

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 20: General calculation rules

Chapter 2: Other general rules

Section 1306: Losses calculated on same basis as miscellaneous income

3341. This section is based on numerous provisions, including section 827 of ICTA. The corresponding rule for income tax is in section 872 of ITTOIA.
3342. The application of the section is limited to “miscellaneous income”, defined in *subsection (3)* by reference to section 834A of ICTA (inserted by Schedule 1 to this Act). The source legislation does not generally limit the scope of the rule. For example, section 827(1) of ICTA says “the payment shall not be allowed as a deduction in computing any income, profits or losses for any corporation tax purposes”. But in practice this section affects only the calculation for corporation tax purposes of amounts, other than profits within Part 3 or 4 of this Act, chargeable under a provision listed in the table in section 834A of ICTA.
3343. *Subsection (2)* ensures that this rule does not overturn any rules about the calculation of losses. For example, see section 398 of ICTA (which deals with the calculation of losses for the purposes of a claim under section 396 of ICTA).
3344. See the related commentary on section 47 of this Act.

Section 1307: Apportionment etc of miscellaneous profits and losses to accounting period

3345. This section provides for apportionment of profits and losses when a company’s period of account does not coincide with an accounting period. It is based on section 72 of ICTA. The corresponding rule for income tax is in sections 203 and 871 of ITTOIA.
3346. Section 72 of ICTA applies “in the case of any profits or gains chargeable... under Case I, II or VI of Schedule D”. Apportionment is therefore not limited to the case of profits or losses of a trade. See the related commentary for section 52.
3347. The section applies where income is chargeable under a provision to which section 834A of ICTA applies. That section is inserted by Schedule 1 to this Act. Section 834A of ICTA does not apply to income to which Chapter 8 of Part 10 (income not otherwise charged) applies which arises from a source outside the United Kingdom (see *subsection (3)* of that section). *Subsection (2)* of this section qualifies the reference to that section so that the benefit of the apportionment rules extends to such income (that is, to income charged in the source legislation under Schedule D Case V). See *Change 95* in Annex 1.

*These notes refer to the Corporation Tax Act 2009
(c.4) which received Royal Assent on 26 March 2009*

3348. The only circumstance in which aggregation within *subsection (3)(b)* will occur is when a company is in liquidation and has fixed accounting periods of 12 months in accordance with section 12 of this Act.
3349. This section does not carry over the rewrite change in section 871(5) of ITTOIA whereby apportionment is permitted by a measure of time other than the number of days in the respective periods, as required by section 72(2) of ICTA. HMRC consider that a day cannot fall into more than one accounting period.
3350. See also the paragraph headed “miscellaneous profits and losses: apportionment to accounting periods ending before 1 April 2009” in Part 21 of Schedule 2 to this Act which provides for a period of account that straddles the end of the financial year 2008 and the beginning of the financial year 2009.

Section 1308: Expenditure brought into account in determining value of intangible asset

3351. This section provides that expenditure on research and development, if not of a capital nature, may be taken into account for the purposes of Part 13, even though for accounting purposes it has been brought into account in determining the value of an intangible asset. It is based on section 53 of FA 2004.

Section 1309: Payments treated as made to visiting performers

3352. This section provides that some payments made to a company are not to be included in the company’s income. It is based on sections 556 and 558 of ICTA. The corresponding rule for income tax is in sections 13 and 14 of ITTOIA.
3353. Section 966 of ITA requires deduction of tax from certain payments to entertainers and sportsmen and women. The section also applies in some cases to payments made to a person other than the performer. In those cases section 13(5) of ITTOIA treats the payments as made instead to the performer.