



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 3

#### TRADING INCOME

### CHAPTER 9

#### TRADE PROFITS: OTHER SPECIFIC TRADES

#### *[<sup>F1</sup>Cemeteries and crematoria: interests in land]*

#### Textual Amendments

- F1** 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.

*Status: Point in time view as at 17/07/2013.*

*Changes to legislation: Corporation Tax Act 2009, Cross Heading: Cemeteries and crematoria: interests in land is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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—
- (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>F2</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>F3</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

- F2** 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))
- F3** 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—
- ancillary capital expenditure incurred on buildings or structures which were destroyed before the beginning of the first sale period,
  - the excluded amount of any remaining old expenditure (see subsection (3)),
  - 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
  - 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.

**Status:**

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**Changes to legislation:**

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