as substituted by subparagraph (2), and
 - (b) substituting “ non-registered occupational pension ” for “sponsored superannuation” in section 486 of this Act.

Textual Amendments

- F8** Words in Sch. 2 para. 86(2) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **199**
- F9** [Sch. 2 para. 86\(3\)](#) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 14 para. 17\(n\)](#)

Gains from contracts for life insurance etc: rights partially assigned

- 87 Section 505 (assignments involving co-ownership) does not have effect in relation to any transaction which—
- (a) took place in relation to a policy or contract in an insurance year beginning on or before 5th April 2001, and
 - (b) would otherwise and by reason only of the application of that section fall to be taken into account as an assignment of a part of or a share in the rights conferred by the policy or contract in a calculation under—
 - (i) section 507 (periodic calculations in part surrender and assignment cases), or
 - (ii) section 511 (transaction-related calculations in part surrender and assignment cases).
- 88 (1) This paragraph applies if a calculation under section 507 or 511 in relation to a policy or contract requires account to be taken of any part of or share in the rights conferred by the policy or contract which has been assigned for money or money's worth in an insurance year beginning on or before 5th April 2001.
- (2) Section 508 (the value of rights partially assigned) applies for the purposes of the valuation of each such part or share as if—
- (a) in subsection (1) after “surrendered” (in both places where it occurs) there were inserted “ or assigned ”,
 - (b) in that subsection after “surrender” there were inserted “ or assignment ”, and
 - (c) subsection (4) were omitted.

Gains from contracts for life insurance etc: regulations providing for relief where foreign tax chargeable

- 89 Regulations made under section 534 by virtue of paragraph 4 of this Schedule may apply—
- (a) in relation to gains arising on or after 29th November 1994, and

Status: Point in time view as at 29/04/2009.

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

- (b) in relation to any gain arising before that date the income tax on which has not been the subject of an assessment that became final and conclusive before that date.

Gains from contracts for life insurance etc: pure protection group life policies

- 90 (1) For the purposes of Chapter 9 of Part 4, any event occurring before 9th April 2003 in relation to a policy of life insurance which, at the time of the event, was a pure protection group life policy is deemed not to be a chargeable event.
- (2) For the purposes of this paragraph a policy of life insurance is at any time a pure protection group life policy if at that time it is a group life policy whose terms do not provide for any sums or other benefits to be paid or conferred except on death or disability.

Gains from contracts for life insurance etc: assessment of trustees etc

- 91 Despite paragraph 4(1) of this Schedule, the references in section 151(2) of FA 1989 (assessment of trustees etc.) to gains treated as arising under Chapter 9 of Part 4 of this Act do not include references to gains treated as arising under Chapter 2 of Part 13 of ICTA on chargeable events before 6th April 1998.

Transactions in deposits

- 92 Section 551 (charge to income tax on profits from disposal of deposit rights) does not apply if the person disposing of the rights acquired them before 7th March 1973.
- 93 (1) This paragraph applies if—
- (a) a right falling within the definition of “uncertificated right” in section 552(2) is a right under an arrangement made on or before 16th July 1992, and
 - (b) the right to call for the issue of a certificate of deposit (as defined in that section) is a right under that arrangement.
- (2) Chapter 11 of Part 4 (transactions in deposits) applies with the omission of section 552(1)(c) and (d)(i).

Disposals of futures and options involving guaranteed returns: certain pre-6th February 1998 transactions

- 94 (1) A transaction consisting in the running of a future to delivery or the exercise of an option is not treated as a disposal for the purposes of Chapter 12 of Part 4 if it took place before 6th February 1998.
- (2) Sub-paragraph (1) is to be read as if it were part of section 564 (deemed disposal where futures run to delivery or options are exercised) (see, in particular, section 565).

Disposals of futures and options involving guaranteed returns: rates of tax for pension trustees

- 95 For the tax year 2005-06 section 568(4) (by virtue of which income within Chapter 12 of Part 4 arising to certain pension trustees is not treated as income to which section 686 of ICTA applies) has effect with the substitution for the words from “held” onwards of the words “held—

Status: Point in time view as at 29/04/2009.

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

- (a) for the purposes of a fund or scheme established for the sole purpose of providing relevant benefits (within the meaning of section 612 of ICTA), or
- (b) for the purposes of a personal pension scheme (within the meaning of section 630 of ICTA) making provision only for such benefits as are mentioned in section 633 of ICTA (annuities and lump sums meeting certain conditions).”

PART 6

SAVINGS AND INVESTMENT INCOME: INSURANCE CONTRACTS AND POLICIES MADE BEFORE CERTAIN DATES

Pre-20th March 1968 policies and contracts excluded from Chapter 9 of Part 4

- 96 (1) Chapter 9 of Part 4 does not apply to—
- (a) a policy of life insurance issued in respect of an insurance made before 20th March 1968,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date.
- (2) For this purpose a policy of life insurance is treated as issued in respect of an insurance made on or after 20th March 1968 if it is varied on or after that date so as to extend its term or increase the benefits secured.
- (3) A variation is ignored for the purposes of sub-paragraph (2) if—
- (a) before the variation the policy complied with paragraph 2 of Schedule 9 to FA 1968 (general requirements for qualifying endowment policies) except for the amount guaranteed on death,
 - (b) the variation's only effect was to make the policy comply with that paragraph,
 - (c) the variation was effected before 1st January 1969, and
 - (d) the variation did not increase the premiums payable under the policy.

Pre-27th March 1974 policies and contracts: disapplication of section 500(c)

- 97 Section 500(c) (events treated as part surrenders: loan by insurer) does not apply to a policy issued in respect of an insurance made before 27th March 1974 or a contract made before that date.

Pre-27th March 1974 contracts: disapplication of section 531(3)(c)

- 98 Section 531(3)(c) (certain contracts for life annuities excluded from section 530) does not apply to a contract made before 27th March 1974.

Pre-10th December 1974 contracts for a life annuity: disapplication of section 484(1)(d)

- 99 Section 484(1)(d) (chargeable events: death in case of contract for a life annuity which provides for payment of a capital sum on death) does not apply if the contract was made before 10th December 1974.

Status: Point in time view as at 29/04/2009.

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

Pre-14th March 1975 policies and contracts: calculation of gains under section 507

- 100 (1) This paragraph applies to—
- (a) a policy in respect of an insurance made before 14th March 1975, and
 - (b) a contract made before that date.
- (2) Section 507 (method for making periodic calculations under section 498) applies to a policy or contract to which this paragraph applies with the following modifications.
- (3) In subsection (4) (calculation of net total value of rights assigned and surrendered)—
- (a) in paragraph (a) of step 1 after “at any time”, in both places where it occurs, and
 - (b) in paragraph (b) of step 1 after “assigned”, insert “ during the reference period ”.
- (4) In subsection (5) (calculation of net total allowable payments), for step 1 substitute—

“*Step 1* Find the allowable element in each allowable payment made during the reference period by multiplying the amount of the payment by—

$$\frac{X}{20}$$

where X is the number of insurance years in the period beginning with the year in which the payment is made and ending with the reference period or, if it is less, 20.”

- (5) After that step insert—

“*Step 1A* Find any allowable element in any allowable payment made before the reference period by multiplying the amount of the payment by—

$$\frac{20 - Y}{20}$$

where Y is the number of insurance years in the period beginning with the year in which the payment is made and ending with the last insurance year before the reference period or, if it is less, 20.”

- (6) In subsection (6) insert the following definition in the appropriate place—
- ““the reference period” means the period beginning with the first insurance year which falls wholly after 13th March 1975 and ending with the insurance year as at the end of which the calculation under this section is required to be made.”.

Pre-25th March 1982 replacement policies: disapplication of section 542

- 101 Section 542 (replacement of qualifying policies) does not apply if the replacement policy comes into existence before 25th March 1982.

Status: Point in time view as at 29/04/2009.

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

Certain pre-26th June 1982 policies and contracts excluded from Chapter 9 of Part 4

- 102 (1) Chapter 9 of Part 4 does not apply to a pre-1982 assigned policy or contract unless on a date after 23rd August 1982 it has met condition A, B or C.
- (2) In sub-paragraph (1) “pre-1982 assigned policy or contract” means—
- (a) a policy of life insurance issued in respect of an insurance made before 26th June 1982, or
 - (b) a contract for a life annuity made before that date, the rights under which were assigned for money or money's worth before that date and are not held by the original beneficial owner.
- (3) Condition A is that the rights under the policy or contract are again assigned for money or money's worth.
- (4) Condition B is that a payment is made under the policy or contract by way of premium.
- (5) Condition C is that a sum is lent—
- (a) by, or by arrangement with, the body issuing the policy or the body with which the contract was made, and
 - (b) to or at the direction of an individual falling within sub-paragraph (6).
- (6) An individual falls within this sub-paragraph at any time if—
- (a) were a gain to arise in respect of the policy or contract at that time the individual—
 - (i) would be liable for tax in respect of it as a result of section 465 (person liable: individuals), or
 - (ii) would be so liable apart from the requirement in section 465(1) that the individual must be UK resident in the tax year in which the gain arises, or
 - (b) at that time the rights under the policy or contract are held on charitable trusts created by the individual.
- (7) In the case of a qualifying policy, condition C is not met if—
- (a) interest is payable on the loan at a commercial rate, or
 - (b) the loan is to a full-time employee of the body to assist the employee in purchasing or improving a dwelling to be used as the employee's only or main residence.
- (8) In the case of a policy issued in respect of an insurance made before 27th March 1974 or a contract made before that date, this paragraph applies as if sub-paragraph (1) did not refer to condition C.
- (9) A loan which causes condition C to be met is treated for the purposes of sections 500(c) and 501 (loans treated as part surrenders) as having been made at a time when Chapter 9 of Part 4 does apply to gains on the policy or contract.

Certain pre-18th November 1983 policies not foreign policies of life insurance

- 103 (1) A policy of life insurance is not a “foreign policy of life insurance” for the purposes of Chapter 9 of Part 4 (see the definition in section 476(3)) if it is issued in respect of an insurance made before 18th November 1983.

Status: Point in time view as at 29/04/2009.

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

- (2) For the purposes of sub-paragraph (1), a policy issued in respect of an insurance made before 18th November 1983 is treated as issued in respect of one made on or after that date if it is varied on or after that date so as—
- (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance.
- (3) A change in the terms of a policy counts as its variation for the purposes of sub-paragraph (2) if it results from the exercise of an option conferred by the policy to have another policy substituted for it or to have any of its terms changed.

Certain pre-23rd February 1984 policies not foreign capital redemption policies

- 104 A capital redemption policy is not a “foreign capital redemption policy” for the purposes of Chapter 9 of Part 4 (see the definition in section 476(3)) if it is issued in respect of a contract made before 23rd February 1984.

Pre-14th March 1984 policies: disregard of amounts deducted and repaid after tax relief by deduction from premiums abolished

- 105 In the case of a policy issued in respect of an insurance made before 14th March 1984, any amount treated under section 72(9) of FA 1984 as an additional premium is to be ignored for the purposes of—
- (a) calculating the total allowable deductions for the policy under section 494(1), and
 - (b) the definition of “allowable payment” in section 507(6).

Certain pre-20th March 1985 policies: application of section 529(1)

- 106 (1) This paragraph makes provision for the application of section 529(1) (exceptions to section 528) in relation to—
- (a) a foreign policy of life insurance issued in respect of an insurance made on or before 19th March 1985, and
 - (b) a foreign capital redemption policy issued in respect of a contract made on or before that date.
- (2) Section 529(1)(a) (which disapplies section 528 if when the chargeable event occurs or at any time during the policy period the policy is or was held by a non-UK resident trustee) does not apply if the policy was held by a non-UK resident trustee on 19th March 1985.
- (3) Section 529(1)(b) (which disapplies section 528 if when the chargeable event occurs or at any time during the policy period the policy is or was held by non-UK resident trustees) does not apply if on 19th March 1985 the policy was held by a non-UK resident trustee or by two or more trustees any of whom was non-UK resident.

Pre-14th March 1989 qualifying policies: application of section 485(2)(b) and (3)(b)

- 107 (1) In the case of a policy issued in respect of an insurance made before 14th March 1989, section 485(2) and (3) (by virtue of which certain events are only chargeable events if the condition in paragraph (a) or (b) is met) have effect with the omission of paragraph (b) (company interest in the rights under the policy) and the word “or” preceding that paragraph.

Status: Point in time view as at 29/04/2009.

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

- (2) For this purpose a policy is treated as issued in respect of an insurance made on or after 14th March 1989 if it is varied on or after that date so as—
 - (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance.
- (3) Any exercise of rights conferred by a policy counts as its variation for the purposes of sub-paragraph (2).

Pre-14th March 1989 policies and contracts: application of section 501

- 108
- (1) In the case of a policy issued in respect of an insurance made before 14th March 1989 or a contract made before that date, section 501 (part surrenders: loans) does not apply if—
 - (a) a company beneficially owns the rights under the policy,
 - (b) they are held on trusts which a company created, or
 - (c) they are held as security for a company's debt.
 - (2) For the purposes of this paragraph, a policy is treated as issued in respect of an insurance made on or after 14th March 1989 if it is varied on or after that date so as—
 - (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance.
 - (3) Any exercise of rights conferred by a policy counts as its variation for the purposes of sub-paragraph (2).

Contracts in accounting periods beginning before 1st January 1992: disapplication of sections 530 and 539(3)

- 109
- (1) This paragraph applies to a contract for a life annuity made—
 - (a) after 26th March 1974, but
 - (b) in an accounting period of the insurance company or friendly society beginning before 1st January 1992.
 - (2) Section 530 (income tax treated as paid etc.) does not apply to gains from such a contract, except for the purposes of calculating relief under section 535 (top slicing relief).
 - (3) Sub-paragraph (2) is subject to—
 - (a) section 532 (relief for policies and contracts with European Economic Area insurers), and
 - (b) section 534 (regulations providing for relief in other cases where foreign tax chargeable).

- [^{F10}(4) Section 539 (relief for deficiencies) has effect as if for subsections (1) to (6) there were substituted—

“(1) A deficiency from a policy or contract arising on a chargeable event is allowable as a deduction in calculating an individual's net income for a tax year if, had a gain arisen instead on the chargeable event—

- (a) the individual would have been liable to income tax on the gain for that year, or

Status: Point in time view as at 29/04/2009.

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

- (b) the individual would have been so liable apart from the requirement in section 465(1) that the individual must be UK resident in the tax year in which the gain arises.

(2) See section 540 for the cases in which a deficiency is treated as arising from a policy or contract on a chargeable event, section 541 for how the deficiency is calculated and section 469(5) for the apportionment of deficiencies in cases where two or more persons are interested in a policy or contract.”]

- (5) In sub-paragraph (1) “accounting period” is to be read in accordance with [F11 Chapter 2 of Part 2 of CTA 2009].

Textual Amendments

- F10** Words in Sch. 2 para. 109(4) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, **Sch. 1 para. 590**, (with transitional provisions and savings in Sch. 2)
- F11** Words in Sch. 2 para. 109(5) 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. 646(4)** (with [Sch. 2 Pts. 1, 2](#))

Certain pre-17th March 1998 policies: application of section 529(1)

- 110 (1) This paragraph makes provision for the application of section 529(1) (exceptions to section 528) in relation to—
- (a) a foreign policy of life insurance issued in respect of an insurance made before 17th March 1998, and
- (b) a foreign capital redemption policy issued in respect of a contract made before that date.
- (2) Section 529(1)(c) (which disapplies section 528 if when the chargeable event occurs or at any time during the policy period the policy is or was held by a foreign institution) does not apply if the policy was held by a foreign institution on 16th March 1998.

Certain pre-17th March 1998 policies not foreign policies of life insurance

- 111 (1) A policy of life insurance issued in respect of an insurance made before 17th March 1998 is only a “foreign policy of life insurance” for the purposes of Chapter 9 of Part 4 if—
- (a) it falls within paragraph (a) of the definition of that expression in section 476(3), and
- (b) it is not excluded by paragraph 103 (certain pre-18th November 1983 policies not foreign policies of life insurance).
- (2) For the purposes of sub-paragraph (1), a policy issued in respect of an insurance made before 17th March 1998 is treated as issued in respect of one made on or after that date if it is varied on or after that date so as—
- (a) to increase the benefits secured, or
- (b) to extend the term of the insurance.
- (3) Any exercise of rights conferred by a policy counts as its variation for the purposes of sub-paragraph (2).

Status: Point in time view as at 29/04/2009.

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

Pre-17th March 1998 policy or contract: UK resident trustees

- 112 (1) In the case of a 1998 Act excluded policy or contract, section 467 (person liable: UK resident trustees) does not apply if—
- (a) the trusts were created before 17th March 1998, and
 - (b) the person or at least one of the persons who created them was an individual who died before that date.
- (2) For the purposes of sub-paragraph (1)(b), section 472(1) is ignored.
- (3) In this paragraph “a 1998 Act excluded policy or contract” means—
- (a) a policy of life insurance issued in respect of an insurance made before 17th March 1998,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date, but excluding a policy or contract within sub-paragraph (4).
- (4) A policy or contract is within this sub-paragraph if it has been varied on or after 17th March 1998 so as—
- (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance, annuity or capital redemption policy.
- (5) Any exercise of rights conferred by a policy or contract counts as its variation for the purposes of sub-paragraph (4).

Certain pre-23rd March 1999 policies not foreign capital redemption policies

- 113 A capital redemption policy where the contract was made before 23rd March 1999 is only a “foreign capital redemption policy” for the purposes of Chapter 9 of Part 4 if—
- (a) it falls within paragraph (a) of the definition of that expression in section 476(3), and
 - (b) it is not excluded by paragraph 104 (certain pre-23rd February 1984 policies not foreign capital redemption policies).

Pre-9th April 2003 policy or contract: UK resident trustees

- 114 (1) In the case of a 2003 Act excluded policy or contract, section 467(1) (person liable: UK resident trustees) has effect with the omission of the reference to condition C (the effect of which is to extend the circumstances in which trustees holding rights under a policy or contract on non-charitable trusts may be liable for tax).
- (2) In this paragraph “a 2003 Act excluded policy or contract” means—
- (a) a policy of life insurance issued in respect of an insurance made before 9th April 2003,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date, but excluding a policy or contract within sub-paragraph (3).
- (3) A policy or contract is within this sub-paragraph if—
- (a) it has been varied on or after that date (but before the chargeable event on which the gain arises) so as to increase the benefits secured or extend the term of the insurance, annuity or capital redemption policy, or

Status: Point in time view as at 29/04/2009.

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

- (b) there has been an assignment of the rights, or a share in the rights, conferred by the policy or contract to trustees of a non-charitable trust.
- (4) Any exercise of rights conferred by a policy or contract counts as its variation for the purposes of sub-paragraph (3)(a).

Pre-9th April 2003 policy or contract: loans to trustees

- 115 (1) This paragraph makes provision for the application of section 501 (part surrenders: loans) in relation to—
- (a) a policy of life insurance issued in respect of an insurance made before 9th April 2003,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date.
- (2) In the case of a loan made before that date that section applies with the omission—
- (a) of subsections (1)(b) and (3) (by virtue of which the section applies to loans to trustees), and
 - (b) in subsection (5)(b) of the words “, trustees” and “, trustees”.

Pre-9th April 2003 policy: excepted group life policies

- 116 (1) Sub-paragraph (2) applies to a policy if—
- (a) it was issued in respect of an insurance made before 9th April 2003, and
 - (b) immediately before 6th April 2005, paragraph 4(1) (excepted group life policies: time for compliance with conditions in section 539A of ICTA) of Schedule 34 to FA 2003 applied to it.
- (2) The policy is to be taken to have met the conditions referred to in section 480(3) (conditions to be met by an excepted group life policy) throughout the period mentioned in that paragraph.
- (3) Sub-paragraphs (3) and (4) apply where immediately before 6th April 2005 paragraph 4(3) of Schedule 34 to FA 2003 applied to treat two policies as a single policy issued in respect of an insurance made at the time of the making of the insurance in respect of which the earlier of those policies was issued.
- (4) Those policies are to be treated as a single policy so issued for the purposes of—
- (a) Chapter 9 of Part 4,
 - (b) paragraph 90 of this Schedule, and
 - (c) this Part of this Schedule (and, in particular, sub-paragraph (2)).
- (5) Sub-paragraph (2) applies to that single policy taking the reference to the period mentioned in paragraph 4(1) of Schedule 34 to FA 2003 as a reference to the period so mentioned as a result of the application of paragraph 4(3)(b) of that Schedule.

Pre-3rd March 2004 policy or contract: calculation of deficiencies

- 117 (1) In the case of a 2004 Act excluded policy or contract, section 541(4) (calculation of deficiencies) applies with the omission of paragraph (b) and the word “and” immediately preceding it.
- (2) In this paragraph “a 2004 Act excluded policy or contract” means—

Status: Point in time view as at 29/04/2009.

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

- (a) a policy of life insurance issued in respect of an insurance made before 3rd March 2004,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date, but excluding a policy or contract within sub-paragraph (3).
- (3) A policy or contract is within this sub-paragraph if on or after 3rd March 2004—
- (a) it is varied so as to increase the benefits secured,
 - (b) there is an assignment of the rights, or a share of the rights, conferred by it, or
 - (c) all or part of those rights become held as security for a debt.
- (4) Any exercise of rights conferred by a policy or contract counts as its variation for the purposes of sub-paragraph (3)(a).

Pre-1st January 2005 contracts for immediate needs annuities: income tax treated as paid

- 118 (1) A contract for a life annuity made before 1st January 2005 is not to be treated for the purposes of paragraph (c) of section 531(3) (policies and contracts excluded from section 530) as having not formed part of any insurance company's or friendly society's basic life assurance and general annuity business the income and gains of which are subject to corporation tax by reason only of the immediate needs annuities exclusion.
- (2) In sub-paragraph (1) “the immediate needs annuities exclusion” means the words [F12 following paragraph (b) in the definition of “life assurance business”].

Textual Amendments

F12 Words in [Sch. 2 para. 118\(2\)](#) substituted (19.7.2007 with effect as stated in [s. 38\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 38](#), [Sch. 7 para. 79](#) (subject to transitional provisions in [Sch. 7 Pt. 2](#))

PART 7

SAVINGS AND INVESTMENT INCOME: GAINS FROM CONTRACTS FOR LIFE INSURANCE ETC. (PERSONAL PORTFOLIO BONDS)

*Pre-17th March 1998 contract or policy: conditions to be
met for contract or policy not to be a personal portfolio bond*

- 119 For the purposes of Chapter 9 of Part 4, a policy or contract is not a personal portfolio bond if—
- (a) it meets the date condition (see paragraph 120),
 - (b) it meets the non-variation condition (see paragraph 121), and
 - (c) it meets either the first selection condition (see paragraph 122) or the second selection condition (see paragraph 123).

The date condition

- 120 (1) A policy meets the date condition if it is a policy issued in respect of an insurance made before 17th March 1998.

Status: Point in time view as at 29/04/2009.

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

- (2) A contract meets the date condition if it was made before that date.

The non-variation condition

- 121 (1) A policy or contract meets the non-variation condition if it has not been varied on or after 16th July 1998 so as—
- (a) to increase the benefits secured, or
 - (b) to extend the term of the policy or contract.
- (2) Any exercise of rights conferred by a policy or contract counts as its variation for the purposes of this paragraph.

The first selection condition

- 122 A policy or contract meets the first selection condition at any time if for the whole of the period beginning with 6th April 1994 and ending with that time it has not been possible to determine the whole or any part of the benefits under the policy or contract by reference to—
- (a) an index other than a permitted index (see paragraph 126), or
 - (b) property other than permitted property (see paragraph 127).

The second selection condition

- 123 (1) A policy or contract meets the second selection condition at any time if it meets conditions A to C.
- (2) Condition A is that for some or all of the period beginning with 6th April 1994 and ending with that time it has been possible to determine the whole or any part of the benefits under the policy or contract by reference to—
- (a) an index other than a permitted index, or
 - (b) property other than permitted property.
- (3) Condition B is that at no time during that period have the benefits under the policy or contract actually been determined by reference to such property or such an index.
- (4) Condition C is that the terms of the policy or contract were varied before the end of the first insurance year in relation to the policy or contract which began on or after 6th April 1999 so that, since that variation,—
- (a) the only index which it has been possible to select as mentioned in section 516(4) is a permitted index, and
 - (b) the only property which it has been possible to select as mentioned in section 516(4) is permitted property.
- (5) Condition C is subject to paragraphs 124 and 125 (which modify it in cases where any holder of the policy or contract was not UK resident on 17th March 1998 and has become UK resident since that date).

Policy holders becoming UK resident after 17th March 1998

- 124 (1) This paragraph applies to a policy or contract if—
- (a) any holder of the policy or contract on 17th March 1998 was not UK resident on that date,

Status: Point in time view as at 29/04/2009.

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

- (b) such a holder has become UK resident since that date, and
 - (c) the holder did not intend, on the date of the holder's arrival in the United Kingdom by virtue of which the holder became UK resident—
 - (i) to become permanently UK resident, or
 - (ii) to stay in the United Kingdom for at least two years.
- (2) The policy or contract meets condition C in the second selection condition if it has been varied as described in that condition before the later of—
- (a) the end of the first insurance year in relation to the policy or contract beginning on or after 6th April 1999, and
 - (b) the end of the first insurance year in relation to the policy or contract beginning after the date since 17th March 1998 on which the holder of the policy or contract first became UK resident.
- (3) No gain is treated as arising from the policy or contract under section 525 (chargeable events where annual personal portfolio calculations show gains) in relation to any insurance year which ends—
- (a) on or after the date since 17th March 1998 on which the holder of the policy or contract first became UK resident, and
 - (b) before the insurance year in which the variation was made.

Policy holders becoming permanently UK resident after 17th March 1998

- 125 (1) This paragraph applies to a policy or contract if—
- (a) any holder of the policy or contract on 17th March 1998 was a non-UK resident individual on that date,
 - (b) such a holder has become UK resident since that date, and
 - (c) the holder intended, on the date of the holder's arrival in the United Kingdom by virtue of which the holder became UK resident,—
 - (i) to become permanently UK resident, or
 - (ii) to stay in the United Kingdom for at least two years.
- (2) The policy or contract meets condition C in the second selection condition if it has been varied as described in that condition before the later of—
- (a) the end of the first insurance year in relation to the policy or contract beginning on or after 6th April 1999, and
 - (b) the end of the first insurance year in relation to the policy or contract beginning on or after the date mentioned in sub-paragraph (1)(c).
- (3) No gain is treated as arising from the policy or contract under section 525 in relation to any insurance year which ends—
- (a) on or after the date since 17th March 1998 on which the holder of the policy or contract first became UK resident, and
 - (b) before the insurance year in which the variation was made.

Meaning of “permitted index”

- 126 In this Part of this Schedule “permitted index” means an index falling within a category listed in section 518.

Status: Point in time view as at 29/04/2009.

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

Meaning of “permitted property”

- 127 (1) In this Part of this Schedule “permitted property”, in relation to a policy or contract, means any of the following—
- (a) property falling within any of the categories listed in the table in section 520(2),
 - (b) shares or securities listed on a recognised stock exchange, and
 - (c) subject to sub-paragraph (2), shares or securities of a company which are dealt in on the Unlisted Securities Market or the Alternative Investment Market.
- (2) Shares or securities of a company which fall within sub-paragraph (1)(c) are not permitted property at any time at which—
- (a) the whole or any part of the benefits under the policy or contract may be determined by reference to shares or securities of the company which represent more than 10% of its issued share capital, or
 - (b) the amount invested in shares or securities of the company under the policy or contract exceeds 10% of the total amount of premiums paid up to that time under the policy or contract.

Other definitions

- 128 (1) In this Part of this Schedule “security” has the same meaning as in section 132(3)(b) of TCGA 1992.
- (2) Any references in this Part of this Schedule to shares or securities include a reference to any option, warrant or other right to acquire shares or securities.
- (3) In sub-paragraph (3) “warrant” has the same meaning as in paragraph 14 of Schedule 2 to FISMA 2000.

PART 8

MISCELLANEOUS INCOME

Intellectual property: contributions to expenditure not made by public bodies nor eligible for tax relief

- 129 Section 604 applies with the omission of subsection (3)(b) in relation to contributions made before 27th July 1989.

Certain telecommunication rights

- 130 Chapter 4 of Part 5 does not apply to an indefeasible right to use a telecommunications cable system (“IRU”) acquired before 21st March 2000.
- 131 (1) That Chapter also does not apply to an IRU acquired by a person on or after that date (directly or indirectly) from an associate or an associated company if the associate or associated company acquired the IRU before that date.
- (2) In sub-paragraph (1)—
- “associate” has the meaning given by section 417(3) and (4) of ICTA, and
 - “associated company”—

Status: Point in time view as at 29/04/2009.

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

- (a) in relation to another company, has the meaning given by section 416(1) of that Act, and
- (b) in relation to any other person, means a company of which that person has control within the meaning of subsections (2) to (6) of that section.

Income treated as income of settlor: exception for pension income

- 132 (1) Subject to sub-paragraph (4), section 627 applies before 6th April 2006 with the following amendments.
- (2) In subsection (2)(c) for “a relevant pension scheme” substitute “an approved pension arrangement”.
- (3) For subsection (3) substitute—
- “(3) In subsection (2) an “approved pension arrangement” means—
 - (a) an approved scheme or exempt approved scheme,
 - (b) a relevant statutory scheme,
 - (c) a retirement benefits scheme set up by a government outside the United Kingdom for the benefit, or primarily for the benefit, of its employees,
 - (d) a contract or scheme which is approved under Chapter 3 of Part 14 of ICTA (retirement annuities),
 - (e) a personal pension scheme which is approved under Chapter 4 of that Part,
 - (f) an annuity purchased for the purpose of giving effect to rights under a scheme falling within any of paragraphs (a) to (c) and (e), or
 - (g) any pension arrangements of any description prescribed by regulations made under section 11(2)(h) of the Welfare Reform and Pensions Act 1999 (c. 30) or Article 12(2)(h) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).
- (4) In subsection (3) “approved scheme”, “exempt approved scheme”, “relevant statutory scheme” and “retirement benefits scheme” have the same meaning as in Chapter 1 of Part 14 of ICTA (retirement benefit schemes).”
- (4) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained an amendment substituting section 627 of this Act for that section as amended by sub-paragraphs (2) and (3) above.

Amounts treated as income of settlor: income paid to unmarried minor children of settlor

- 133 (1) In relation to income which—
- (a) arises under a settlement made or entered into before 9th March 1999, and
 - (b) does not arise directly or indirectly from funds provided on or after that date,
- section 629 applies with the omission from subsection (1) of paragraph (b) and the word “or” before that paragraph.
- (2) Where subsection (1) of section 629 applies for a tax year only in relation to such income as is mentioned in sub-paragraph (1), that section applies with the substitution for subsections (3) and (4) of—

Status: Point in time view as at 29/04/2009.

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

“(3) Income paid to or for the benefit of a child of a settlor is not treated as provided in subsection (1) for a tax year in which the total amount paid to or for the benefit of that child which but for this subsection would be so treated does not exceed £100.”

(3) Where subsection (1) of section 629 applies for a tax year in relation to such income as is mentioned in sub-paragraph (1) above and other income, that section applies with the substitution for subsection (4) of—

“(4) In subsection (3) a child's “relevant settlement income” means income which (apart from that subsection) would be treated as income of the settlor under subsection (1) and which—

- (a) so far as consisting of such income as is mentioned in paragraph 133 of Schedule 2, is income paid to or for the benefit of the child, and
- (b) so far as consisting of other income, is income paid to or for the benefit of, or otherwise treated as income of, the child.”

(4) Any apportionment required for the purposes of sub-paragraph (1)(b) is to be made on a just and reasonable basis.

Amounts treated as income of settlor: capital sums paid to settlor by trustees of settlement

134 (1) In relation to any case which involves any previous tax years before 1995-96, subsection (3) of section 635 applies in accordance with sub-paragraphs (2) and (3) below.

(2) So far as that subsection applies in relation to those previous tax years, for paragraph (c) substitute—

- “(c) so much of any income arising under the settlement in any previous year which has not been distributed as is shown to consist of income which has been treated as income of the settlor by virtue of section 671, 672, 674, 674A or 683 of ICTA,
- (d) any income arising under the settlement in any previous year which has been treated as the income of the settlor by virtue of section 673 of ICTA,
- (e) any sums paid by virtue or in consequence of the settlement, to the extent that they are not allowable, by virtue of section 676 of ICTA, as deductions in computing the settlor's income for any previous year,
- (f) any sums paid by virtue or in consequence of the settlement in any previous year which have been treated as the income of the settlor by virtue of section 664(2)(b) of ICTA,
- (g) any sums included in the income arising under the settlement as amounts which have been or could have been apportioned to a beneficiary as mentioned in section 681(1)(b) of ICTA, and”.

(3) For paragraph (d) of that subsection substitute—

- “(h) an amount equal to the sum of tax at the rate applicable to trusts on—
 - (i) the total amount of income arising under the settlement in that year and any previous year which has not been distributed, less

Status: Point in time view as at 29/04/2009.

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

- (ii) the total amount of the income and sums referred to in paragraph (c) (in relation to tax years 1995-96 onwards) and paragraphs (c), (d), (e), (f) and (g) as substituted by paragraph 134 of Schedule 2 (in relation to tax years before 1995-96).”
- (4) In relation to any sum paid before 6th April 1995, subsection (3) of section 634 applies with the substitution of “ in one of the events specified in section 673(3) of ICTA ” for paragraphs (a) and (b).
- (5) Subsection (5)(a) of section 634 does not apply if the direction or assignment was given or made before 6th April 1981.

Amounts treated as income of settlor: capital sums paid to settlor by body connected with settlement

- 135 In relation to any capital sum paid to the settlor before tax year 1995-96, section 641 applies with the insertion after subsection (6) of—
- “(6A) Where a capital sum is paid to the settlor in a tax year by a body corporate connected with the settlement in that year it is to be assumed until the contrary is shown that an associated payment of an amount not less than that of the capital sum has been made to that body by the trustees of the settlement.”

Beneficiaries' income from estates in administration: basic amounts

- 136 (1) Sub-paragraph (2) applies if any previous tax year to which regard is to be had for the purposes of section 665 (assumed income entitlement) is a tax year before 2005-06 (an “old tax year”).
- (2) In relation to the old tax year, the reference in step 4 in subsection (1) of that section to basic amounts relating to the person's absolute interest in respect of which the person is liable to income tax for that year is to be taken as a reference to the amount deemed to have been paid to that person as income for that year in respect of that interest by virtue of section 696 of ICTA.
- (3) Sub-paragraph (4) applies if one or more of the absolute interests referred to in section 671(1) (successive absolute interests) was held in one or more old tax years.
- (4) The reference in section 671(2)(b) to the basic amounts relating to any previous such interest includes a reference to the amounts deemed to have been paid to the previous holder as income for the old tax years in respect of that interest by virtue of section 696 of ICTA.
- (5) Sub-paragraph (6) applies if any of the limited interests referred to in section 672(1) (d) (successive interests: assumed income entitlement of holder of absolute interest following limited interest) was held in one or more old tax years.
- (6) The reference in section 672(4) to the basic amounts relating to any previous such interest includes a reference to the amounts deemed to have been paid to the holders of any such interests as income for the old tax years in respect of those interests by virtue of section 695 of ICTA.

Status: Point in time view as at 29/04/2009.

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

- (7) In the case of a UK estate, references in this paragraph to the amounts deemed to have been paid are references to the amounts that would be deemed to have been paid apart from sections 695(4)(a) and 696(4) of ICTA (grossing up).

Beneficiaries' income from estates in administration: income treated as bearing income tax

- 137 A sum treated as part of the aggregate income of an estate by virtue of section 547(1)(c) of ICTA (gains from life insurance contracts etc.) as the result of an event that occurred before 6th April 2004 is treated for the purposes mentioned in section 680 of this Act as bearing income tax at the basic rate.

PART 9

EXEMPT INCOME

Ulster savings certificates

- 138 In the case of certificates acquired before 27th July 1981, section 693(5) applies with the substitution for “the Department of Finance and Personnel” of “the Treasury”.

SAYE interest

- 139 Any scheme which was certified as mentioned in section 326(2)(c), (3)(b) or (4)(b) of ICTA before 1st December 1994 is treated as a certified SAYE savings arrangement for the purposes of Chapter 4 of Part 6 of this Act.

- 140 A European authorised institution arrangement is not an institutional arrangement for the purposes of Chapter 4 of Part 6 if the arrangement was established before 2nd May 1995.

- 141 (1) Neither—
 (a) the Treasury specification rules, nor
 (b) the Treasury authorisation rules,
 apply to any scheme which was certified as mentioned in section 326(3)(b), (4)(b) or (5)(b) of ICTA before 31st July 1995.

- (2) In sub-paragraph (1)—
 “the Treasury specification rules” means sections 705(1)(b) and (2) to (4) and 706 of this Act, and
 “the Treasury authorisation rules” means sections 707 and 708 of this Act.

Venture capital trust dividends: shares acquired before the tax year 2004-05

- 142 In the case of dividends paid in respect of shares acquired before the tax year 2004-05, Chapter 5 of Part 6 (venture capital trust dividends) applies as if the references in section 709(4) (annual acquisition limit) to £200,000 were references to £100,000.

Status: Point in time view as at 29/04/2009.

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

Purchased life annuity payments: old determinations concerning capital elements

143 F13

Textual Amendments

F13 Sch. 2 para. 143 repealed (19.7.2007 with effect as stated in s. 46 of the amending Act) by Finance Act 2007 (c. 11), s. 114, Sch. 27 Pt. 2(13)

Purchased life annuity payments: carry forward of excess capital elements

- 144 (1) This paragraph applies if, in the case of an annuity to which section 656(2) of ICTA applied immediately before 6th April 2005, the total of the amounts determined in accordance with that section to be capital elements in respect of the annuity payments that arose before that date (and accordingly not to be annual payments for income tax purposes) exceeded the total of those annuity payments.
- (2) The amount of the excess is to be added to the fixed sum mentioned in section 719(4) for the first payment that arises after 5th April 2005.

Purchased life annuity payments: penalty for false statements

145 F14

Textual Amendments

F14 Sch. 2 para. 145 repealed (19.7.2007 with effect as stated in s. 46 of the amending Act) by Finance Act 2007 (c. 11), s. 114, Sch. 27 Pt. 2(13)

Certain annual payments by individuals

- 146 (1) Sections 727 (exemption for certain annual payments by individuals) and 730 (exemption for foreign maintenance payments) do not apply to—
- (a) any payment falling due before 16th March 1988, or
 - (b) any payment falling due on or after that date but before 6th April 2000 to which this paragraph applies.
- (2) Paragraph (b) of sub-paragraph (1) applies to a payment made in pursuance of an existing obligation (within the meaning of section 36(3) of FA 1988) unless it meets any of conditions A to E.
- (3) Condition A is that the payment is treated as income of the payer under Chapter 5 of Part 5 as a result of section 624 or 629.
- (4) Condition B is that the payment fell due from a husband to a wife or a wife to a husband at a time after 5th April 1990 when they were living together.
- (5) Condition C is that an election is duly made under section 39 of FA 1988 in respect of the payment.
- (6) Condition D is that the payment fell due on or after 6th April 1994 and is made—
- (a) in pursuance of an obligation within section 36(4)(a) to (c) of FA 1988 that is an obligation under—

Status: Point in time view as at 29/04/2009.

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

- (i) an order made by a court,
- (ii) a written or oral agreement, or
- (iii) a deed executed for giving effect to an agreement, and
- (b) for the benefit, maintenance or education of a person (whether or not the person to whom the payment is made) who attained the age of 21 on or before the day on which the payment fell due but after 5th April 1994.

(7) Condition E is that—

- (a) the payment is made in pursuance of an obligation within section 36(4)(a) of FA 1988 (existing obligations under certain court orders),
- (b) the payment is made for the benefit, maintenance or education of a person (whether or not the person to whom the payment is made) who attained the age of 21 before 6th April 1994, and
- (c) section 38 of FA 1988 (treatment of certain maintenance payments under existing obligations) does not apply to the payment.

Annual payments for non-taxable consideration

147 Section 729 (exemption for payments for non-taxable consideration) applies in the case of an annuity granted before 30th March 1977—

- (a) with the substitution in subsection (1) of “ condition B, C or D ” for “condition B or C”, and
- (b) with the substitution of the following subsections for subsection (5)—

“(5) Condition D is that the payment is a payment under an annuity charged on an interest in settled property and granted by an individual to a company—

- (a) whose business then consisted wholly or mainly in the acquisition of interests in settled property, or
- (b) which was then carrying on life assurance business in the United Kingdom.

(6) In the application of subsections (4) and (5) to Scotland, the references in those subsections to settled property are to be read as references to property held in trust.”

Periodical payments of personal injury damages etc.

148 (1) Subject to sub-paragraphs (4) and (5), sections 731, 733 and 734 apply with the modifications in sub-paragraphs (2) and (3).

(2) In section 731 (periodical payments of personal injury damages)—

- (a) for subsection (2) substitute—

“(2) This subsection applies to periodical payments made in pursuance of—

- (a) a court order making a final or interim award of damages in respect of personal injury,
- (b) an agreement settling a claim or action for such damages, or
- (c) an agreement for a payment on account of the damages that may be awarded in such an action.”

Status: Point in time view as at 29/04/2009.

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

- (b) in subsection (3)(b) for the words from “agreement” to the end of the paragraph substitute “ or agreement as is mentioned in subsection (2) or a subsequent agreement ”, and
 - (c) omit subsection (6).
- (3) In sections 733(a) and 734(1)(a)(i) for “agreement, undertaking” substitute “ or agreement ”.
- (4) The modifications in sub-paragraphs (2) and (3) do not apply if an order has been made under section 110(1) of the Courts Act 2003 (c. 39) (commencement) making provision for section 100(2) and (3) of that Act to come into force on a day earlier than 6th April 2005.
- (5) The power in section 110(1) of that Act includes power to make provision in accordance with which the modifications in sub-paragraphs (2) and (3) do not apply on or after a day appointed by the order that is later than 5th April 2005.

Commencement Information

- II** Sch. 2 para. 148 wholly in force at 6.4.2005; Sch. 2 para. 148(5) in force at Royal Assent and Sch. 2 para. 148(1)-(4) in force at 6.4.2005 see s. 883

PART 10

FOSTER-CARE RELIEF

- 149 (1) This paragraph applies if—
- (a) a disposal event is treated as occurring in relation to an individual under paragraph 17(2) of Schedule 36 to FA 2003 (foster-care relief: capital allowances),
 - (b) the individual is a relevant individual for the tax year 2004-05,
 - (c) the individual has a chargeable period which corresponds to the income period for the individual's foster-care receipts in that tax year (and therefore the chargeable period is a relevant chargeable period), and
 - (d) the next chargeable period of the individual is not a relevant chargeable period.
- (2) Subsection (4) of section 825 applies (despite anything in subsection (1) of that section to the contrary) as if the reference to the first subsequent chargeable period which is not a relevant chargeable period were to the period mentioned in sub-paragraph (1)(d).

PART 11

FOREIGN INCOME: SPECIAL RULES

Relevant foreign income charged on remittance basis: income arising before the tax year 2005-06

Status: Point in time view as at 29/04/2009.

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

Textual Amendments

F15 Sch. 2 para. 150 omitted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 7 para. 72

Relevant foreign income charged on remittance basis: delayed remittances

^{F16}151

Textual Amendments

F16 Sch. 2 para. 151 omitted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 7 para. 72

Relief for backdated pensions charged on arising basis

- 152 The fact that the earlier year referred to in subsections (1)(b) and (2) of section 840 (relief for backdated pensions charged on the arising basis) is a tax year before 2005-06 does not prevent—
- (a) a claim being made under that section, or
 - (b) such adjustments (by way of repayment of tax, assessment or otherwise) as are necessary to give effect to that section being made as respects such a tax year.

Unremittable income that arose before the tax year 2005-06

- 153 (1) A claim may be made under section 842 (claim for relief on unremittable income) for the tax year 2005-06 or any later tax year, despite the income having arisen in a tax year before 2005-06.
- (2) Without prejudice to paragraph 4 of this Schedule, section 843 (withdrawal of relief) applies for the tax year 2005-06 or any later tax year, despite the income having arisen originally in a tax year before the tax year 2005-06 (whether the claim in respect of it was made under section 584 of ICTA (relief for unremittable overseas income) or section 842 of this Act).

^{F17}(3)

^{F17}(4)

Textual Amendments

F17 Sch. 2 para. 153(3)(4) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 444

Status: Point in time view as at 29/04/2009.

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

PART 12

OTHER PROVISIONS

Unpaid remuneration: non-trades and non-property businesses

- 154 (1) This paragraph applies for the purposes of section 865.
- (2) In relation to a period of account ending before 27th November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount which is held by an intermediary with a view to its becoming employees' remuneration.
- (3) In relation to a period of account ending on or after 27th November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount—
- (a) in respect of employee benefit contributions (within the meaning of sections 38 to 44) made before that date, and
 - (b) which is held by an intermediary,
- with a view to its becoming employees' remuneration.

Employee benefit contributions: non-trades and non-property businesses

- 155 Section 866 does not apply to deductions that would otherwise be allowed—
- (a) for a period ending before 27th November 2002, or
 - (b) in respect of employee benefit contributions made before that date.
- 156 (1) Subject to sub-paragraph (3), section 866 applies before 6th April 2006 with the following amendment.
- (2) In subsection (5)—
- (a) for paragraphs (b) and (c) and the word “or” at the end of paragraph (c) substitute—
 - “(b) contributions under a retirement benefits scheme within the meaning of Chapter 1 of Part 14 of ICTA (see section 611 of that Act),
 - (c) contributions under a personal pension scheme approved under Chapter 4 of that Part (see section 630 of that Act), or”, and
 - (b) omit “For the purposes of paragraph (c)” to the end.
- (3) The power of the Treasury to make an order under section 281 or 283 of FA 2004 has effect as if Schedule 35 to that Act contained an amendment substituting section 866(5) of this Act for that subsection as amended by sub-paragraph (2) above.

Crime-related payments: non-trades and non-property businesses

- 157 Section 870(2)(b) does not apply to expenditure which was incurred before 1st April 2002.

Apportionment of miscellaneous profits or losses to tax years before tax year 2005-06

- 158 (1) This paragraph applies if—

Status: Point in time view as at 29/04/2009.

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

- (a) a relevant period of account begins before 6th April 2005 and ends on or after that date, and
 - (b) in order to arrive at the profits or losses of a tax year before the tax year 2005-06 it is necessary to apportion the profits or losses of the relevant period of account to any part of that period falling in a tax year before the tax year 2005-06.
- (2) A period of account is a “relevant period of account” if—
- (a) section 871 applies to the period of account, and
 - (b) the profits or losses of the part of the period of account falling in the tax year 2005-06 are calculated in accordance with this Act.
- (3) The profits or losses of the relevant period of account—
- (a) are calculated in accordance with this Act (and therefore, to that extent, this Act has effect for tax years before the tax year 2005-06), and
 - (b) may be apportioned in accordance with section 871 to any part of the period of account falling in a tax year before the tax year 2005-06.

General deduction rules

- 159 Neither—
- (a) the inclusion of rules in section 582 for calculating income chargeable to tax under section 579, nor
 - (b) the inclusion of rules in sections 612 and 617(3) to (6) for calculating income chargeable to tax under Chapter 3 or 4 of Part 5,
- prevents the continued operation of similar rules of law in relation to the calculation of other income (including profits) chargeable to tax under other provisions of this Act.

Section 820 of ICTA

- 160 Section 820 of ICTA (application of Income Tax Acts from year to year) applies to this Act as if this Act were in force on the day before 6th April 2005.

Amendments of Part 4 of FA 2004 (pension schemes etc.)

- 161 The amendments made by paragraphs 644 to 651 and 655 of Schedule 1 come into force at the same time as the enactments which they amend.

Status:

Point in time view as at 29/04/2009.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, SCHEDULE 2.