
*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Cross
Heading: Increase of profits or gains of transitional overlap period. (See end of Document for details)*

SCHEDULES

SCHEDULE 22

PREVENTION OF EXPLOITATION OF ^{F1}SCHEDULE 2 TO ITTOIA 2005 (SO FAR AS RELATING TO OVERLAP PROFIT)]

Textual Amendments

- F1** Words in Sch. 22 heading substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 484\(12\)](#) (with Sch. 2)

PART I

CASES I AND II OF SCHEDULE D

Increase of profits or gains of transitional overlap period

- 3 (1) This paragraph applies where, in the case of a trade, profession or vocation carried on by any person—
- (a) ^{F1}paragraph 52 of Schedule 2 to the Income Tax (Trading and Other Income) Act 2005 (“ITTOIA 2005”) applies; and
 - (b) any amount which is included in the transitional overlap profit would not have been so included if—
 - (i) any relevant change made by that person had not been made; or
 - (ii) any relevant transaction entered into by that person had not been entered into.
- (2) Subject to sub-paragraph (3) below, ^{F2}paragraph 52 of that Schedule] shall have effect as if the reference to the transitional overlap profit were a reference to the amount (if any) by which that profit exceeds 1.25 times the aggregate of the amounts falling within sub-paragraph (1)(b) above.
- (3) Sub-paragraph (3) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph but subject to the following modifications, namely—
- (a) the reference to the aggregate of the amounts mentioned in the said paragraph 2(2) shall have effect as a reference to the transitional overlap profit; and
 - (b) the reference to the appropriate percentage of the turnover for the transitional period shall have effect as a reference to the appropriate percentage of the turnover for the transitional overlap period.
- (4) In this paragraph—

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“the appropriate percentage” means the following expressed as a percentage, that is, 365 divided by the number of days in the transitional overlap period;

“the transitional overlap period” means the period beginning immediately after the end of—

- (a) the basis period for the year 1996-97 [^{F3}(determined in accordance with paragraph 1 of Schedule 20 to the Finance Act 1994 despite the repeal by ITTOIA 2005 of that paragraph)]; or
- (b) in the case of a trade or profession carried on by any person in partnership with other persons, the basis period of the partnership for that year [^{F3}(as so determined)],

and (in either case) ending with 5th April 1997;

“the transitional overlap profit” means the amount mentioned in [^{F4}paragraph 52(2) of Schedule 2 to ITTOIA 2005].

Textual Amendments

- F1** Words in Sch. 22 para. 3(1)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 484\(3\)\(a\)](#) (with Sch. 2)
- F2** Words in Sch. 22 para. 3(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 484\(3\)\(b\)](#) (with Sch. 2)
- F3** Words in Sch. 22 para. 3(4) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 484\(3\)\(c\)](#) (with Sch. 2)
- F4** Words in Sch. 22 para. 3(4) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 484\(3\)\(d\)](#) (with Sch. 2)

^{F5}4

Textual Amendments

- F5** Sch. 22 para. 4 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 484\(4\), Sch. 3](#) (with Sch. 2)

- 5 (1) This paragraph applies where, in the case of a trade or profession carried on by any person in partnership with other persons—
- (a) [^{F6}paragraph 52 of Schedule 2 to ITTOIA 2005] applies with or without the modification made by paragraph 3(2) above;
 - (b) a claim is made under [^{F7}section 383 of the Income Tax Act 2007 (relief for interest payments)] in respect of interest on a loan to defray money contributed or advanced by him (“the partner”) to the partnership; and
 - (c) sub-paragraph (2) below applies to any of the money so contributed or advanced.
- (2) This sub-paragraph applies to money so contributed or advanced unless it was contributed or advanced wholly or mainly—
- (a) for bona fide commercial reasons; or
 - (b) for a purpose other than the reduction of the partnership’s borrowings for a relevant period.

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- (3) Subject to sub-paragraph (4) below, [^{F8}paragraph 52 of Schedule 2 to ITTOIA 2005] shall have effect as if the reference to the transitional overlap profit were a reference to the difference between that profit and the amount of interest paid by the partner in respect of the transitional overlap period on money to which sub-paragraph (2) above applies.
- (4) Sub-paragraph (3) above does not apply where—
- (a) the loan was made before 1st April 1994; or
 - (b) the aggregate amount of interest paid as mentioned in that sub-paragraph is less than such amount as may be prescribed by regulations made by the Board.
- (5) In this paragraph—
- “relevant period” means a period the whole or part of which falls within the transitional overlap period;
- “the transitional overlap period” has the same meaning as in paragraph 3 above;
- “the transitional overlap profit” means the amount mentioned in [^{F9}paragraph 52(2) of Schedule 2 to ITTOIA 2005] (whether having effect with or without the modification made by paragraph 3(2) above).

Textual Amendments

- F6** Words in Sch. 22 para. 5(1) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 484\(5\)\(a\)](#) (with Sch. 2)
- F7** Words in Sch. 22 para. 5(1)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 370\(2\)](#) (with Sch. 2)
- F8** Words in Sch. 22 para. 5(3) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 484\(5\)\(b\)](#) (with Sch. 2)
- F9** Words in Sch. 22 para. 5(5) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 484\(5\)\(c\)](#) (with Sch. 2)

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