



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 3

#### TRADING INCOME

### CHAPTER 9

#### TRADE PROFITS: OTHER SPECIFIC TRADES

##### *Dealers in securities etc*

#### **128 Taxation of amounts taken to reserves**

- (1) This section applies for the purpose of calculating the profits of a company's trade if—
  - (a) the company carries on a banking business, an insurance business or a business consisting wholly or partly of dealing in securities, and
  - (b) a profit on the sale of securities held by the company would be brought into account in calculating the trading profits of that business.
- (2) Profits and losses from the securities that in accordance with generally accepted accounting practice are—
  - (a) calculated by reference to the fair value of the securities, and
  - (b) recognised in the company's statement of recognised gains and losses or statement of changes in equity,are brought into account in calculating the profits of the trade.
- (3) But subsection (2) does not apply—
  - (a) to an amount so far as deriving from or otherwise relating to an amount brought into account under that subsection in an earlier period of account, or
  - (b) to an amount recognised for accounting purposes by way of correction of a fundamental error.

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- (4) In this section “securities” includes—
- (a) shares,
  - (b) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of TCGA 1992, and
  - (c) in the case of a company with no share capital, interests in the company possessed by members of the company,
- but does not include a loan relationship (within the meaning of Part 5).

## 129 Conversion etc of securities held as circulating capital

- (1) This section applies for the purpose of calculating the profits of a company's trade if—
- (a) the company carries on a banking business, an insurance business or a business consisting wholly or partly of dealing in securities,
  - (b) a transaction falling within subsection (2) occurs in relation to securities (“the original holding”), and
  - (c) a profit on the sale of the securities would be brought into account in calculating the trading profits of that business.
- (2) A transaction falls within this subsection if—
- (a) it results in a new holding being treated as the same as the original holding as a result of sections 126 to 136 of TCGA 1992 (roll-over relief in cases of conversion etc), or
  - (b) it is treated, as a result of section 134 of TCGA 1992 (compensation stock), as an exchange for a new holding which does not involve a disposal of the original holding.
- (3) This section does not apply to securities in respect of which unrealised profits or losses, calculated by reference to the fair value of the securities at the end of the period of account, are taken into account in the period of account in which the transaction occurs.
- (4) The transaction is treated as not involving a disposal of the original holding and the new holding is treated as the same asset as the original holding.
- (5) But if, under the transaction, the company carrying on the trade—
- (a) receives consideration in addition to the new holding, or
  - (b) becomes entitled to receive such consideration,
- subsection (4) applies as if the references to the original holding were to the proportion of the original holding given by the following fraction.
- (6) The fraction is—

$$\frac{NH}{NH + C}$$

where—

NH is the market value of the new holding at the time of the transaction, and

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C is the market value of the consideration at the time of the transaction or (if the consideration is cash) the amount of the consideration.

- (7) In determining whether subsection (2)(a) applies as a result of section 135 or 136 of TCGA 1992, the reference to capital gains tax in section 137(1) of TCGA 1992 is to be read as a reference to income tax.
- (8) In this section “securities” includes—
- shares,
  - rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of TCGA 1992, and
  - in the case of a company with no share capital, interests in the company possessed by members of the company.

### *[<sup>F1</sup>Insurers*

#### **Textual Amendments**

- F1** S. 130 and cross-heading substituted (with effect in accordance with Sch. 14 para. 31 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 14 para. 22**

## **130 Insurers receiving distributions etc**

- (1) This section applies for the purpose of calculating the trading profits of—
- insurance business other than [<sup>F2</sup>business in relation to which section 111 of FA 2012 applies], or
  - any category of such business.
- (2) A receipt that is exempt for the purposes of Part 9A (company distributions) is not brought into account in calculating the profits of the trade.]

#### **Textual Amendments**

- F2** Words in s. 130(1)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 144**

### *Building societies*

## **131 Incidental costs of issuing qualifying shares**

- (1) In calculating the profits of a trade carried on by a building society, a deduction is allowed for incidental costs of obtaining finance by means of issuing shares in the society if—
- the shares are qualifying shares for the purposes of section 117(4) of TCGA 1992, and
  - the condition in subsection (2) is met.
- (2) The condition is that the amount of any—
- dividend or other distribution, or
  - interest,

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payable in respect of the shares is deductible in calculating, for corporation tax purposes, the profits of the society's trade.

- (3) But a deduction is not allowed by virtue of subsection (1) so far as the costs fall to be brought into account as debits for the purposes of Part 5 (loan relationships).
- (4) “Incidental costs of obtaining finance” means expenses—
- (a) which are incurred on fees, commissions, advertising, printing and other incidental matters, and
  - (b) which are incurred wholly and exclusively for the purpose of obtaining the finance, providing security for it or repaying it.
- (5) Expenses incurred wholly and exclusively for the purpose of—
- (a) obtaining finance, or
  - (b) providing security for it,
- are incidental costs of obtaining the finance even if it is not in fact obtained.
- (6) But the following are not incidental costs of obtaining finance—
- (a) sums paid because of losses resulting from movements in the rate of exchange between different currencies,
  - (b) sums paid for the purpose of protecting against such losses,
  - (c) the cost of repaying qualifying shares so far as attributable to their being repayable at a premium or having been issued at a discount, and
  - (d) stamp duty.

*[<sup>F3</sup>Registered societies]*

#### Textual Amendments

**F3** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 143](#) (with [Sch. 5](#))

### 132 Dividends etc granted by [<sup>F3</sup>registered societies]

- (1) This section applies if a trade is carried on by a [<sup>F4</sup>registered society] and—
- (a) the society does not sell to persons who are not its members, or
  - (b) the number of shares in the society is not limited by the society's rules or practice.
- (2) In calculating the profits of the trade, a deduction is allowed for sums which meet conditions A and B.
- (3) Condition A is that—
- (a) the sum represents a discount, rebate, dividend or bonus granted by the society to a member or other person (“the recipient”),
  - (b) the discount, rebate, dividend or bonus is in respect of—
    - (i) amounts paid or payable by the recipient, or
    - (ii) amounts paid or payable to the recipient,
 on account of the recipient's transactions with the society, and

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- (c) those transactions are taken into account in calculating the society's profits chargeable under this Part.
- (4) Condition B is that the sum mentioned in subsection (2) is calculated by reference to—
  - (a) the amounts paid or payable by or to the recipient, or
  - (b) the size of the transactions,and not by reference to the amount of any share or interest in the capital of the society.
- (5) See also [<sup>F5</sup>section 1056 of CTA 2010] (dividend or bonus to which this section applies is not treated as a distribution).

#### Textual Amendments

- F4** Words in Act substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 141](#) (with [Sch. 5](#))
- F5** Words in s. 132(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 598](#) (with [Sch. 2](#))

### *Credit unions*

#### **133 Annual payments paid by a credit union**

In calculating the profits of a credit union's trade, no deduction is allowed for annual payments made by the credit union.

### *Dealers in land etc*

#### **134 Purchase or sale of woodlands**

- (1) This section applies for the purpose of calculating the profits of a trade of dealing in land.
- (2) If the company carrying on the trade buys woodlands in the United Kingdom in the course of the trade, the part of the cost of the woodlands which is attributable to trees or saleable underwood growing on the land is ignored.
- (3) If—
  - (a) the woodlands are subsequently sold in the course of the trade, and
  - (b) any of the trees or underwood are still growing on the land at the time of the sale,the part of the price that is equal to the amount ignored under subsection (2) for those trees or that underwood is ignored.

#### **<sup>F6</sup>135 Relief in respect of mineral royalties**

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### Textual Amendments

- F6** S. 135 repealed (with effect in accordance with Sch. 39 para. 44(3) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 44\(1\)\(a\)](#)

## 136 Lease premiums etc: reduction of receipts

- (1) This section applies for the purpose of calculating the profits of a trade of dealing in land if a receipt of the trade falls within one of the following categories—
  - (a) lease premiums within section 217,
  - (b) sums within section 219 (sums payable instead of rent),
  - (c) sums within section 220 (sums payable for surrender of a lease),
  - (d) sums within section 221 (sums payable for variation or waiver of terms of lease),
  - (e) consideration for the assignment of a lease within section 222 (lease granted at an undervalue), and
  - (f) amounts received on the sale of an estate or interest in land within section 224 (sales with right to reconveyance) or section 225 (sale and leaseback transactions).
- (2) The receipt is reduced by the relevant amount.
- (3) The relevant amount is the amount which is treated as a receipt of a property business as a result of any of sections 217 to 225.
- (4) But if—
  - (a) the company carrying on the trade makes a claim under section 238 or 239, and
  - (b) as a result of the claim a repayment of tax is made to that company,
 the relevant amount is the amount which, for the purpose of determining the amount of the repayment of tax, is treated as brought into account as a receipt in calculating the profits of the property business.
- (5) If subsection (4) applies, any adjustment of liability to tax may be made—
  - (a) by assessment or otherwise, and
  - (b) at any time at which it could be made if it related only to tax for the accounting period in which the claim under section 238 or 239 is made.

### *Mineral exploration and access*

## 137 Mineral exploration and access

- (1) This section applies for the purpose of calculating the profits of a trade if—
  - (a) the company carrying on the trade incurs expenditure on mineral exploration and access in an area or group of sands, and
  - (b) the presence of mineral deposits in commercial quantities has already been established in that area or group of sands.
- (2) A deduction is allowed for the expenditure only if a deduction would have been allowed for it if the presence of mineral deposits in commercial quantities had not already been established in that area or group of sands.

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- (3) In this section “mineral exploration and access” has the same meaning as in Part 5 of CAA 2001 (see section 396(1) of that Act).

*Companies liable to pool betting duty*

**F7 138 Payments by companies liable to pool betting duty**

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**Textual Amendments**

- F7** S. 138 repealed (with effect in accordance with Sch. 39 para. 21(3) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 22\(1\)\(a\)](#)

*Intermediaries treated as making employment payments*

**139 Deduction for deemed employment payment**

- (1) This section applies for the purpose of calculating the profits of a trade carried on by an intermediary which is treated as making a deemed employment payment in connection with the trade.
- (2) A deduction is allowed for—
- (a) the amount of the deemed employment payment, and
  - (b) the amount of any employer's national insurance contributions paid by the intermediary in respect of it.
- (3) The deduction is allowed for the period of account in which the deemed employment payment is treated as made.
- (4) No deduction in respect of—
- (a) the deemed employment payment, or
  - (b) any employer's national insurance contributions paid by the intermediary in respect of it,
- may be made except in accordance with this section.
- (5) In this section “deemed employment payment” and “intermediary” have the same meaning as in Chapter 8 of Part 2 of ITEPA 2003 (see sections 49 and 50 of that Act).

**140 Special rules for partnerships**

- (1) This section applies for the purpose of calculating the profits of a trade carried on by a firm that is treated as making a deemed employment payment in connection with the trade.
- (2) The amount of the deduction allowed under section 139 is limited to the amount that reduces the profits of the firm of the period of account to nil.
- (3) The expenses of the firm in connection with the relevant engagements for any period of account are limited to the total of—

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- (a) 5% of the amount taken into account at Step 1 of the calculation in section 54(1) of ITEPA 2003 (calculation of deemed employment payment), and
  - (b) the amount deductible at Step 3 of that calculation.
- (4) In this section “deemed employment payment” and “the relevant engagements” have the same meaning as in Chapter 8 of Part 2 of ITEPA 2003 (see sections 49 and 50 of that Act).

### *Managed service companies*

#### **141 Deduction for deemed employment payments**

- (1) This section applies for the purpose of calculating the profits of a trade carried on by a managed service company (the “MSC”) which is treated as making a deemed employment payment in connection with the trade.
- (2) A deduction is allowed for—
- (a) the amount of the deemed employment payment, and
  - (b) the amount of any employer's national insurance contributions paid by the MSC in respect of it.
- (3) The deduction is allowed for the period of account in which the deemed employment payment is treated as made.
- (4) If the MSC is a firm, the amount of the deduction allowed under subsection (2) is limited to the amount that reduces the profits of the firm of the period of account to nil.
- (5) No deduction in respect of—
- (a) the deemed employment payment, or
  - (b) any employer's national insurance contributions paid by the MSC in respect of it,
- may be made except in accordance with this section.
- (6) In this section the following expressions have the same meanings as in Chapter 9 of Part 2 of ITEPA 2003—
- “deemed employment payment” (see section 61D(2) of that Act),
  - “employer's national insurance contributions” (see section 61J(1) of that Act),
  - “managed service company” (see section 61B of that Act).

### *Waste disposal*

#### **142 Deduction for site preparation expenditure**

- (1) This section applies for the purpose of calculating the profits of a trade of a period of account in which waste materials are deposited on a waste disposal site if—
- (a) the company carrying on the trade (“the trader”), or a predecessor, has incurred site preparation expenditure in relation to the site in the course of carrying on the trade, and
  - (b) at the time the trader first deposits waste materials on the site, the trader holds a waste disposal licence which is then in force.



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- (2) A deduction is allowed for the amount of the site preparation expenditure allocated to the period of account under section 143.
- (3) For the purposes of this section “predecessor”, in relation to the trader, means a person who—
  - (a) has 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, and
  - (b) has transferred the whole of the site to the trader,and it does not matter for this purpose whether or not the estate or interest in the site transferred to the trader is the same as that held by that person.
- (4) For the purposes of this section and section 143, if site preparation expenditure has been incurred by a predecessor—
  - (a) the trade carried on by the trader is treated as the same as the trade carried on by the predecessor, and
  - (b) deductions are to be allowed to the trader (and not to the predecessor) as if everything done to or by the predecessor were done to or by the trader.
- (5) For—
  - (a) the meaning of “site preparation expenditure”, “waste disposal licence” and “waste disposal site”, and
  - (b) a rule about pre-trading expenditure,see section 144.

### **143 Allocation of site preparation expenditure**

- (1) The amount of site preparation expenditure allocated to a period of account for the purposes of section 142(2) is the amount given by the formula—

$$RE \times \frac{WD}{SV + WD}$$

where—

RE means residual expenditure (see subsection (2)),

WD means the volume of waste materials deposited on the waste disposal site during the period, and

SV means the volume of the waste disposal site not used up for the deposit of waste materials at the end of the period.

- (2) “Residual expenditure” means the total of all site preparation expenditure incurred by the trader in relation to the waste disposal site at any time before the end of the period, less—
  - (a) any of that expenditure for which an allowance has been, or may be, made for corporation or income tax purposes under the enactments relating to capital allowances,

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- (b) any of that expenditure for which a deduction has been made in calculating for corporation or income tax purposes the profits of an earlier period of account, and
  - (c) if the trader started to carry on the trade before 6 April 1989, the excluded amount of any unrelieved old expenditure (see subsections (3) and (4)).
- (3) The excluded amount of unrelieved old expenditure is calculated by multiplying the unrelieved old expenditure (see subsection (4)) by the fraction—

$$\frac{WD}{SV + WD}$$

where—

WD means the volume of waste materials deposited on the site before 6 April 1989, and

SV means the volume of the site not used up for the deposit of waste materials immediately before that date.

- (4) “Unrelieved old expenditure” means site preparation expenditure which—
- (a) was incurred by the trader in relation to the waste disposal site before 6 April 1989, and
  - (b) does not fall within subsection (2)(a) or (b).

#### 144 Site preparation expenditure: supplementary

- (1) For the purposes of this section and sections 142 and 143 “waste disposal licence” means—
- (a) a disposal licence under Part 1 of the Control of Pollution Act 1974 (c. 40) or Part 2 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (S.I. 1978/1049 (N.I. 19)),
  - (b) a waste management licence under Part 2 of the Environmental Protection Act 1990 (c. 43) or any corresponding provision for the time being in force in Northern Ireland,
  - (c) a permit under regulations under—
    - (i) section 2 of the Pollution Prevention and Control Act 1999 (c. 24), or
    - (ii) Article 4 of the Environment (Northern Ireland) Order 2002 (S.I. 2002/3153 (N.I. 7)),
  - [<sup>F8</sup>(d) an authorisation under the Radioactive Substances Act 1960 (c. 34) or the Radioactive Substances Act 1993 (c. 12) for the disposal of radioactive waste, or]
  - (e) a nuclear site licence under the Nuclear Installations Act 1965 (c. 57).
- (2) For the purposes of this section and sections 142 and 143—
- “site preparation expenditure”, in relation to a waste disposal site, means expenditure incurred on preparing the site for the deposit of waste materials, and

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“waste disposal site” means a site used, or to be used, for the disposal of waste materials by their deposit on the site.

- (3) For the purposes of sections 142 and 143, expenditure incurred for the purposes of a trade by a company about to carry on the trade is treated as if it were incurred—
- (a) on the date on which the company starts to carry on the trade, and
  - (b) in the course of carrying it on.

#### Textual Amendments

**F8** S. 144(1)(d) repealed (E.W.) (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1)(b), Sch. 26 Pt. 1 para. 20, **Sch. 28** (with reg. 1(2), Sch. 4)

### 145 Site restoration payments

- (1) This section applies for the purpose of calculating the profits of a trade if the company carrying on the trade makes a site restoration payment in the course of carrying it on.
- (2) [<sup>F9</sup>Subject to subsection (3A),] a deduction is allowed for the unrelieved amount of the payment.
- [<sup>F10</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.
- (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.]

(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 made 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 144(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—

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- (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>F11</sup>(7) Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).]

#### Textual Amendments

- F9** Words in s. 145(2) inserted (with effect in accordance with s. 53(7)(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 53\(4\)](#)
- F10** S. 145(3)(3A) substituted for s. 145(3) (with effect in accordance with s. 53(7)(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 53\(5\)](#)
- F11** S. 145(7) inserted (with effect in accordance with s. 53(7)(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 53\(6\)](#)

*[<sup>F12</sup>Cemeteries and crematoria: interests in land]*

#### Textual Amendments

- F12** S. 146 crossheading substituted (1.3.2012) by [The Enactment of Extra-Statutory Concessions Order 2012 \(S.I. 2012/266\), arts. 1, 5\(2\)](#) (with art. 5(5))

### 146 Cemeteries and crematoria: introduction

- (1) This section and sections 147 to 149 apply for the purpose of calculating the profits of a period of account (“the relevant period”) of a trade which consists of or includes—
  - (a) the carrying on of a cemetery, or
  - (b) the carrying on of a crematorium and, in connection with doing so, the maintenance of memorial garden plots,
 and the following provisions of this section apply for the interpretation of this section and those sections.
- (2) References to the sale of land in a cemetery include the sale of a right of interment in land in a cemetery.
- (3) References to the sale of land in a memorial garden include the appropriation of part of a memorial garden in return for a dedication fee or similar payment.
- (4) “Ancillary capital expenditure” means capital expenditure incurred for the purposes of the trade by the company carrying on the trade (“the trader”), or a predecessor, on—

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- (a) any building or structure (other than a dwelling-house) which is in the cemetery or memorial garden and is likely to have little or no value when the cemetery or memorial garden is full,
  - (b) the purchase of an interest in, or the preparation of, any land taken up by such a building or structure, or
  - (c) the purchase of an interest in, or the preparation of, any other land in the cemetery or memorial garden which is not suitable or adaptable for use for interments or memorial garden plots and which is likely to have little or no value when the cemetery or memorial garden is full.
- (5) “Predecessor”, in relation to the trader, means a person who carried on the trade at any time before the trader started to do so.
- (6) “Preparation”, in relation to land, means levelling or draining the land or making it suitable in some other way for use as a cemetery or memorial garden.

#### **147 Deduction for capital expenditure**

- (1) This section applies if, in the relevant period, an interest in land in the cemetery or memorial garden is sold with a view to the land being used—
- (a) for the purpose of interments, or
  - (b) for memorial garden plots.
- (2) A deduction is allowed for—
- (a) capital expenditure incurred by the trader, or a predecessor, on the purchase of an interest in the land or on the preparation of the land, and
  - (b) ancillary capital expenditure allocated to the relevant period under section 148 (allocation of ancillary capital expenditure).
- (3) But no expenditure is to be brought into account—
- (a) under both paragraphs (a) and (b) of subsection (2), <sup>F13</sup>...
  - (b) under both subsection (2)(a) above and section 170(2)(b) of ITTOIA 2005 (relief for income tax purposes) or under both subsection (2)(b) above and section 170(2)(a) of ITTOIA 2005, [<sup>F14</sup>or
  - (c) under both subsection (2)(b) above and section 149B(4), 149C(4) or 149D(3).]
- whether for the same or different periods of account.
- (4) Any purchase price paid on a sale in connection with a change in the persons carrying on the trade is ignored in calculating the amount of the deduction.
- (5) No deduction is allowed for any expenditure which is excluded by section 149 (exclusion of expenditure met by subsidies).

#### **Textual Amendments**

- F13** Word in s. 147(3)(a) omitted (1.3.2012) by virtue of [The Enactment of Extra-Statutory Concessions Order 2012 \(S.I. 2012/266\)](#), arts. 1, **5(3)(a)** (with art. 5(5))
- F14** S. 147(3)(c) and word inserted (1.3.2012) by [The Enactment of Extra-Statutory Concessions Order 2012 \(S.I. 2012/266\)](#), arts. 1, **5(3)(b)** (with art. 5(5))

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## 148 Allocation of ancillary capital expenditure

- (1) The amount of ancillary capital expenditure allocated to the relevant period for the purposes of section 147(2)(b) is the amount given by the formula—

$$RE \times \frac{PSR}{PAR + PSR}$$

where—

RE means residual expenditure (see subsection (2)),

PSR means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden sold in the relevant period, and

PAR means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden which are or could be made available for sale at the end of the relevant period.

- (2) “Residual expenditure” means the total of all ancillary capital expenditure incurred at any time before the end of the relevant period, less—
- (a) ancillary capital expenditure incurred on buildings or structures which were destroyed before the beginning of the first sale period,
  - (b) the excluded amount of any remaining old expenditure (see subsection (3)),
  - (c) if, after the beginning of the first sale period and before the end of the relevant period, an asset representing ancillary capital expenditure was sold or destroyed, the net sale proceeds or the compensation, and
  - (d) any amount deducted under section 147(2)(b) above, or under section 170(2)(b) of ITTOIA 2005, for a period of account ending before the relevant period.
- (3) The excluded amount of remaining old expenditure is calculated by multiplying the remaining old expenditure by the fraction—

$$\frac{PSB}{PAB + PSB}$$

where—

PSB means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden sold before the beginning of the basis period for the tax year 1954-55, and

PAB means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden which were or could have been made available for sale immediately before the beginning of the basis period for that tax year.

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(4) In this section—

- “compensation”, in relation to the destruction of an asset, means—
- (a) insurance money or other compensation received by the trader, or a predecessor, in respect of the destruction, and
  - (b) money received for the remains of the asset by the trader or predecessor,
- “the first sale period” means—
- (a) the period of account in which an interest in land in the cemetery or memorial garden was first sold for the purposes of the trade with a view to the land being used for the purpose of interments or for memorial garden plots, or
  - (b) if later, the basis period for the tax year 1954-55, and
- “remaining old expenditure” means ancillary capital expenditure which—
- (a) was incurred before the beginning of the basis period for the tax year 1954-55, and
  - (b) does not fall within subsection (2)(a).

#### **149 Exclusion of expenditure met by subsidies**

- (1) Expenditure is excluded for the purposes of section 147 so far as it has been, or is to be, met (directly or indirectly) by—
  - (a) the Crown,
  - (b) a government or local or other public authority (whether in the United Kingdom or elsewhere), or
  - (c) any person other than the person incurring the expenditure.
- (2) This is subject to the following exceptions.
- (3) Expenditure is not excluded for the purposes of section 147 if it is met (directly or indirectly) by a grant—
  - (a) made under Northern Ireland legislation, and
  - (b) declared by the Treasury by an order under section 534 of CAA 2001 to correspond to a grant under Part 2 of the Industrial Development Act 1982 (c. 52).
- (4) Expenditure is not excluded for the purposes of section 147 if it is met (directly or indirectly) by—
  - (a) insurance money, or
  - (b) other compensation money,payable in respect of an asset which has been destroyed, demolished or put out of use.
- (5) Expenditure is not excluded for the purposes of section 147 if—
  - (a) it has been, or is to be, met (directly or indirectly) by a person other than the Crown or a government or local or other public authority, and
  - (b) no deduction is allowed for the expenditure in calculating for corporation or income tax purposes the profits of a trade carried on by that person.

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## *F15* Crematoria: niches, memorials and inscriptions

### Textual Amendments

**F15** Ss. 149A-149E inserted (1.3.2012) by [The Enactment of Extra-Statutory Concessions Order 2012 \(S.I. 2012/266\)](#), arts. 1, **5(4)** (with art. 5(5))

### 149A Niches, memorials and inscriptions: introduction

- (1) Sections 149B to 149E apply in calculating the profits of a trade which consists of or includes—
  - (a) the carrying on of a crematorium, and
  - (b) in connection with carrying on the crematorium—
    - (i) the sale of niches or memorials, or
    - (ii) the making of inscriptions.
- (2) In those sections—
  - (a) “the trade” is the trade mentioned in subsection (1),
  - (b) “the trader” is the company carrying on the trade, and
  - (c) a “predecessor” is a person who carried on the trade at any time before the trader started doing so.

### 149B Allowable deductions: niches

- (1) This section sets out the deductions that are allowed in respect of a niche if proceeds from the sale of the niche are brought into account as a receipt in calculating the profits of the trade.
- (2) A deduction is allowed for two-thirds of the costs incurred (by the trader or a predecessor) in the formation of the niche.
- (3) Formation of the lining and of any tablet associated with the niche is taken to be part of the formation of the niche.
- (4) If the niche is in a building that is used wholly or mainly for the purpose of providing niches, a further deduction is allowed for two-thirds of the associated building costs.
- (5) In relation to a niche in a building—
  - (a) “the associated building costs” is the relevant proportion of the costs of the building, and
  - (b) “the relevant proportion” is the proportion that the area occupied by the niche bears to the area of the building as a whole or, if the proportion cannot reasonably be calculated on that basis, such proportion as may be calculated on a just and reasonable basis.

### 149C Allowable deductions: memorials

- (1) This section sets out the deductions that are allowed in respect of a memorial if proceeds from the sale of the memorial are brought into account as a receipt in calculating the profits of the trade.



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- (2) A deduction is allowed for the costs incurred (by the trader or a predecessor) in producing the memorial.
- (3) If the memorial includes an inscription, making that inscription is taken to be part of producing the memorial.
- (4) If the memorial is attached to a building that is used wholly or mainly for the purpose of accommodating memorials or the memorial comprises an entire building, a further deduction is allowed for two-thirds of the associated building costs.
- (5) In relation to a memorial attached to or comprising a building, “the associated building costs” means—
  - (a) the amount found by dividing the costs of the building by the total number of memorials that the building is capable of accommodating, or
  - (b) if the memorial comprises an entire building, the costs of that building.

#### **149D Allowable deductions: inscriptions**

- (1) This section sets out the deductions that are allowed in respect of an inscription if proceeds from making the inscription are brought into account in calculating the profits of the trade.
- (2) A deduction is allowed for the costs incurred (by the trader or a predecessor) in making the inscription.
- (3) If the inscription is made on an existing framework designed to hold more than one inscription, a further deduction is allowed for two-thirds of the associated framework costs.
- (4) In relation to an inscription made on an existing framework, “the associated framework costs”—
  - (a) is the amount found by dividing the costs of the framework by the total number of inscriptions that the framework is designed to hold, and
  - (b) includes, if the framework is attached to a building that is used wholly or mainly for the purpose of accommodating memorials, the amount found by dividing the costs of the building by the total number of memorials that the building is capable of accommodating.
- (5) This section does not apply to an inscription if it is made as part of producing a memorial (see section 149C).

#### **149E Costs of the building**

- (1) For the purposes of sections 149B to 149D, the costs of a building are to be determined in accordance with this section.
- (2) If the building was acquired for the purposes of the trade, the costs of the building are the lower of—
  - (a) the market value of the building when it was acquired, and
  - (b) the costs incurred in acquiring the building.
- (3) If the building was constructed for the purposes of the trade, the costs of the building are the costs incurred in constructing the building.

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- (4) In either case—
- (a) the acquisition cost (or market value) of the land on which the building is situated is to be ignored, and
  - (b) for these purposes, costs (or values) are to be apportioned between the land and the building on a just and reasonable basis.
- (5) Any construction costs incurred with respect to the building after it was acquired or constructed for the purposes of the trade must be brought into account as costs of the building.
- (6) But costs incurred in maintaining the building must not be brought into account.
- (7) Costs must not be included as costs of the building if a deduction is or is to be brought into account for them under section 147(2) (deduction for capital expenditure).
- (8) A reference in this section to costs incurred is to costs incurred either by the trader or a predecessor.
- (9) In sections 149B to 149D and this section, “building” includes any other type of structure.]

#### *Sound recordings*

### **150 Revenue nature of expenditure**

- (1) If a company carrying on a trade incurs expenditure on the production or acquisition of the original master version of a sound recording, the expenditure is treated for corporation tax purposes as expenditure of a revenue nature.
- (2) If expenditure is treated under this section as revenue in nature, sums received by the company from the disposal of the original master version of the sound recording—
  - (a) are treated for corporation tax purposes as receipts of a revenue nature, and
  - (b) are brought into account in calculating the profits of the relevant period in which they are received.
- (3) For this purpose sums received from the disposal of the original master version include—
  - (a) sums received from the disposal of any interest or right in or over the original master version (including an interest or right created by the disposal), and
  - (b) insurance, compensation or similar money derived from the original master version.

### **151 Allocation of expenditure**

- (1) This section applies in calculating for corporation tax purposes the profits or losses of a company from a trade if—
  - (a) the trade consists of or includes the exploitation of original master versions of sound recordings, and
  - (b) the original master versions do not constitute trading stock of the trade as defined by section 163.
- (2) Expenditure that—

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- (a) is incurred on the production or acquisition of the original master version of a sound recording, and
  - (b) is of a revenue nature (whether as a result of section 150 or otherwise),
- must be allocated to relevant periods in accordance with this section.
- (3) The company must allocate to a relevant period so much of the expenditure as is just and reasonable having regard to—
- (a) the amount of the expenditure that remains unallocated at the beginning of the period,
  - (b) the proportion that the estimated value of the original master version of the sound recording that is realised in that period (whether by way of income or otherwise) bears to the total value so realised and the estimated remaining value of the original master version at the end of the period, and
  - (c) the need to bring the whole of the expenditure into account over the time during which the value of the original master version is expected to be realised.
- (4) The company may also allocate to a relevant period a further amount, so long as the total amount allocated does not exceed the value of the original master version of the sound recording realised in that period (whether by way of income or otherwise).

## **152 Interpretation of sections 150 and 151**

- (1) For the purposes of sections 150 and 151—
- (a) “sound recording” does not include a film soundtrack,
  - (b) “original master version” means the master tape or master audio disc of the recording,
  - (c) references to the original master version of a sound recording include any rights in the original master version that are held or acquired with it, and
  - (d) “relevant period” means—
    - (i) a period for which accounts of the trade are made up, or
    - (ii) if no accounts of the trade are made up for a period, an accounting period of the company.
- (2) In subsection (1)(a) “film” is to be read in accordance with section 1181.

*Reserves of marketing authorities etc*

## **153 Reserves of marketing authorities and certain other statutory bodies**

- (1) This section applies to a statutory body if its object (or one of its objects) is—
- (a) marketing an agricultural product, or
  - (b) stabilising the price of an agricultural product.
- (2) Subsections (3) and (4) apply if the body is required, by or under an approved scheme or arrangement (“the scheme”), to pay the whole or part of any trading surplus into a reserve fund meeting the conditions specified in section 154.
- (3) Any sums which the body is required by or under the scheme to pay into the fund out of the profits of its trade are allowed as deductions in calculating the profits of the trade.
- (4) Any sums withdrawn by the body from the fund are taken into account as trading receipts, except so far as—

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- (a) they are required, by or under the scheme, to be paid to a Minister or department,
  - (b) they are distributed to producers of the product in question, or
  - (c) they are refunded to persons who pay any levy or duty.
- (5) In this section—
- “approved scheme or arrangement” means a scheme or arrangement approved by, or made with, a Minister or department,
  - “producers of the product” includes persons producing the product from another product,
  - “statutory body” means a body established by or under an enactment,
  - “trading surplus” means a surplus from the body's trading operations or other trade receipts.

#### **154 Conditions to be met by reserve fund**

- (1) These are the conditions to be met by the reserve fund (see section 153(2)).
- (2) The first condition is that no sum may be withdrawn from the fund without the authority or consent of a Minister or department.
- (3) The second condition is that if—
  - (a) money has been paid to the body by a Minister or department—
    - (i) in connection with arrangements for maintaining guaranteed prices, or
    - (ii) in connection with the body's trading arrangements, and
  - (b) the money is repayable to the Minister or department,
 sums standing to the credit of the fund are required to be applied (in whole or in part) in repaying the money.
- (4) The requirement mentioned in subsection (3) must be imposed by or under the scheme or arrangement mentioned in section 153(2).
- (5) The third condition is that—
  - (a) the fund is reviewed by a Minister at intervals fixed by or under the scheme or arrangement mentioned in section 153(2), and
  - (b) if the fund appears to the Minister to exceed what is reasonably required by the body, the excess is withdrawn from the fund.

#### **155 Interpretation of sections 153 and 154**

- (1) In sections 153 and 154 “Minister” means—
  - (a) a Minister of the Crown,
  - (b) the Scottish Ministers,
  - (c) the Welsh Ministers, or
  - (d) a Minister within the meaning of the Northern Ireland Act 1998 (c. 47).
- (2) In sections 153 and 154 “department” means—
  - (a) a government department,
  - (b) a part of the Scottish Administration,
  - (c) a part of the Welsh Assembly Government, or

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(d) a Northern Ireland department.

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