

# **INCOME TAX (TRADING AND OTHER INCOME) ACT 2005**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Schedule 2: Transitionals and savings etc.***

##### **Part 1: General provisions – continuity of the law**

3533. These paragraphs ensure continuity of the law, despite the fact that this Act repeals and rewrites provisions.
3534. [Paragraph 2](#) makes clear that the proposition about the continuity of the law in paragraph 1 does not apply to changes in the law made by this Act.
3535. The paragraphs in this Part stand instead of section 17(2) of the Interpretation Act 1978 and provide a comprehensive set of transitional arrangements.

##### **Part 2: Changes in the law**

3536. This paragraph allows anyone affected by a minor change in the law made by this Act to elect that the change does not apply to events occurring before 6 April 2005. This allows the Act to be applied as soon as possible without imposing charges retrospectively.
3537. The Act applies for the purposes of income tax. But it makes numerous consequential amendments to corporation tax. So corporation tax is also provided for here.

##### **Part 3: Trading income**

#### ***Paragraphs 22 and 23: Training courses for employees***

3538. These two paragraphs ensure continuity in the training expenses tax recovery provisions in the source legislation which are rewritten in section 75. They are based on section 588 of ICTA.
3539. Paragraph 37 of Schedule 7 to ITEPA keeps sections 588(5)(a) and 589(3) and (4) of ICTA in force in relation to tax years before 2003-04. It also preserves the reference to section 589(3) and (4) of ICTA in section 588(6) of ICTA in relation to such tax years.
3540. The first paragraph ensures that the rewrite of section 588 of ICTA does not stop paragraph 37 of Schedule 7 to ITEPA from working: where section 588 has effect by virtue of paragraph 37 of Schedule 7 to ITEPA the amendments do not apply in relation to the section.
3541. The second paragraph ensures continuity in the case of determinations of an employer's income tax liability for the tax years between the dates that ITEPA and the rewrite of section 588 of ICTA come into force. Those determinations will be made on the assumption that a deduction is allowed under section 588(3) of ICTA. Doubt might arise whether section 75 applies in such cases: section 75(1) says that the section applies

*These notes refer to the Income Tax (Trading and Other Income)  
Act 2005 (c.5) which received Royal Assent on 24 March 2005*

if an employer's liability has been determined on the assumption that a deduction is allowed under section 74.

3542. The effect of the transitional is that even though a deduction has been allowed under section 588(3) of ICTA, section 75 will operate if there is a later breach of section 311(4)(a) or (b) of ITEPA.
3543. If the expenditure is incurred on or after 6 April 2005, the employer's right to a deduction will arise under section 74 and section 75 will operate if there is a later breach of section 311(4)(a) or (b) of ITEPA.
3544. *Sub-paragraph (1)(c)* of the second paragraph makes it clear that this transitional does not apply if an assessment has already been made before the rewritten provisions come into force.

***Paragraph 48: Apportionment of profits or losses to tax years before tax year 2005-06 – basis periods***

3545. **Section 883** provides that the Act takes effect for income tax purposes for the tax year 2005-06. For trade profits taxed under Chapter 2 of Part 2 of this Act the income chargeable for 2005-06 is determined by reference to the basis period for that tax year.
3546. **Chapter 15** of Part 2 of this Act sets out the rules for relating basis periods to periods of account. In the case of an established trade the basis period for 2005-06 will usually be the 12 month period of account ending in the year 2005-06. That period of account will not normally form the basis period for any other tax year.
3547. But if the trade has just started it may be necessary to apportion the result of a period of account. For example, if a trade starts on 1 January 2005 and the first accounts are made up to 31 December 2005 that period of account will form the following basis periods:
- tax year 2004-05 basis period 1 January 2005 to 5 April 2005; and
  - tax year 2005-06 basis period 1 January 2005 to 31 December 2005.
3548. Section 72 of ICTA, rewritten as section 203 allows the profits for the basis period 1 January to 5 April 2005 to be arrived at by apportionment.
3549. In calculating the amount of overlap relief, (see section 204), it is important that the same figure of taxable profit is attributed to the period 1 January 2005 to 5 April 2005 for both tax years.
3550. The purpose of this paragraph is to allow the profits of a period of account that straddles 6 April 2005 to be calculated using the rewritten legislation even though tax years earlier than 2005-06 will be affected. This Act includes a number of minor changes in the law. Without this paragraph it would be necessary for traders to take account of those changes only for the tax year 2005-06.
3551. If a taxpayer does not want the new law to apply to a transaction that occurred before 6 April 2005 he or she can elect for the old legislation to continue to apply.

***Paragraph 50: Profits or losses of a trade, profession or vocation previously chargeable in accordance with section 65(1) of ICTA***

3552. This transitional provision relates to *Change 1* in Annex 1. The profits of a trade, profession or vocation may exceptionally not be charged in accordance with section 65(3) of ICTA (because they are not "immediately derived" from it). In that case this Act may produce a change from assessment on a tax year basis to assessment on the basis of the profits of a basis period. This transitional provision ensures that profits are not assessed twice.

***Paragraph 51: Profits of mines, quarries and other concerns not chargeable by reference to a basis period***

3553. Section 55 of ICTA, rewritten as section 12, provides that the profits of certain concerns are taxed under Schedule D Case I. It is not clear in the source legislation whether or not the basis period rules rewritten as Chapter 15 of Part 2 of this Act apply to these profits. It is possible that some taxpayers may be returning the profits by reference to the full amount arising in the tax year and not by reference to the period of account ending in the basis period for the tax year.
3554. **Section 12** makes clear that all the Schedule D Case I rules apply including the basis period rules. This paragraph deals with the transition to that regime if the taxpayer has not used the basis period rules in the tax year 2004-05. Deeming the trade to start on 6 April 2005 means the taxpayer will be taxed on the full amount of the profit arising in the tax year 2005-06 and no part of that profit will also be taxed in the earlier year.
3555. If a taxpayer has arrived at the profits for the tax year by apportioning the profits of periods of account the paragraph also allows the taxpayer to use the rules in this Act to calculate the profits in any part of the period that straddles 6 April 2005.

***Paragraph 55: Averaging profits of farmers and creative artists***

3556. This transitional provision relates to *Change 60* in Annex 1. It preserves a taxpayer's right (if one exists under ICTA) to claim averaging for 2004-05 and 2005-06 even if one of those years is the year in which the taxpayer starts or ceases to carry on the trade, profession or vocation.

***Paragraph 58: Adjustment on change of basis: paragraph 12 of Schedule 22 to FA 2002***

3557. This transitional provision relates to *Change 62* in Annex 1. It preserves the FA 2002 spreading arrangements if an election has been made under the FA 2002 rules.

***Paragraph 59: Adjustment on change of basis: section 104 of ICTA***

3558. Section 109 of ICTA provides a special relief for individuals born before 6 April 1917 who are chargeable to tax under section 104 of ICTA. The relief takes the form of a fractional reduction in the amount charged under section 104 of ICTA. This transitional provision replaces the relief with an exemption. So section 109 of ICTA is repealed without being rewritten. See *Change 156* in Annex 1.

**Part 4: Property income**

***Paragraph 62: Apportionment of profits or losses to tax years before tax year 2005-06***

3559. Section 21(2) of ICTA, rewritten as section 270 provides that income from a property business is taxed on the full amount of the profit arising in the tax year. If the taxpayer does not prepare accounts to 5 April it may be necessary to apportion accounts made up to a different date to calculate the amount arising in the tax year. Section 72 of ICTA, rewritten as section 275, applies to the profits of a property business through section 21A(2) of ICTA and allows the profits of the period of account to be apportioned to tax years.
3560. **Section 883** provides that the Act takes effect for income tax purposes for the tax year 2005-06. This paragraph provides that the profits of a period of account that straddles 6 April 2005 are calculated by reference to the rewritten legislation even though years earlier than 2005-06 will be affected. This Act includes a number of minor changes in the law. Without this paragraph it would be necessary for taxpayers to take account of those changes only for 2005-06.

3561. If a taxpayer does not want the new law to apply to a transaction that occurred before 6 April 2005 he or she can elect for the old legislation to continue to apply.

## **Part 5: Savings and investment income: general**

### ***Paragraph 78: Open-ended investment companies: saving for powers to make provision corresponding to provisions applicable to unit trusts***

3562. Section 152 of FA 1995 enables regulations to be made for securing that the Tax Acts and TCGA and some other enactments have effect in relation to open-ended investment companies, their holdings and assets and transactions relating to them in a way corresponding to that in which they have effect in relation to unit trusts. However, this Act rewrites the effect of some of the regulations made under this power as free-standing provisions without reference to unit trusts. (See sections 373 to 375 and sections 386 to 388). So this saving is necessary to preserve the power in section 152 of FA 1995 so that regulations may continue to be made for achieving any purpose that could be achieved by such regulations before enactment of those sections, because after their enactment they will not be provisions that relate to unit trusts.

### ***Paragraph 80: Deeply discounted securities: deemed transfers of strips on 5th April***

3563. Paragraph 14(4) of Schedule 13 to FA 1996 provides that a strip of a government security is deemed to be transferred on 5 April and reacquired the following day. This is rewritten in section 445 of this Act as a disposal and reacquisition on the same day. See *Change 87* in Annex 1. This change will not work as it should for the tax year beginning 6 April 2005, when this Act first has effect, because while paragraph 14(4) of Schedule 13 to FA 1996 will deem a disposal on 5 April it will have been repealed on 6 April. There will therefore be no deemed reacquisition.
3564. This provision ensures that the strip will be deemed to have been reacquired on 6 April 2005.

### ***Paragraphs 82 and 83: Profits from deeply discounted securities: saving for charities' losses and Profits from deeply discounted securities: saving for pension trustees' losses***

3565. These two provisions rewrite paragraph 7(1) and (3) of Schedule 13 to FA 1996. These sub-paragraphs deal with losses on deeply discounted securities incurred by charities and pension trustees where the securities have been held since 26 March 2003 and are listed on a recognised stock exchange. Because these provisions are likely to be of extremely limited application they have been relegated from Chapter 8 of Part 4 of this Act (deeply discounted securities) of this Schedule.

### ***Paragraph 84: Exclusion of deeply discounted securities from section 711 to 718 of ICTA (accrued income profits)***

3566. Section 710(3) of ICTA lists securities which are excluded from the accrued income scheme in Chapter 2 of Part 17 of ICTA. Section 710(3)(f) of ICTA (securities which are relevant discounted securities within Schedule 13 to FA 1996) has been consequentially amended by Schedule 1 to this Act to refer to deeply discounted securities within Chapter 8 of Part 4 of this Act.
3567. Before FA 2003, paragraph 11 of Schedule 13 to FA 1996 was the only exclusion of relevant discounted securities from the accrued interest scheme. As part of the provisions for removing loss relief on relevant discounted securities, paragraph 5(2)(c) of Schedule 39 to FA 2003 repealed paragraph 11 of Schedule 13 to FA 1996 and added relevant discounted securities to the list of securities outside the accrued income scheme in section 710(3)(f) of ICTA.

3568. But paragraph 6(1)(b) of Schedule 39 to FA 2003 repeals paragraph 11 of Schedule 13 to FA 1996 only in relation to a *loss* on a relevant discounted security on or after 26 March 2003 and applies section 710(3)(f) of ICTA only in relation to *losses* on or after that date.
3569. Moreover paragraph 6(2)(b) of Schedule 13 to FA 1996 provides a saving for changes introduced by paragraphs 5(2) and (4) of that Schedule if the security is quoted on a recognised stock exchange and has been held continuously since before 27 March 2003. In those circumstances paragraph 7 of Schedule 13 to FA 1996 continues to apply.
3570. The complex position that emerges is:
- section 710(3)(f) of ICTA applies only where losses arise unless the loss arises on a quoted security held since before 27 March 2003; and
  - paragraph 11 of Schedule 13 to FA 1996 continues to apply for all gains but also for losses arising on a quoted security held since before 27 March 2003.
3571. It serves no purpose to have one provision applying to gains and another to losses and the repeal of paragraph 11 of Schedule 13 to FA 1996 and insertion of section 710(3)(f) of ICTA suggest that this was not the intention.
3572. This paragraph therefore applies section 710(3)(f) of ICTA for all disposals after 6 April 2005.

***Paragraph 85: Gains from contracts for life insurance etc: foreign policies of life insurance***

3573. This paragraph preserves the status of certain foreign policies of life insurance as *qualifying policies* under Schedule 15 to ICTA where the policy had that status prior to the amendment of section 553(2) and (7) of ICTA by section 55(8) of FA 1995. That amendment removed qualifying policy status from policies which depended for it on satisfying the condition in paragraph 24(4) (rather than paragraph 24(3)) of Schedule 15 to ICTA. Some foreign policies were issued by insurers who were, at that time, subject to UK tax under section 445 of ICTA and such policies were only qualifying policies within the meaning of Schedule 15 to ICTA by virtue of paragraph 24(4) of that Schedule. This paragraph is based on section 55(8) of FA 1995.
3574. Where this paragraph applies, the provisions mentioned in section 474(2) apply to the policy in question. But an individual or trustee who is chargeable on a gain arising in respect of such a policy will get the income tax allowance provided by section 530 where condition B in section 531 is met.

***Paragraph 86: Gains from contracts for life insurance etc: exclusion of pension policies***

3575. [Chapter 9](#) of Part 4 of this Act anticipates the amendment by FA 2004 of Part 14 of ICTA (pension schemes, social security benefits, life annuities etc.), so that it uses the descriptions which will be substituted from 6 April 2006. This paragraph preserves the original descriptions in the unamended source legislation for the tax year 2005-06.

***Paragraphs 87 and 88: Gains from contracts for life insurance etc: rights partially assigned***

3576. FA 2001 introduced rules, inserted as section 546A of ICTA, to determine what assignments are regarded as taking place when certain assignments of part or a share of the rights under a policy or contract are assigned. Paragraph 87 ensures that any question of what is or is not an assignment of such a part or share, in relation to times before section 546A of ICTA applies, is determined without regard to section 505 (which rewrites section 546A of ICTA). This paragraph is based on section 83 of FA 2001.

3577. FA 2001 also amended Chapter 2 of Part 13 of ICTA so that an assignment of rights under the policy or contract before 6 April 2001 which is not for money or money's worth is ignored. Paragraph 88 ensures that such assignments which occurred before that date continue to be valued as they were valued prior to the amendments of FA 2001 if the value of such an assignment is material to the operation of Chapter 9 of Part 4 of this Act. This paragraph is based on section 83 of FA 2001.

***Paragraph 89: Gains from contracts for life insurance etc: regulations providing for relief where foreign tax chargeable***

3578. This paragraph preserves the original scope of the powers in section 56(3) of FA 1995 which are rewritten in section 534. It is based on section 56(3) of FA 1995.

***Paragraph 90: Gains from contracts for life insurance etc: pure protection group life policies***

3579. FA 2003 amended the law in respect of group life policies to ensure that such policies do not give rise to gains chargeable under Chapter 2 of Part 13 of ICTA. Provision was also made to disregard as a chargeable event any event happening before 9 April 2003, if it happened in respect of a particular type of group life policy (a "pure protection group life policy"). This paragraph preserves that disregard should it be necessary to consider, for the purposes of Chapter 9 of Part 4 of this Act, whether any event happening before that date in relation to such a policy has been a chargeable event. This paragraph is based on paragraph 3 of Schedule 34 to FA 2003.

***Paragraph 91: Gains from contracts for life insurance etc: assessment of trustees etc***

3580. This paragraph preserves the commencement date for the FA 1998 amendments to Chapter 2 of Part 13 of ICTA (liability of trustees in respect of gains from life policies etc.), so that the FA 1989 rules on the assessment of trustees (as amended by paragraph 411 of Schedule 1 to this Act) do not refer to gains from chargeable events before 6 April 1998. This paragraph is based on paragraph 7 of Schedule 14 to FA 1998.

***Paragraphs 92 and 93: Transactions in deposits***

3581. **Paragraph 92** is based on section 56(3) of ICTA. It preserves a commencement rule for the source legislation rewritten in Chapter 11 of Part 4 of this Act should there be any extant pre-7 March 1973 certificates of deposit. See the commentary on that Chapter in Volume 2 of these Explanatory Notes.

3582. **Paragraph 93** is based on paragraph 6 of Schedule 8 to FA 1992. It preserves a commencement rule for the source legislation rewritten in Chapter 11 of Part 4 of this Act should there be any extant pre-16 July 1992 uncertificated deposits.

***Paragraph 94: Disposals of futures and options involving guaranteed returns: certain pre-6th February 1998 transactions***

3583. This paragraph ensures that section 564 (deemed disposal where futures run to delivery or options are exercised) will not apply where the transaction took place before 6 February 1998.

***Paragraph 95: Disposals of futures and options involving guaranteed returns: rates of tax for pension trustees***

3584. This paragraph modifies Condition C in section 568 (special rule for certain income of trustees) for the tax year 2005-06. It rewrites paragraph 7(2)(c) of Schedule 5AA to ICTA as it stands before the amendments made by FA 2004, which only apply for the tax year 2006-07 onwards.

## **Part 6: Savings and investment income: insurance contracts and policies made before certain dates**

### **Overview**

3585. This Part of Schedule 1 applies for the purposes of Chapter 9 of Part 4 of this Act.
3586. The paragraphs in this Part set out the further rules that apply to policies issued in respect of insurances made or contracts made before certain dates. The paragraphs appear in the chronological order of those dates. These rules largely reflect the commencement provisions applying to the various amendments to the source legislation.
3587. **Part 7** of this Schedule contains further rules that apply in respect of policies and contracts pre-dating 17 March 1998 that may be personal portfolio bonds.
3588. Other transitional provisions in respect of Chapter 9 of Part 4 of this Act are provided in Part 5 of this Schedule.

### ***Paragraph 96: Pre-20th March 1968 policies and contracts excluded from Chapter 9 of Part 4***

3589. This paragraph excludes certain policies and contracts from the scope of Chapter 9 of Part 4 of this Act. It is based on section 539 of ICTA.
3590. *Sub-paragraph (2)* removes that exclusion where the policy or contract is varied after the relevant date in certain circumstances. This is a common feature of the chargeable event gains regime. It prevents the exploitation of policies and contracts which benefit from a particular rule in relation to a specific date, where the later variation could increase the value of that benefit to a degree not contemplated by the provision.
3591. *Sub-paragraph (3)* restricts the effect of sub-paragraph (2) where the variation was made by 31 December 1968 to comply with certain provisions for qualifying policies (as at that time, under the predecessor to Schedule 15 of ICTA).

### ***Paragraph 97: Pre-27th March 1974 policies and contracts: disapplication of section 500(c)***

3592. This paragraph reflects the commencement provisions in the source legislation for sections 500(c) and 501, which treat certain loans as part surrenders of a policy or contract. It is based on section 548(1) of ICTA.

### ***Paragraph 98: Pre-27th March 1974 contracts: disapplication of section 531(3)(c)***

3593. This paragraph reflects the commencement provisions in the source legislation for the treatment of gains from certain contracts for a life annuity. It is based on section 547(5A) of ICTA.

### ***Paragraph 99: Pre-10th December 1974 contracts for a life annuity: disapplication of section 484(1)(d)***

3594. This paragraph reflects the commencement provisions in the source legislation for the treatment of death as giving rise to a surrender of the rights under a contract for a life annuity. It is based on section 542(2) of ICTA.

### ***Paragraph 100: Pre-14th March 1975 policies and contracts: calculation of gains under section 507***

3595. This paragraph applies to policies and contracts which are more than 20 years old. Premiums paid on such policies 20 or more years ago will be 100% allowable in computations of gains, subject to the restriction this paragraph applies in respect of years beginning before 14 March 1975. It introduces, for the policies and contracts to

which it applies, the concept of a “reference period”, defined in *sub-paragraph (6)* as insurance years beginning after 13 March 1975. Where the paragraph applies, it affects the periodic calculation under section 507. It is based on section 546(1) of ICTA.

3596. *Sub-paragraph (3)* limits by reference to that reference period the period within which certain assignments contribute amounts in the calculation under section 507 of the “net total value” of rights assigned.
3597. *Sub-paragraphs (4) and (5)* amend the calculation to allow a portion of each premium paid before the reference period and during the reference period in the total of “net total allowable payments”. The portion allowed cannot exceed 100% of a premium paid in a year falling wholly in the reference period. If the premium was paid in an insurance year beginning before the reference period, the allowable amount diminishes the earlier the premium was paid. For each such premium, one-twentieth is “lost” for each year beginning before the reference period, back to and including the year the premium was paid.

***Paragraph 101: Pre-25th March 1982 replacement policies: disapplication of section 542***

3598. This paragraph is based on paragraph 20(4) of Schedule 15 to ICTA. A replacement policy issued before 25 March 1982 is not treated as a single policy with the one it replaced, but as a freshly issued policy in, for example, the calculation of “N” in section 536 (calculations for top slicing relief).

***Paragraph 102: Certain pre-26th June 1982 policies and contracts excluded from Chapter 9 of Part 4***

3599. Before FA 1983, gains on “second hand” life insurance policies and life annuity contracts (that is, where all the rights had previously been assigned for money or money’s worth) were subject to capital gains tax rather than income tax. The gain was computed under capital gains tax rules.
3600. This paragraph preserves that treatment so long as none of the events set out in *sub-paragraphs (3) to (5)* occurs after 23 August 1982. Should such an event occur, the policy or contract comes again within the scope of Chapter 9 of Part 4 of this Act. The paragraph is based on sections 540, 542 and 544 of ICTA.
3601. *Sub-paragraphs (5) to (9)* provide that certain loans made by, or by arrangement with, the issuer of the policy or contract to, or at the direction of, an individual bring the assigned policy or contract back into the scope of Chapter 9 of Part 4 of this Act. They ensure that the treatment of such loans corresponds with the rules (including exceptions) in section 501.
3602. Sub-paragraph (6) ensures that the individual mentioned in sub-paragraph (5) is within the scope of that provision even where the rights under the policy or contract are held under a charitable trust that individual created (although a gain would not be attributed to that individual under section 465 in such circumstances).
3603. Sub-paragraph (9) ensures that the loan bringing the policy back within the scope of Chapter 9 of Part 4 of this Act is treated as a part surrender by virtue of section 500.

***Paragraph 103: Certain pre-18th November 1983 policies not foreign policies of life insurance***

3604. This paragraph is based on section 553A of ICTA. The paragraph reflects the commencement provisions for the source legislation.
3605. The exclusion of a policy to which this paragraph applies from the scope of Chapter 9 of Part 4 of this Act is lost if the policy is varied in certain ways. See the commentary above

on the similar provision in paragraph 96 (pre-20th March 1968 policies and contracts excluded from Chapter 9 of Part 4).

3606. See also the commentary below for paragraph 111 (certain pre-17th March 1998 policies not foreign policies of life insurance).

***Paragraph 104: Certain pre-23rd February 1984 policies not foreign capital redemption policies***

3607. This paragraph is based on section 553(10) of ICTA. That section defines a “new offshore capital redemption policy” (the equivalent term in the source legislation for a “foreign capital redemption policy”). This paragraph reflects the commencement provisions for that source legislation. See also the commentary for paragraph 113 (certain pre-23rd March 1999 policies not foreign capital redemption policies).

***Paragraph 105: Pre-14th March 1984 policies: disregard of amounts deducted and repaid after tax relief by deduction from premiums abolished***

3608. Certain amounts were treated under section 72(9) of FA 1984 as additional premiums paid on 5 August 1984 only. This treatment arose exceptionally from the abolition of the right to deduct tax relief from premiums paid to the insurer and applied for limited purposes (which did not include the calculation of chargeable event gains). This paragraph ensures that such amounts are disregarded in computing gains for the purposes of certain calculations in Chapter 9 of Part 4 of this Act. It is based on section 541(6) of ICTA.

***Paragraph 106: Certain pre-20th March 1985 policies: application of section 529(1)***

3609. This paragraph is based on section 553(5) of ICTA. It reflects the insertion by FA 1985 of an exception to rules introduced by FA 1984. The FA 1984 rules provided for the reduction of gains where the policy holder was not UK resident during all or part of the policy period (see section 528 of this Act).
3610. The exception applies when the policy is held at the time of the chargeable event by one or more non-UK resident trustees.
3611. The paragraph reverses the exception made by section 529 if the policy was held by such a trustee or trustees on 19 March 1985 and the policy was issued in respect of an insurance (for a policy of life insurance) or contract (for a capital redemption policy) made on or before that date.
3612. The paragraph also repairs an omission in the source legislation which would exclude a capital redemption policy from the benefit of the paragraph. In the source legislation, the reduction under section 553(3) of ICTA is only made if, under section 553(5A) (a) of ICTA, the policy was *issued in respect of an insurance* made before 17 March 1998. The term used in that paragraph is only apt for a policy of life insurance, although section 553(5) of ICTA covers capital redemption policies too, and the opening words of section 553(5) of ICTA are apt for both since they just refer to “the policy”. Instead of saying “issued in respect of an insurance made”, section 553(5)(a) of ICTA should have also referred to a capital redemption policy “issued in respect of a contract made”. In practice, section 553(5) of ICTA is interpreted as if it referred also to the making of contracts for capital redemption policies.

***Paragraph 107: Pre-14th March 1989 qualifying policies: application of section 485(2)(b) and (3)(b)***

3613. This paragraph reflects the commencement provisions for paragraph (b) in section 485(2) and (3). Paragraph (b) affects the incidence of chargeable events, in

respect of a qualifying policy, where the rights under the policy are held as security for a debt owed by a company. This paragraph is based on section 540(5A) of ICTA.

3614. But the modification by this paragraph of section 485(2) and (3) is removed (and the incidence of chargeable events thereby increased) if the pre-14th March 1989 policy is varied in certain ways. See the commentary above on the similar provision in paragraph 96 (pre-20th March 1968 policies and contracts excluded from Chapter 9 of Part 4). *Sub-paragraphs (2) and (3)* are based on section 539(9) of ICTA.

***Paragraph 108: Pre-14th March 1989 policies and contracts: application of section 501***

3615. This paragraph is based on section 548(3A) of ICTA. It limits the application of section 501 (loans by insurers giving rise to part surrenders) where:

- the policy or contract dates from before 14 March 1989; and
- the rights under the policy or contract were held in circumstances such that a company would be liable to tax under section 547(1)(b) of ICTA on a gain arising on that policy or contract.

3616. *Sub-paragraphs (2) and (3)* remove the limitation on the scope of section 501 if the policy is varied in certain ways. See the commentary above on the similar provision in paragraph 96 (pre-20th March 1968 policies and contracts excluded from Chapter 9 of Part 4). These sub-paragraphs do not apply to a life annuity contract. They are based on section 539(9) of ICTA.

***Paragraph 109: Contracts in accounting periods beginning before 1st January 1992: disapplication of sections 530 and 539(3)***

3617. This paragraph modifies the application of a number of provisions in Chapter 9 of Part 4 of this Act to certain life annuity contracts. The contracts affected are defined by reference to dates in 1974 (as regards the contract) and 1992 (as regards the insurer). Between those dates, the investment profits of the insurer in respect of such contracts did not bear UK tax. These contracts are therefore treated similarly to foreign policies and contracts. The paragraph is based on sections 547 and 549 of ICTA.

3618. *Sub-paragraphs (2) and (3)* deny such contracts the income tax allowance etc provided by section 530 unless either section 532 or section 534 applies. Certain other life annuity contracts are also denied that allowance (subject to the same exceptions) by section 531.

3619. This sub-paragraph does not apply in the computation of top slicing relief. The effect of this is to give equal, rather than more favourable treatment under that relief, compared to that given to policies and contracts whose underlying investment profits have borne UK tax.

3620. *Sub-paragraph (4)*, however, provides that the tax relief due under section 539 for a corresponding deficiency may extend to rates other than the higher rate for such a contract. This recognises the fact that a gain on a calculation event in respect of such a contract will have been charged at the starting and lower rates as well as the higher rate (where applicable).

3621. *Sub-paragraph (5)* amplifies the source legislation by providing a definition of “accounting period”. The term is used in Chapter 2 of Part 13 of ICTA (see section 547(5A)(b) of ICTA) but the meaning there has to be assumed, given that the terms of reference of the definition in section 834(1) of ICTA (which refers to section 12 of that Act) do not include that Chapter as it applies for income tax purposes.

***Paragraph 110: Certain pre-17th March 1998 policies: application of section 529(1)***

3622. This paragraph deals with a similar circumstance to that in paragraph 106 (certain pre-20th March 1985 policies: application of section 529(1)). It is based on section 553(5A) of ICTA.
3623. FA 1998 introduced an exception which limits the availability of the reduction of a gain for periods of non-UK residence on the part of the policy holder (see section 528), where the policy of life assurance or capital redemption policy is held by a foreign institution (see the definition of that term in section 468(5)).
3624. The paragraph reverses the exception made by section 529 if the policy was held by a foreign institution on 16 March 1998 and the policy was issued in respect of an insurance (for a policy of life insurance) or contract (for a capital redemption policy) made on or before that date.
3625. As in paragraph 106 (certain pre-20th March 1985 policies: application of section 529(1)), this paragraph repairs an omission in the source legislation which would exclude a capital redemption policy from the benefit of the paragraph.

***Paragraph 111: Certain pre-17th March 1998 policies not foreign policies of life insurance***

3626. This paragraph reflects the fact that the commencement provisions for the source legislation relevant to the paragraph (a) and paragraph (b) elements of the definition of a “foreign policy of life insurance”, in section 476(3), use different dates. It is based on section 553A of ICTA.
3627. *Sub-paragraph (1)* effectively states the general rule that policies issued in respect of an insurance made before 17 March 1998 are not foreign policies of life insurance unless certain conditions are met. This ensures that policies falling within the paragraph (b) element of the definition do so only if they are issued in respect of an insurance made on or after that date.
3628. The sub-paragraph then identifies the conditions which disapply the basic rule. These are where policies are within the paragraph (a) element of the definition (subject to the commencement provisions in paragraph 103 (certain pre-18th November 1983 policies not foreign policies of life insurance)).
3629. As was the case for paragraph 103 (certain pre-18th November 1983 policies not foreign policies of life insurance), the paragraph is based on section 553A of ICTA.
3630. *Sub-paragraphs (2)* and *(3)* disapply the general rule in sub-paragraph (1) if the policy is varied in certain ways. See the commentary on the similar provision in paragraph 96 (pre-20th March 1968 policies and contracts excluded from Chapter 9 of Part 4).

***Paragraph 112: Pre-17th March 1998 policy or contract: UK resident trustees***

3631. This paragraph reflects the commencement provisions for the source legislation, which deals with the liability of UK resident trustees. It is based on paragraph 7 of Schedule 14 to FA 1998.
3632. In addition to the usual provision in *sub-paragraph (3)* defining the policies and contracts, gains from which are not to be attributed to trustees, and the usual reservation in *sub-paragraph (4)* for policies and contracts subsequently varied, *sub-paragraph (1)* prescribes a date condition and a settlor condition.

***Paragraph 113: Certain pre-23rd March 1999 policies not foreign capital redemption policies***

3633. This paragraph reflects the fact that the commencement provisions for the source legislation relevant to the paragraph (a) and paragraph (b) elements of the definition of a “foreign capital redemption policy”, in section 476(3), have different dates. It is similar in approach to that in paragraph 111 (certain pre-17th March 1998 policies not foreign policies of life insurance). As was the case for paragraph 104 (certain pre-23rd February 1984 policies not foreign capital redemption policies), the paragraph is based on sections 553(10) and 553B of ICTA.
3634. The paragraph sets out a general rule that policies issued in respect of an insurance made before 23 March 1999 are not foreign capital redemption policies, unless conditions are met which only affect policies within the paragraph (a) element of the definition in section 476(3). This ensures that policies falling within the paragraph (b) element of the definition do so only if they are issued in respect of a contract made on or after that date.
3635. Those conditions, under which an older policy is a foreign capital redemption policy, are that the policy is within the paragraph (a) element of the definition, subject to the commencement provisions in paragraph 104 (certain pre-23rd February 1984 policies not foreign capital redemption policies).

***Paragraph 114: Pre-9th April 2003 contract or policy: UK resident trustees***

3636. This paragraph reflects the commencement provisions for the source legislation which introduced the provision rewritten as condition C in section 467(5). It is based on section 547(4A) of ICTA.
3637. *Sub-paragraphs (2) and (3)* define the policies and contracts, gains from which benefit from this exception to the scope of section 467, and disapply the exception in *sub-paragraph (1)* if the policy or contract is varied in certain ways. (See the commentary above on the similar provision in paragraph 96 (pre-20th March 1968 policies and contracts excluded from Chapter 9 of Part 4).) These sub-paragraphs are based on paragraph 12 of Schedule 34 to FA 2003.
3638. *Sub-paragraphs (3) and (4)* incorporate a correction to the source legislation, so that it applies in the case of a life annuity contract as it does in the case of a policy of life insurance or a capital redemption policy. Paragraph 12(4)(a) of Schedule 34 to FA 2003 finishes with the words “(any exercise of rights conferred by *the policy* being regarded for this purpose as a variation)”. It should refer to *the policy or contract*.
3639. No distinction between policies and contracts was intended and it is clear from the opening words of paragraph 12 of Schedule 34 to FA 2003, which refer to “A policy or contract”, that both are in mind. This paragraph makes clear that, if rights conferred by a contract for a life annuity made before 9 April 2003 are exercised on or after that date, the contract is regarded as having been varied. These sub-paragraphs are based on paragraph 12 of Schedule 34 to FA 2003.

***Paragraph 115: Pre-9th April 2003 contract or policy: loans to trustees***

3640. This paragraph reflects the commencement provisions for the source legislation which added loans to trustees to the scope of the provisions rewritten in sections 500(c) and 501. It is based on paragraph 9 of Schedule 34 to FA 2003.

***Paragraph 116: Pre-9th April 2003 contract or policy: excepted group life policies***

3641. This paragraph is based on paragraph 4 of Schedule 34 to FA 2003. *Sub-paragraphs (1) and (4)* of this paragraph carry the benefit of paragraph 4(1) of Schedule 34 to FA 2003 for certain group life policies through the date (6 April 2005) from which this Act has effect. The policies in question were taken out before 9 April 2003, and would not

otherwise satisfy the conditions in sections 481 and 482 for the exclusion provided by section 480, but had benefited under paragraph 4(1) of Schedule 34 to FA 2003.

3642. Paragraph 4(1) of Schedule 34 to FA 2003 provided a period in which, subject to conditions, a group life policy, not satisfying the conditions in section 539A of ICTA for exclusion under section 539(2)(f) of ICTA from the scope of Chapter 2 of Part 13 of that Act, could be varied to comply with section 539A of ICTA. That paragraph also provided that such a policy, if varied, would be treated as having complied with those conditions.
3643. *Sub-paragraphs (2) and (3)* similarly preserve the treatment of a replacement policy and the replaced policy under paragraph 4(3) of Schedule 34 to FA 2003 as a single policy, where the replacement was made to comply with section 539A of ICTA.

***Paragraph 117: Pre-3rd March 2004 contract or policy: calculation of deficiencies***

3644. This paragraph reflects the commencement provisions for the restriction in section 541 of relief for a deficiency under section 539 by reference to gains for which the individual in question has been liable to tax. It is based on section 140 of FA 2004.
3645. As is usual, the benefit of this paragraph is lost if the policy or contract is varied in certain ways after the relevant commencement date.

***Paragraph 118: Pre-1st January 2005 contracts for immediate needs annuities: income tax treated as paid***

3646. FA 2004 placed certain annuities in a different category, for the purposes of the tax charge on insurance companies, and provided an exemption from income tax on the annuity payments (see section 725 of this Act). This paragraph ensures that any such annuities in existence at the beginning of 2005 do not, by reason of the change to the taxation rules for insurance companies, lose entitlement to the income tax allowance under section 530. It is based on section 147 of FA 2004.

**Part 7: Savings and investment income: gains from contracts for life insurance etc. (personal portfolio bonds)**

**Overview**

3647. This part of this Schedule is wholly concerned with that part of the Personal Portfolio Bonds (Tax) Regulations [SI 1999/1029](#) (abbreviated in this commentary as “PPB(T)R”) which applies to policies and contracts in existence before 17 March 1998. It is based on regulation 3 of PPB(T)R. It also takes into account part of ESC B53 as it applies to such policies and contracts.

***Paragraph 119: Pre-17th March 1998 contract or policy: conditions to be met for contract or policy not to be a personal portfolio bond***

3648. This paragraph sets out the conditions to be satisfied if such a pre-17 March 1998 policy or contract is to avoid being a personal portfolio bond. It is based on regulation 3 of PPB(T)R. The “date condition” and the “non-variation condition” are similar to the commencement provisions commonly met when the scope of the chargeable event gains regime has been amended. See the notes on those paragraphs in Part 6 of this Schedule where such similar conditions apply (for example: paragraph 96 (pre-20th March 1968 policies and contracts excluded from Chapter 9 of Part 4)).

***Paragraph 120: The date condition***

3649. This paragraph is based on regulation 3 of PPB(T)R.

***Paragraph 121: The non-variation condition***

3650. This paragraph is based on regulation 3 of PPB(T)R.

***Paragraph 122: The first selection condition***

3651. A policy or contract must meet the first or second selection condition. This paragraph sets out the simpler of the two, that any index or property used to determine benefits under the policy or contract has, at all times in the period from 6 April 1994 (or from the commencement of the policy or contract, if later) to the date the policy or contract is being assessed against the conditions, fallen within permitted categories. The 1994 terminal date is a pragmatic reflection of the potential difficulty of establishing compliance with this condition in more distant periods. This paragraph is based on regulation 3 of PPB(T)R.

***Paragraph 123: The second selection condition***

3652. This paragraph is based on regulation 3 of PPB(T)R. The second selection condition applies where a policy:

- which does not meet the first selection condition; but
- whose benefits have not in fact been determined by reference to an index or property outside the permitted categories;
- is varied by the end of the first insurance year beginning on or after 6 April 1999 to eliminate from the determination of benefits any such index or property outside the permitted categories.

3653. In effect, the second selection condition provides a period of grace for a policy or contract to put itself into a comparable state to one meeting the first selection condition.

***Paragraph 124: Policy holders becoming UK resident after 17th March 1998***

3654. This paragraph defines and may extend the period of grace in the second selection condition where the holder of the policy or contract is non-UK resident on 17 March 1998 but subsequently becomes so, although *not* then intending to become permanently UK resident or to stay at least two years. It is based on regulations 3 and 5 of PPB(T)R.

3655. Where such a holder is an individual, Part 1 of ESC B53 (rewritten in part in section 465(1)) would excuse such a holder from the income tax for which that holder is liable on a gain for a tax year in which the holder is not UK resident.

3656. This paragraph (which incorporates material from Part 3 of ESC B53) seeks to give a newly UK resident holder of a policy or contract time in which to make the necessary variation to the policy or contract, so as to meet the second selection condition.

3657. *Sub-paragraph (2)* provides the terminal date by which the policy must be varied if it is to meet condition C of the second selection condition (see paragraph 123 (the second selection condition)).

3658. As the holder does not intend to become permanently UK resident, or to stay for at least two years, the variation must be carried out before the end of the first insurance year to begin after UK residence first begins by virtue of arrival after 17 March 1998 (or the first insurance year ending on 5 April 2000 or later, where that is more beneficial). Given that residence is in strictness for a year, UK residence will begin on 6 April preceding arrival. The holder may have as little as a day or two in which to make the variation. Although ESC A11 splits income in that first year of United Kingdom residence, treating income up to the day of arrival as not chargeable, and uses similar criteria regarding a person's intentions for UK residence, it has no bearing on the operation of the rule here.

*These notes refer to the Income Tax (Trading and Other Income)  
Act 2005 (c.5) which received Royal Assent on 24 March 2005*

3659. *Sub-paragraph (3)* further relaxes the incidence of the special personal portfolio bond charge where a policy or contract meets the second selection condition (and otherwise meets the terms of paragraph 119) by virtue of the extended period of grace given by the modification of the second selection condition (see paragraph 123 (the second selection condition)).
3660. Until the required variation is made, and the second selection condition is met, the policy or contract may be a personal portfolio bond. An insurance year may end after the relevant date and before the variation is made, so triggering a gain under section 525 if there has been a chargeable event in that year.
3661. This sub-paragraph sets aside that gain, so that no chargeable event under section 525 occurs, and no-one is liable under sections 465 to 468. If need be, corrective action will be taken under the Self Assessment system to negate any assessment made before the variation took effect.
3662. See *Change 157* in Annex 1.

***Paragraph 125: Policy holders becoming permanently UK resident after 17th March 1998***

3663. This paragraph performs the same function as the preceding paragraph, with the difference that it deals with policyholders who intend to become permanently UK resident or to stay at least two years. It is based on regulation 3 of PPB(T)R.
3664. The effect of that difference of intention shows up in *sub-paragraph (2)(b)*. The terminal date by which the policy must be varied if it is to meet condition C of the second selection condition is reckoned from the policy year beginning after the relevant date of arrival in the United Kingdom, rather than that beginning after the commencement of UK residence. The holder will therefore have at least 12 months from arrival, perhaps nearly two years, in which to effect the necessary variation.
3665. *Sub-paragraph (3)* has the same effect as the equivalent sub-paragraph in paragraph 124 (policy holders becoming UK resident after 17th March 1998), but with effect over a longer period.
3666. See *Change 157* in Annex 1.

***Paragraph 126: Meaning of “permitted index”***

3667. This paragraph is based on regulation 3 of PPB(T)R.

***Paragraph 127: Meaning of “permitted property”***

3668. This paragraph is based on regulation 3 of PPB(T)R.
3669. It extends the categories of permitted property, for the purposes of paragraphs 122 and 123 (the first and second selection conditions), beyond those listed in section 520. The added categories are all stocks and shares listed or dealt with in open markets after the beginning of the period mentioned in those paragraphs. (The Alternative Investment Market succeeded the Unlisted Securities Market.)
3670. *Sub-paragraph (2)* puts a cap on stocks and shares listed on those markets which are not a recognised stock exchange, where the investment in the company exceeds 10% of:
- the issued share capital of the company; or
  - the total amount of premiums paid under the policy or contract.
3671. The reference to “the total amount of premiums paid” in sub-paragraph (2)(b) is to be construed in accordance with the definitions in section 545.

**Paragraph 128: Other definitions**

3672. This paragraph is based on regulations 2 and 3 of PPB(T)R.

**Part 8: Miscellaneous income**

**Paragraph 132: Income treated as income of settlor: exception for pension income**

3673. **Section 627** excludes benefits from relevant pension schemes from being treated as the settlor's income under section 624. The exclusion for "relevant pension scheme" in subsection (3) of that section apply for the tax year 2006-07 onwards. This paragraph gives the rules that apply for the tax year 2005-06 and represents a rewrite of section 660A(11) of ICTA as it stands before the amendments made by FA 2004.

3674. Subsection (3)(g) of section 627 refers to regulations made under the Welfare Reform and Pensions Act 1999 and its Northern Ireland equivalent although section 660A(11) (g) of ICTA simply refers to regulations made by the Secretary of State. See *Change 105* in Annex 1.

3675. *Subparagraph (4)* attracts the consequential and transitional powers for pensions in FA 2004 to the rewrite of those provisions in this Act.

**Paragraph 133: Amounts treated as income of settlor: income paid to unmarried minor child of settlor**

3676. Section 64 of FA 1999 amended section 660B of ICTA principally to enable a charge on the settlor to be made where a settlor's minor child benefited from a bare trust arrangement. The income arising in the trust did not have to be paid to or for the benefit of the child for a charge on the settlor to arise. It was simply sufficient for the income to be treated as the child's income. The new provision applied only where the settlement was made or entered into after 8 March 1999 or, if it was not, to income that arose from funds provided after that date. This paragraph enables the pre-amendment legislation to apply to pre-March 1999 settlements.

3677. *Sub-paragraph (3)* applies instead of *sub-paragraph (2)* where the income paid to the minor child is partly from pre-March 1999 funds and partly other funds, such as where there has been an injection of funds into the settlement after 9 March 1999.

**Paragraph 134: Amounts treated as income of settlor: capital sums paid to settlor by trustees of settlement**

3678. This paragraph applies where it is necessary to consider years before 1995-96 in applying the charge under section 633.

3679. Section 677(2) of ICTA excludes from income available to cover capital payments made to a settlor income within the settlement that has already been treated as the settlor's. Section 677(2) of ICTA is rewritten in section 635. *Sub-paragraphs (2)* and *(3)* rewrite the categories in section 677(2) of ICTA that only apply in respect of income arising under a settlement before the tax year 1995-96 but which may still have effect when calculating the income available up to the end of a tax year for the purposes of section 633.

3680. *Sub-paragraph (5)*. This saving may still have application where the direction or assignment precedes by some years the capital payment. (Capital payments are no longer charged after 11 years or 16 years if made through a company associated with the settlement. See sections 633 and 643).

## **Part 9: Exempt income**

### ***Paragraph 143: Purchased life annuity payments: old determinations concerning capital elements***

3681. This paragraph ensures that determinations as to the capital element of a purchased life annuity made before 6 April 2005 translate into exempt amounts for the purposes of Chapter 7 of Part 6 of this Act so that the determination continues to have effect after 6 April 2005.

### ***Paragraph 144: Purchased life annuity payments: carry forward of excess capital elements***

3682. If the amount of an annuity payment is less than the capital element calculated under the constant sum method in section 656(2) of ICTA, ESC A46 allows the excess of the capital element over the gross annuity to be carried forward to increase the capital element to be set against the next annuity payment. Section 719(5) of this Act gives statutory effect to that concession. This paragraph enables such excesses that were not absorbed by annuity payments made before the tax year 2004-05 to be carried forward by increasing the exempt amount of the first payment made after 5 April 2005. See *Change 119*.

### ***Paragraph 145: Purchased life annuity payments: penalty for false statements***

3683. This paragraph makes clear that it is the date of the statement or representation which determines which penalty provision applies.

### ***Paragraph 146: Certain annual payments by individuals***

3684. Sections 727 and 730 of this Act provide exemption from income tax in respect of certain annual payments. They are based on section 347A of ICTA. Section 347A of ICTA applies to all payments falling due on or after 6 April 2000 and also to certain payments falling due before that date but on or after 16 March 1988. Although unlikely, it is possible for payments to fall due at a time when section 347A of ICTA did not apply but to be paid after 6 April 2005. The transitional provision determines whether the exemptions apply.

### ***Paragraph 147: Annuity payments for non-taxable consideration***

3685. A payment made by an individual is not exempt from income tax in the recipient's hands under section 729 of this Act if the payment is made for non-taxable consideration unless either condition B or C in that section is satisfied. This paragraph adds a further condition which, if satisfied, renders the payment exempt in the recipient's hands.

### ***Paragraph 148: Periodical payments of personal injury damages etc.***

3686. Sections 731 and 732 provide exemptions from income tax for periodical payments in respect of damages for personal injury and annuity payments under annuities purchased under an award made under the Criminal Injuries Compensation Scheme. They are based on sections 329AA and 329AB of ICTA as amended by section 100(2) of the Courts Act 2003. Section 100(2) of the Courts Act 2003 was not in force when the Bill was introduced into Parliament. But sections 731 and 732 were rewritten on the assumption that on enactment of this Act, section 100(2) of the Courts Act 2003 would be in force. The transitional provision was added to ensure that the pre-Courts Act 2003 version of the legislation in ICTA continued in effect until such time as section 100(2) of the Courts Act 2003 was brought into effect.

## **Part 11: Foreign income: special rules**

### ***Paragraph 150: Relevant foreign income charged on remittance basis: income arising before the tax year 2005-06***

3687. This paragraph ensures that Chapter 2 of Part 8 of this Act is not restricted in its operation to income that arose after the tax year 2004-05 (whenever the earlier income is remitted).

### ***Paragraph 151: Relevant foreign income charged on remittance basis: delayed remittances***

3688. This paragraph is based on section 585 of ICTA. It ensures that the relief given by section 835 is not restricted to income that arose after the tax year 2004-05. It also preserves the rules in section 585(4) and (5) for tax years before 1997-98 (that is, years before Self Assessment came into effect) when the basis period for many charges was a period other than the current tax year.

### ***Paragraph 152: Relief for back-dated pensions charged on arising basis***

3689. This paragraph ensures that the relief given by section 840 is not restricted to income that arose after the tax year 2004-05. See *Change 139* in Annex 1.

### ***Paragraph 153: Unremittable income that arose before the tax year 2005-06***

3690. This paragraph ensures that the relief given by Chapter 4 of Part 8 of this Act, and any withdrawal of that relief by virtue of sections 843 or 844, is not restricted to income that arose after the tax year 2004-05 or, as regards withdrawal of relief, to claims under that Chapter.

3691. The paragraph also preserves access to the jurisdiction of the Special Commissioners on an appeal involving the application of Chapter 4 of Part 8 of this Act (and of section 584 of ICTA, which that Chapter rewrites), where income arising in a year before the tax year 2005-06 is material to the appeal. This sub-paragraph is based on section 584(9) of ICTA. See *Change 142* in Annex 1.

## **Part 12: Other provisions**

### ***Paragraph 158: Apportionment of profits or losses to tax years before tax year 2005-06***

3692. **Section 871** applies to various sources of income that are taxed under Schedule D Case VI in the source legislation. It rewrites section 72 of ICTA which allows the profits of a period of account to be apportioned.

3693. The basis of assessment for income taxed under Schedule D Case VI is the full amount of the profit arising in the tax year. This is rewritten in the income charged sections for each source of income to which section 871 applies. If accounts are prepared for any of these sources it may be necessary to apportion the profits of accounts made up to a period other than the tax year to arrive at the figure of profit that arises in the tax year.

3694. **Section 883** provides that the Act takes effect for income tax purposes for the tax year 2005-06. This paragraph provides that the rewritten legislation applies to a period of account that straddles 6 April 2005 even though tax years earlier than 2005-06 will be affected. This Act includes a number of minor changes in the law. Without this paragraph it would be necessary for taxpayers to take account of those changes only for the tax year 2005-06.

3695. If the taxpayer does not want the new law to apply to a transaction that occurred before 6 April 2005 he or she can elect for the old legislation to continue to apply.

***Paragraph 159: General deduction rules***

3696. This paragraph reflects the fact that in certain sections detailed rules have been provided for the calculation of amounts charged to tax but similar rules have not been spelled out at other places where those rules may apply. Those detailed rules in part reflect the interpretation of the source legislation in case law. This paragraph ensures that the absence of the provision of detailed rules at any point does not prejudice the continued application of existing rules for the meaning of words such as “the full amount of the income”.