



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 2

#### TRADING INCOME

#### CHAPTER 11

##### TRADE PROFITS: OTHER SPECIFIC TRADES

##### *Waste disposal*

#### **168 Site restoration payments**

- (1) This section applies for the purpose of calculating the profits of a trade if the person carrying on the trade makes a site restoration payment in the course of carrying it on.
- (2) [<sup>F1</sup> Subject to subsection (3A), ] A deduction is allowed for the unrelieved amount of the payment.

[<sup>F2</sup>(3) The deduction is allowed—

- (a) (if the payment is made, whether directly or indirectly, to a connected person) for the period of account in which that part of the restoration work to which the payment relates is completed, or
- (b) (in any other case) for the period of account in which the payment is made.]

[<sup>F2</sup>(3A) But no deduction is allowed if the payment arises from arrangements—

- (a) to which the person carrying on the trade is a party, and
- (b) the main purpose, or one of the main purposes, of which is to obtain a deduction under this section.]

---

*Changes to legislation:* There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Section 168. (See end of Document for details)

---

- (4) The unrelieved amount of a site restoration payment is the amount of the payment, less—
- (a) any amount of the payment that represents expenditure for which an allowance has been, or may be, made under the enactments relating to capital allowances, and
  - (b) any amount of the payment that represents expenditure for which a deduction has been allowed in calculating the profits of the trade of an earlier period of account.
- (5) A “site restoration payment” means a payment made in connection with the restoration of a site (or part of a site) in order to comply with—
- (a) a condition of a waste disposal licence (as defined in section 167(1)),
  - (b) a condition imposed on the grant of planning permission to use the site for the collection, treatment, conversion and final depositing of waste materials or for the carrying out of any of those activities, or
  - (c) a relevant planning obligation.
- (6) For this purpose “a relevant planning obligation” means—
- (a) an obligation arising under an agreement made under section 106 of the Town and Country Planning Act 1990 (c. 8) (as originally enacted) or any corresponding provision for the time being in force in Northern Ireland,
  - (b) an obligation arising under an agreement made under section 75 of the Town and Country Planning (Scotland) Act 1997 (c. 8),
  - (c) a planning obligation entered into under section 106 of the Town and Country Planning Act 1990 (as substituted by section 12 of the Planning and Compensation Act 1991 (c. 34)) or any corresponding provision for the time being in force in Northern Ireland, or
  - (d) a planning obligation entered into under section 299A of the Town and Country Planning Act 1990 or any corresponding provision for the time being in force in Northern Ireland.
- [<sup>F3</sup>(7) Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).]

#### Textual Amendments

- F1** Words in s. 168(2) inserted (with effect in accordance with s. 53(7)(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 53\(1\)](#)
- F2** S. 168(3)(3A) substituted for s. 168(3) (with effect in accordance with s. 53(7)(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 53\(2\)](#)
- F3** S. 168(7) inserted (with effect in accordance with s. 53(7)(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 53\(3\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Section 168.