



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 2

#### TRADING INCOME

#### CHAPTER 5

##### TRADE PROFITS: RULES ALLOWING DEDUCTIONS

##### *Counselling and retraining expenses*

### 73 Counselling and other outplacement services

- (1) In calculating the profits of a trade, a deduction is allowed for counselling expenses if—
- (a) the person carrying on the trade (“the employer”) incurs the expenses,
  - (b) the expenses are incurred in relation to a person (“the employee”) who holds or has held an office or employment under the employer for the purposes of the trade, and
  - (c) the relevant conditions are met.
- (2) In this section “counselling expenses” means expenses incurred—
- (a) in the provision of services to the employee in connection with the cessation of the office or employment,
  - (b) in the payment or reimbursement of fees for such provision, or
  - (c) in the payment or reimbursement of travelling expenses in connection with such provision.
- (3) In this section “the relevant conditions” means—

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- (a) conditions A to D for the purposes of section 310 of ITEPA 2003 (employment income exemptions: counselling and other outplacement services), and
- (b) in the case of travel expenses, condition E for those purposes.

#### 74 Retraining courses

- (1) In calculating the profits of a trade, a deduction is allowed for retraining course expenses if—
- (a) the person carrying on the trade (“the employer”) incurs the expenses,
  - (b) they are incurred in relation to a person (“the employee”) who holds or has held an office or employment under the employer for the purposes of the trade, and
  - (c) the relevant conditions are met.
- (2) In this section—
- “retraining course expenses” means expenses incurred in the payment or reimbursement of retraining course expenses within the meaning given by section 311(2) of ITEPA 2003, and
- “the relevant conditions” means—
- (a) the conditions in subsections (3) and (4) of section 311 of ITEPA 2003 (employment income exemptions: retraining courses), and
  - (b) in the case of travel expenses, the conditions in subsection (5) of that section.

#### 75 Retraining courses: recovery of tax

- (1) This section applies if—
- (a) an employer's liability to tax for a tax year is determined on the assumption that a deduction for expenditure is allowed under section 74, and
  - (b) the deduction would not otherwise have been allowed.
- (2) If, subsequently—
- (a) the condition in section 311(4)(a) of ITEPA 2003 is not met because of the employee's failure to begin the course within the period of one year after ceasing to be employed, or
  - (b) the condition in section 311(4)(b) of ITEPA 2003 is not met because of the employee's continued employment or re-employment,
- an assessment of an amount or further amount of tax due as a result of the condition not being met may be made under section 29(1) of TMA 1970.
- (3) Such an assessment must be made before the end of the period of 6 years immediately following the end of the tax year in which the failure to meet the condition occurred.
- (4) If subsection (2) applies, the employer must give [<sup>F1</sup>an officer of Revenue and Customs] a notice containing particulars of—
- (a) the employee's failure to begin the course,
  - (b) the employee's continued employment, or
  - (c) the employee's re-employment,
- within 60 days of coming to know of it.

<sup>F2</sup>(5) .....

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- (6) A notice under subsection (5) may specify a time (not less than 60 days) within which the required information must be provided.

**Textual Amendments**

- F1** Words in s. 75(4)(5) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(1\)](#); S.I. 2005/1126, [art. 2\(h\)](#)
- F2** S. 75(5) omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, [Sch. para. 42](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A-7D inserted by [2022 c. 3 Sch. 1 para. 3](#)
- s. 31E(4) inserted by [2022 c. 3 Sch. 1 para. 7\(3\)](#)
- s. 649(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 11\(2\)](#)
- s. 679(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(5\)\(b\)](#)
- s. 679A(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(6\)\(b\)](#)
- s. 680(1A) inserted by [2023 c. 30 Sch. 2 para. 11\(7\)\(a\)](#)