



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 2

TRADING INCOME

CHAPTER 5

TRADE PROFITS: RULES ALLOWING DEDUCTIONS

Introduction

56 Professions and vocations

Apart from sections 87 to 90 (scientific research and expenses connected with patents, designs and trade marks) [^{F1}and section 97A (cash basis: value of trading stock on cessation of trade)], the provisions of this Chapter apply to professions and vocations as they apply to trades.

Textual Amendments

F1 Words in s. 56 inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 4 para. 50**

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F² Cash basis accounting

Textual Amendments

- F2** S. 56A and cross-heading inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 4 para. 13**

56A Application of Chapter to the cash basis

- (1) The following sections do not apply in calculating the profits of a trade on the cash basis—
 sections 60 to 67 (tenants under taxed leases),
 ^{F3} ...
- (2) For rules allowing deductions that apply only where profits are calculated on the cash basis, see the following—
 section 57B (cash basis: interest payments on loans).
- (3) In calculating the profits of a trade on the cash basis, any reference in this Chapter to the incurring of expenses is to be read as a reference to the paying of expenses.]

Textual Amendments

- F3** Words in s. 56A(1) omitted (with effect in accordance with s. 72(4) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **s. 72(2)(a)**

Pre-trading expenses

57 Pre-trading expenses

- (1) This section applies if a person incurs expenses for the purposes of a trade before (but not more than 7 years before) the date on which the person starts to carry on the trade (“the start date”).
- (2) If, in calculating the profits of the trade—
 (a) no deduction would otherwise be allowed for the expenses, but
 (b) a deduction would be allowed for them if they were incurred on the start date,
 the expenses are treated as if they were incurred on the start date (and therefore a deduction is allowed for them).

Modifications etc. (not altering text)

- C1** S. 57 excluded (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), **Sch. 16 para. 4(6)**

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[^{F4}Subsistence expenses

Textual Amendments

- F4** S. 57A and cross-heading inserted (with effect in accordance with art. 3(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), 3

57A Expenses incurred by traders on food and drink

- (1) In calculating the profits of a trade, a deduction is allowed for any reasonable expenses incurred on food or drink for consumption by the trader at a place to which the trader travels in the course of carrying on the trade, or while travelling to a place in the course of carrying on the trade, if conditions A and B are met.
- (2) Condition A is met if—
 - (a) a deduction is allowed for the expenses incurred by the trader in travelling to the place, or
 - (b) where the expenses of travelling to the place are not incurred by the trader, a deduction would be allowed for them if they were.
- (3) Condition B is met if—
 - (a) at the time the expenses are incurred on the food or drink, the trade is by its nature itinerant, or
 - (b) the trader does not travel to the place more than occasionally in the course of carrying on the trade and either—
 - (i) the travel in connection with which the expenses are incurred on the food or drink is undertaken otherwise than as part of the trader's normal pattern of travel in the course of carrying on the trade, or
 - (ii) the trader does not have such a normal pattern of travel.]

[^{F5}Cash basis: interest payments

Textual Amendments

- F5** S. 57B and cross-heading inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 14](#)

57B Cash basis: interest payments on loans

- (1) This section applies if a person carrying on a trade in a period pays any interest on a loan during the period and—
 - (a) a deduction for the interest would not otherwise be allowable in calculating the profits of the trade because of section 51A, or
 - (b) in the absence of section 51A, a deduction for the interest would not otherwise be allowable in calculating the profits of the trade because (and only because) it was not an expense incurred wholly and exclusively for the purposes of the trade.
- (2) In calculating the profits of the trade on the cash basis, a deduction is allowed for the interest.

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- (3) But the maximum amount that may be deducted by virtue of this section or section 58 (incidental costs of obtaining finance) in calculating the profits of a trade for any period is £500.
- (4) The Treasury may by order amend the figure for the time being specified in subsection (3).
- (5) A statutory instrument containing an order under this section that amends that figure so as to substitute a lower figure may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.]

Incidental costs of obtaining finance

58 Incidental costs of obtaining finance

- (1) In calculating the profits of a trade, a deduction is allowed for incidental costs of obtaining finance by means of—
- (a) a loan, or
 - (b) the issue of loan stock,
- if the interest on the loan or stock is deductible in calculating the profits of the trade.
- (2) “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.
- (3) 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.
- (4) 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 a loan or loan stock so far as attributable to its being repayable at a premium or having been obtained or issued at a discount, and
 - (d) stamp duty.
- (5) This section needs to be read with ^{F6}—
- (a) section 57B(3) (which imposes a limit on the total amount that may be deducted by virtue of this section or section 57B), and
 - (b)] section 59 (which provides for restrictions in relation to convertible loans and loan stock etc.).

Textual Amendments

- F6** Words in s. 58(5)(a) inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 15](#)

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Modifications etc. (not altering text)

- C2** S. 58 modified (with effect as mentioned in s. 56 of the amending Act) by [Finance Act 2005 \(c. 7\), s. 51\(3\)\(5\)](#)
- C3** S. 58 modified (1.4.2010) by [Income Tax Act 2007 \(c. 3\), s. 564N\(3\)](#) (as inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 2 para. 15\(3\)](#) (with Sch. 9 paras. 1-9, 22))

59 Convertible loans and loan stock etc.

- (1) No deduction is allowed under section 58 in respect of a loan or loan stock if—
- (a) it carries the right of conversion into, or to the acquisition of, shares or other securities, and
 - (b) the right is exercisable before the end of the period of 3 years from the date when the loan was obtained or the stock issued (“the 3 year period”).
- (2) “Other securities” does not include a loan or loan stock—
- (a) the interest on which is deductible in calculating the profits of the person's trade, and
 - (b) which does not carry such a right as is mentioned in subsection (1).
- (3) But the restriction imposed by subsection (1) does not apply if the right is not, or is not wholly, exercised before the end of the 3 year period.
- (4) In such a case any incidental costs of obtaining finance incurred before the end of the 3 year period are treated as incurred immediately after the end of it.
- (5) If the right is exercised within the 3 year period as to part of the loan or loan stock, only the following incidental costs of obtaining finance are treated as incurred.
- (6) The costs are those corresponding to the proportion of the loan or loan stock in respect of which the right is not exercised within that period.

Tenants under taxed leases

60 Tenants under taxed leases: introduction

- (1) Sections 61 to 67 apply if land used in connection with a trade is subject to a taxed lease.
- (2) Section 61 (tenants occupying land for purposes of trade treated as incurring expenses) applies in calculating the profits of a trade carried on by the tenant under the taxed lease for the purpose of making deductions for the expenses of the trade.
- (3) But any deduction for an expense under section 61 is subject to the application of any provision of Chapter 4 of this Part.
- (4) In this section and sections 61 to 67 the following expressions have the same meaning as in Chapter 4 of Part 3 (profits of property businesses: lease premiums etc.)—
- “receipt period” (see section 288(6)),
 - “taxed lease” (see section 287(4)),
 - “taxed receipt” (see section 287(4)), and
 - “unreduced amount” (see section 290(2)).

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- (5) Section 290(3) and (4) (unreduced amount of taxed receipt under section 277 as a result of section 278) applies for the purposes of sections 61 to 65.
- (6) In sections 64 to 67 references to a reduction under section 288 [F7 below or section 228 of CTA 2009] by reference to a taxed receipt have the same meaning as in Chapter 4 of Part 3 (see section 290(6)).
- (7) In the application of sections 64 to 67 to Scotland—
- references to a lease being granted out of a taxed lease are to the grant of a sublease of land subject to the taxed lease, and
 - references to the lease so granted are to be read as references to the sublease.

Textual Amendments

- F7** Words in s. 60(6) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 591** (with Sch. 2 Pts. 1, 2)

61 Tenants occupying land for purposes of trade treated as incurring expenses

- The tenant under the taxed lease is treated as incurring an expense of a revenue nature in respect of the land subject to the taxed lease for each qualifying day.
- If there is more than one taxed receipt, this section applies separately in relation to each of them.
- A day is a “qualifying day”, in relation to a taxed receipt, if it is a day—
 - that falls within the receipt period of the taxed receipt, and
 - on which the tenant occupies the whole or part of the land subject to the taxed lease for the purposes of carrying on a trade.
- If on the qualifying day the tenant occupies the whole of the land subject to the taxed lease for the purposes of the trade, the amount of the expense for the qualifying day by reference to the taxed receipt is given by the formula—

$$\frac{A}{\text{TRP}}$$

A is the unreduced amount of the taxed receipt, and TRP is the number of days in the receipt period of the taxed receipt.

- If on the qualifying day the tenant occupies part of the land subject to the taxed lease for the purposes of the trade, the amount of the expense for the qualifying day by reference to the taxed receipt is given by the formula—

$$\frac{F \times A}{\text{TRP}}$$

where—

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F is the fraction of the land that is so occupied calculated on a just and reasonable basis, and

A and TRP have the same meaning as in subsection (4).

[^{F8}(5A) No expense is to be determined under this section by reference to the taxed receipt if section 292(4B) or (4C) applies.]

(6) This section is subject to section 62 (limit on deductions if tenant entitled to mineral extraction allowance).

Textual Amendments

F8 S. 61(5A) inserted (with effect in accordance with Sch. 28 para. 4 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 28 para. 2](#)

62 Limit on deductions if tenant entitled to mineral extraction allowance

- (1) This section applies if the tenant under the taxed lease has become entitled, in respect of expenditure on the acquisition of an interest in the land subject to the taxed lease, to an allowance for a tax year under Part 5 of CAA 2001 (mineral extraction allowances) in respect of expenditure falling within section 403 of that Act (qualifying expenditure on acquiring a mineral asset).
- (2) If the allowance is in respect of the whole of the expenditure, no deduction is allowed for expenses under section 61 for a qualifying day falling within that or a later tax year.
- (3) If the allowance is in respect of only part of the expenditure (“the allowable part”) the amount of the deduction for expenses under section 61 for a qualifying day falling within that or a later tax year is calculated by multiplying the amount that, apart from this section, would be the amount of the deduction for the qualifying day by—

$$\frac{WE - AP}{WE}$$

where—

WE is the whole of the expenditure, and

AP is the allowable part of the expenditure.

63 Tenants dealing with land as property employed for purposes of trade

- (1) This section applies if the tenant under the taxed lease—
 - (a) does not occupy the land subject to the taxed lease, or a part of it, but
 - (b) deals with the tenant's interest in the land, or the part of it, as property employed for the purposes of carrying on a trade.
- (2) Section 61 applies as if the land or the part of it were occupied by the tenant for the purposes of the trade.

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- (3) But the tenant is not treated as incurring an expense in respect of the land for a qualifying day as a result of this section so far as the tenant is treated as incurring an expense under section 292 (tenants under taxed leases treated as incurring expenses) in respect of the land for the day in calculating the profits of the tenant's property business.
- (4) This section is subject to sections 64 and 65 (restrictions on section 61 expenses where the additional calculation rule is relevant).

64 Restrictions on section 61 expenses: lease premium receipts

- [^{F9}(1) This section applies if a lease has been granted out of the taxed lease and—
- (a) in calculating the amount of a receipt of a property business under Chapter 4 of Part 3 (profits of property businesses: lease premiums etc) in respect of the lease, there is a reduction under section 288 (the additional calculation rule) by reference to the taxed receipt, or
 - (b) in calculating the amount of a receipt of a property business under Chapter 4 of Part 4 of CTA 2009 (profits of a property business: lease premiums etc) in respect of the lease, there is a reduction under section 228 of that Act (the additional calculation rule) by reference to the taxed receipt.

In this section and sections 65 and 67 the receipt that is so reduced is referred to as a “lease premium receipt”.]

- (2) Subsections (3) to (5) provide for the application of section 61 as a result of section 63 for a qualifying day that falls within the receipt period of the lease premium receipt.
- (3) The tenant under the taxed lease is treated as incurring an expense under section 61 as a result of section 63 for the qualifying day by reference to the taxed receipt only if the daily amount of the taxed receipt exceeds the daily reduction of the lease premium receipt.
- (4) If the condition in subsection (3) is met, the amount of that expense for the qualifying day by reference to the taxed receipt is equal to that excess.
- (5) If the qualifying day falls within the receipt period of more than one lease premium receipt, the reference in subsection (3) to the daily reduction of the lease premium receipt is to be read as a reference to the total of the daily reductions of each of the lease premium receipts whose receipt period includes the qualifying day.
- (6) In this section—

the “daily amount” of the taxed receipt is given by the formula—

$$\frac{A}{\text{TRP}}$$

where—

A is the unreduced amount of the taxed receipt, and

TRP is the number of days in the receipt period of the taxed receipt, and
the “daily reduction” of a lease premium receipt is given by the formula—

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$$\frac{AR}{RRP}$$

where—

AR is the reduction under section 288 [^{F10}below or section 228 of CTA 2009] by reference to the taxed receipt, and

RRP is the number of days in the receipt period of the lease premium receipt.

- (7) Section 65 explains how this section operates if the lease does not extend to the whole of the premises subject to the taxed lease.

Textual Amendments

- F9** S. 64(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 592\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F10** Words in s. 64(6) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 592\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))

65 Restrictions on section 61 expenses: lease of part of premises

- (1) This section applies if—
- [^{F11}section 64 applies], and
 - the lease granted out of the taxed lease does not extend to the whole of the premises subject to the taxed lease.
- (2) Subsections (3) to (5) apply for a qualifying day that falls within the receipt period of the lease premium receipt.
- (3) Sections 61, 63 and 64 apply separately in relation to the part of the premises subject to the lease and to the remainder of the premises.
- (4) If—
- more than one lease that does not extend to the whole of the premises subject to the taxed lease has been granted out of the taxed lease, and
 - the qualifying day falls within the receipt period of two or more lease premium receipts that relate to different leases,
- sections 61, 63 and 64 apply separately in relation to each part of the premises subject to a lease to which such a lease premium receipt relates and to the remainder of the premises.
- (5) Where sections 61, 63 and 64 apply in relation to a part of the premises, A becomes the amount calculated by multiplying the unreduced amount of the taxed receipt by the fraction of the premises constituted by the part.
- (6) This fraction is calculated on a just and reasonable basis.

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Textual Amendments

- F11** Words in s. 65(1)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 593** (with Sch. 2 Pts. 1, 2)

66 Corporation tax receipts [^{F12}under ICTA] treated as taxed receipts

Section 296 (corporation tax receipts treated as taxed receipts applies for the purposes of sections 60 to 67.

Textual Amendments

- F12** Words in s. 66 title inserted (1.4.2009) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 594** (with Sch. 2 Pts. 1, 2)

67 Restrictions on section 61 expenses: corporation tax receipts [^{F13}under ICTA]

- (1) This section provides for the application of section 61 as a result of section 63 if—
- (a) a lease has been granted out of the taxed lease,
 - (b) in calculating the amount of a corporation tax receipt in respect of the lease, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and
 - (c) the amount chargeable on the superior interest is the taxed receipt for the purposes of section 61.
- (2) Sections 61 and 63 to 65 apply as follows—
- (a) the corporation tax receipt is treated as if it were a lease premium receipt for the purposes of sections 64 and 65,
 - (b) references in those sections to the reduction under section 288 by reference to the taxed receipt are, in relation to the corporation tax receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and
 - (c) for the purposes of those sections the receipt period of the corporation tax receipt is—
 - (i) in the case of a corporation tax receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (ii) in the case of a corporation tax receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.
- (3) There is a corporation tax receipt in respect of a lease if—
- (a) there is a receipt of a Schedule A business or an overseas property business (within the meaning of section 70A(4) of ICTA) as a result of section 34 or 35 of ICTA (treatment of premiums etc. as rent and assignments for profit of lease granted at an undervalue) in respect of the lease for an accounting period ending after 5th April 2005 [^{F14}but before 1st April 2009], or
 - (b) there would be such a receipt, but for the operation of section 37(2) or (3) of ICTA (reductions in certain receipts under section 34 or 35 of ICTA).

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- (4) References to a reduction under section 37(2) or (3) of ICTA in a corporation tax receipt by reference to the amount chargeable on the superior interest are to the difference between—
- (a) the amount of the corporation tax receipt before the operation of section 37(2) or (3) of ICTA, and
 - (b) the amount of the corporation tax receipt after the operation of that subsection, so far as attributable to the amount chargeable on the superior interest for the purposes of section 37 of ICTA.

Textual Amendments

- F13** Words in s. 67 title inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 595\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F14** Words in s. 67(3)(a) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 595\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))

F15 ...

Textual Amendments

- F15** [S. 68 and cross-heading](#) omitted (with effect in accordance with s. 72(4) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), s. 72\(1\)\(a\)](#)

F15 68 Replacement and alteration of trade tools

.....

Payments for restrictive undertakings

69 Payments for restrictive undertakings

- (1) In calculating the profits of a trade, a deduction is allowed for a payment—
- (a) which is treated as earnings of an employee by virtue of section 225 of ITEPA 2003 (payments for restrictive undertakings), and
 - (b) which is made, or treated as made for the purposes of section 226 of that Act (valuable consideration given for restrictive undertakings), by the person carrying on the trade.
- (2) The deduction is allowed for the period of account in which the payment—
- (a) is made, or
 - (b) is treated as made for the purposes of section 226 of ITEPA 2003.

Seconded employees

70 Employees seconded to charities and educational establishments

- (1) This section applies if a person carrying on a trade (“the employer”) makes the services of a person employed for the purposes of the trade available to—

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- (a) a charity, or
 - (b) an educational establishment,
- on a basis that is stated and intended to be temporary.
- (2) In calculating the profits of the trade, a deduction is allowed for expenses of the employer that are attributable to the employee's employment during the period of the secondment.
- (3) In this section—
- “educational establishment” means—
 - (a) in England and Wales, any of the bodies mentioned in section 71(1),
 - (b) in Scotland, any of the bodies mentioned in section 71(2),
 - (c) in Northern Ireland, any of the bodies mentioned in section 71(3), and
 - (d) any other educational body which is for the time being approved for the purposes of this section by the Secretary of State or, in Northern Ireland, the Department of Education, and
 - “the period of the secondment” means the period for which the employee's services are made available to the charity or educational establishment.

71 Educational establishments

- (1) A body in England and Wales is an educational establishment for the purposes of section 70 if it is—
- [^{F16}(a) a local authority (but only to the extent that the services of the employee are made available to the authority for the purposes of, or in connection with, the education functions of the authority),]
 - (b) an educational institution maintained or otherwise supported[^{F17}, in the exercise of their education functions, by a local authority],
 - (c) an independent school within the meaning of the Education Act 1996 (c. 56) registered under section 161 of the Education Act 2002 (c. 32), ^{F18}...
 - [^{F19}(ca) an alternative provision Academy that is not an independent school within the meaning of the Education Act 1996,]
 - (d) an institution within the further education sector, or the higher education sector, within the meaning of the Further and Higher Education Act 1992 (c. 13)[^{F20}, or
 - (e) a 16 to 19 Academy.]
- (2) A body in Scotland is an educational establishment for the purposes of section 70 if it is—
- (a) an education authority within the meaning of the Education (Scotland) Act 1980 (c. 44),
 - (b) an educational establishment within the meaning of the Education (Scotland) Act 1980 managed by an education authority within the meaning of that Act,
 - (c) a public or grant-aided school within the meaning of the Education (Scotland) Act 1980,
 - (d) an independent school within the meaning of the Education (Scotland) Act 1980,
 - (e) a central institution within the meaning of the Education (Scotland) Act 1980,

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- (f) an institution within the higher education sector within the meaning of section 56(2) of the Further and Higher Education (Scotland) Act 1992 (c. 37), or
 - (g) a college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992.
- (3) A body in Northern Ireland is an educational establishment for the purposes of section 70 if it is—
- (a) an ^{F21}education and library board] within the meaning of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)),
 - (b) a college of education^{F22}, a grant-aided school or an] independent school within the meaning of the Education and Libraries (Northern Ireland) Order 1986, or
 - (c) an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).
- ^{F23}(4) In subsection (1) “local authority” and “education functions” have the same meaning as in the Education Act 1996 (see section 579(1) of that Act).]

Textual Amendments

- F16** S. 71(1)(a) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 56(2)**
- F17** Words in s. 71(1)(b) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 56(3)**
- F18** Word in s. 71(1) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 14**; S.I. 2012/924, art. 2
- F19** S. 71(1)(ca) inserted (E.W.) (1.4.2012) by [The Alternative Provision Academies \(Consequential Amendments to Acts\) \(England\) Order 2012 \(S.I. 2012/976\)](#), art. 1, **Sch. para. 15** (with art. 3)
- F20** S. 71(1)(e) and word inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 14**; S.I. 2012/924, art. 2
- F21** Words in s. 71(3)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 596(2)(a)** (with Sch. 2 Pts. 1, 2)
- F22** Words in s. 71(3)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 596(2)(b)** (with Sch. 2 Pts. 1, 2)
- F23** S. 71(4) added (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 56(4)**

Contributions to agents' expenses

72 Payroll deduction schemes: contributions to agents' expenses

- (1) This section applies if—
- (a) a person carrying on a trade (“the employer”) is liable to make payments to an individual,
 - (b) income tax falls to be deducted from those payments as a result of PAYE regulations, and
 - (c) the employer withholds sums from those payments in accordance with an approved scheme and pays the sums to an approved agent.

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- (2) In calculating the profits of the employer's trade, a deduction is allowed for expenses incurred by the employer in making a payment to the agent for expenses which—
- (a) have been incurred, or
 - (b) are to be incurred,
- by the agent in connection with the agent's functions under the scheme.

[^{F24}(2A) In calculating the profits of the employer's trade on the cash basis, subsection (2) has effect as if paragraph (b) were omitted.]

- (3) In this section “approved agent” and “approved scheme” have the same meaning as in section 714 of ITEPA 2003.

Textual Amendments

F24 S. 72(2A) inserted (with effect in accordance with Sch. 4 paras. 56, 57 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 16](#)

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—
- (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

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(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 [^{F25}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.

^{F26}(5)

(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

F25 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\(h\)](#)

F26 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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Redundancy payments etc.

76 Redundancy payments and approved contractual payments

- (1) Sections 77 to 79 apply if—
- (a) a person (“the employer”) makes a redundancy payment or an approved contractual payment to another person (“the employee”), and
 - (b) the payment is in respect of the employee's employment wholly in the employer's trade or partly in the employer's trade and partly in one or more other capacities.
- (2) For the purposes of this section and sections 77 to 80 “redundancy payment” means a redundancy payment payable under—
- (a) Part 11 of the Employment Rights Act 1996 (c. 18), or
 - (b) Part 12 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).
- (3) For the purposes of this section and those sections—
- “contractual payment” means a payment which, under an agreement, an employer is liable to make to an employee on the termination of the employee's contract of employment, and
- a contractual payment is “approved” if, in respect of that agreement, an order is in force under—
- (a) section 157 of the Employment Rights Act 1996, or
 - (b) Article 192 of the Employment Rights (Northern Ireland) Order 1996.

77 Payments in respect of employment wholly in employer's trade

- (1) This section applies if—
- (a) the payment is in respect of the employee's employment wholly in the employer's trade, and
 - (b) no deduction would otherwise be allowable for the payment.
- (2) In calculating the profits of the trade, a deduction is allowed under this section for the payment.
- (3) The deduction under this section for an approved contractual payment must not exceed the amount which would have been due to the employee if a redundancy payment had been payable.
- (4) If the payment is made after the employer has permanently ceased to carry on the trade, it is treated as made on the last day on which the employer carried on the trade.
- (5) If there is a change in the persons carrying on the trade, subsection (4) does not apply so long as a person carrying on the trade immediately before the change continues to carry it on after the change.
- (6) The deduction under this section is allowed for the period of account in which the payment is made (or treated under subsection (4) as made).

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78 Payments in respect of employment in more than one capacity

- (1) This section applies if the payment is in respect of the employee's employment with the employer—
 - (a) partly in the employer's trade, and
 - (b) partly in one or more other capacities.
- (2) The amount of the redundancy payment, or the amount which would have been due if a redundancy payment had been payable, is to be apportioned on a just and reasonable basis between—
 - (a) the employment in the trade, and
 - (b) the employment in the other capacities.
- (3) The part of the payment apportioned to the employment in the trade is treated as a payment in respect of the employee's employment wholly in the trade for the purposes of section 77.

79 Additional payments

- (1) This section applies if the employer permanently ceases to carry on a trade or part of a trade and makes a payment to the employee in addition to—
 - (a) the redundancy payment, or
 - (b) if an approved contractual payment is made, the amount that would have been due if a redundancy payment had been payable.
- ^{F27}(2)
- (3) If, in calculating the profits of the trade—
 - (a) no deduction would otherwise be allowable for the additional payment, but
 - (b) a deduction would be allowable for it if the employer had not permanently ceased to carry on the trade or the part of the trade,a deduction is allowed under this section for the additional payment.
- (4) The deduction under this section is limited to 3 times the amount of—
 - (a) the redundancy payment, or
 - (b) if an approved contractual payment is made, the amount that would have been due if a redundancy payment had been payable.
- (5) If the payment is made after the employer has permanently ceased to carry on the trade or the part of the trade, it is treated as made on the last day on which the employer carried on the trade or the part of the trade.
- (6) The deduction under this section is allowed for the period of account in which the payment is made (or treated under subsection (5) as made).

Textual Amendments

F27 S. 79(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 597, [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

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[^{F28}79A Additional payments: change in the persons carrying on the trade

- (1) This section deals with the application of section 79 in circumstances where there is a change in the persons carrying on the trade.
- (2) The employer is treated for the purposes of section 79 as permanently ceasing to carry on the trade unless a person carrying on the trade immediately before the change continues to carry it on after the change.]

Textual Amendments

F28 S. 79A inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 598** (with **Sch. 2 Pts. 1, 2**)

80 Payments made by the Government

- (1) This section applies if, in respect of a redundancy payment or an approved contractual payment payable by an employer—
 - (a) the Secretary of State makes a payment under section 167 of the Employment Rights Act 1996 (c. 18), or
 - (b) the Department for Employment and Learning makes a payment under Article 202 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).
- (2) So far as the employer reimburses the Secretary of State or Department for the payment, sections 77 to [^{F29}79A] apply as if the payment were—
 - (a) a redundancy payment, or
 - (b) an approved contractual payment, made by the employer.

Textual Amendments

F29 Word in s. 80(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 599** (with **Sch. 2 Pts. 1, 2**)

Personal security expenses

81 Personal security expenses

- (1) This section applies if—
 - (a) an individual (“the trader”) carries on a trade (alone or in a partnership of individuals),
 - (b) there is a special threat to the personal physical security of the trader which arises wholly or mainly because of the particular trade,
 - (c) a service or asset which improves personal security is used by or provided for the trader to meet the threat,
 - (d) the person incurring expenses in connection with that use or provision does so with the sole object of meeting the threat, and

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- (e) a deduction for the expenses would not otherwise be allowable in calculating the profits of the trade because (and only because) they were not incurred wholly and exclusively for the purposes of the trade.
- (2) In calculating the profits of the trade, a deduction is allowed for the expenses—
 - (a) in the case of a service, if the benefit resulting to the trader consists wholly or mainly of an improvement of the trader's personal physical security, and
 - (b) in the case of an asset, if the person incurring the expenses intends the asset to be used to improve personal physical security (whether solely or partly).
 - (3) If the person incurring the expenses intends the asset to be used solely to improve personal physical security, any use of the asset which is incidental to improving personal physical security is ignored.
 - (4) If the person incurring the expenses intends the asset to be used partly to improve personal physical security, a deduction is allowed only for the proportion of the expenses which is attributable to the intended use to improve personal physical security.
 - (5) The fact that a service or asset improves the personal physical security of a member of the trader's family or household (as well as that of the trader) does not prevent a deduction from being allowed.
 - (6) In determining whether or not this section applies in relation to an asset, it does not matter if—
 - (a) the asset becomes fixed to land, or
 - (b) the trader is or becomes entitled to the property in the asset or (if the asset is a fixture) to any estate or interest in the land concerned.
 - (7) In this section—
 - “asset” includes equipment and a structure (such as a wall), but does not include a car, ship or aircraft or a dwelling or grounds appurtenant to a dwelling, and
 - “service” does not include a dwelling or grounds appurtenant to a dwelling.

Contributions to local enterprise organisations or urban regeneration companies

82 Contributions to local enterprise organisations or urban regeneration companies

- (1) This section applies if a person carrying on a trade (“the contributor”) incurs expenses in making a contribution (whether in cash or in kind)—
 - (a) to a local enterprise organisation (see section 83), or
 - (b) to an urban regeneration company (see section 86),and a deduction would not otherwise be allowable for the expenses in calculating the profits of the trade.
- (2) In calculating the profits of the trade, a deduction is allowed under this section for the expenses.
- (3) But if, in connection with the making of the contribution, the contributor or a connected person—
 - (a) receives a disqualifying benefit of any kind, or
 - (b) is entitled to receive such a benefit,

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the amount of the deduction is restricted to the amount of the expenses less the value of the benefit.

- (4) For this purpose it does not matter whether a person receives, or is entitled to receive, the benefit —
- (a) from the organisation or company concerned, or
 - (b) from anyone else.
- (5) Subsection (6) applies if—
- (a) a deduction has been made under this section, and
 - (b) the contributor or a connected person receives a disqualifying benefit that is in any way attributable to the contribution.
- (6) An amount equal to the value of the benefit (so far as not brought into account in determining the amount of the deduction)—
- (a) is brought into account in calculating the profits of the trade, as a receipt arising on the date on which the benefit is received, or
 - (b) if the contributor has permanently ceased to carry on the trade before that date, is treated as a post-cessation receipt (see Chapter 18).
- (7) In this section “disqualifying benefit” means a benefit the expenses of obtaining which, if incurred by the contributor directly in a transaction at arm's length, would not be allowable as a deduction in calculating the profits of the trade.

83 Meaning of “local enterprise organisation”

- (1) For the purposes of section 82 “local enterprise organisation” means—
- (a) a local enterprise agency,
 - (b) a training and enterprise council,
 - (c) a Scottish local enterprise company, or
 - (d) a business link organisation.
- (2) “Local enterprise agency” means a body for the time being approved as a local enterprise agency for the purposes of section 82 by the relevant national authority, that is to say by—
- (a) the Secretary of State (in relation to England or Northern Ireland),
 - (b) the Scottish Ministers (in relation to Scotland), or
 - (c) the National Assembly for Wales (in relation to Wales).

For further provision about approvals by the relevant national authority, see sections 84 and 85.

- (3) “Training and enterprise council” means a body with which the Secretary of State has an agreement under which the body is to carry out the functions of a training and enterprise council.
- (4) “Scottish local enterprise company” means a company with which—
- (a) Scottish Enterprise, or
 - (b) Highlands and Islands Enterprise,
- has an agreement under which the company is to carry out the functions of a local enterprise company.

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- (5) “Business link organisation” means a person authorised by or on behalf of the Secretary of State to use a trade mark designated by the Secretary of State for the purposes of this subsection.

84 Approval of local enterprise agencies

- (1) The relevant national authority may approve a body as a local enterprise agency for the purposes of section 82 only if conditions A and B are met.
- (2) But if those conditions are met, the body may be approved—
- (a) whatever its status or structure, and
 - (b) even if it is not described as a local enterprise agency.
- (3) Condition A is that the relevant national authority is satisfied—
- (a) that the body's sole aim is the promotion or encouragement of local enterprise, or
 - (b) that one of the body's main aims is the promotion or encouragement of local enterprise and that it has or is about to have a separate fund for the sole purpose of pursuing that aim.
- (4) For this purpose “local enterprise” means industrial and commercial activity or enterprise in a particular area in the United Kingdom, with particular reference to encouraging the formation and development of small businesses.
- (5) Condition B is that the body is precluded from paying or transferring any of its income or profit directly or indirectly—
- (a) to any of its members, or
 - (b) to any person charged with the control and direction of its affairs.
- (6) The payment of—
- (a) reasonable remuneration for goods, labour or power supplied or for services provided,
 - (b) reasonable interest on money lent, or
 - (c) reasonable rent for premises,
- does not count as a payment or transfer of income or profit for the purposes of subsection (5).

85 Supplementary provisions with respect to approvals

- (1) This section applies for the purposes of section 84.
- (2) The relevant national authority may give a body approval that is conditional on its compliance with such requirements as to—
- (a) accounts,
 - (b) provision of information, and
 - (c) other matters,
- as the relevant national authority considers appropriate
- (3) If the relevant national authority approves a body on the basis that it has or is about to have a separate fund (see section 84(3)(b))—
- (a) the approval must specify the fund, and

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- (b) section 82 applies only to a contribution to the body made wholly to or for the purposes of the fund.
- (4) The relevant national authority must withdraw the approval of a body as a local enterprise agency if—
 - (a) condition A or B in section 84 is no longer met, or
 - (b) the body is failing to comply with a requirement imposed as a condition of its approval.
- (5) The relevant national authority must give notice of withdrawal to the body concerned, specifying the date from which the withdrawal takes effect (which may be earlier than the date on which the notice is given).

86 Meaning of “urban regeneration company”

- (1) For the purposes of section 82 “urban regeneration company” means any body of persons which the Treasury by order designates as an urban regeneration company for the purposes of that section.
- (2) A body may be so designated only if—
 - (a) its sole or main function is to co-ordinate the regeneration of a specific urban area in the United Kingdom,
 - (b) it is expected to seek to perform that function by creating a plan for the development of that area and trying to secure that the plan is carried into effect, and
 - (c) in co-ordinating the regeneration of that area, it is expected to work together with some or all local or other public authorities which exercise functions in relation to the whole or part of that area.
- (3) An order under this section may be framed so as to take effect on a date earlier than the making of the order, but not earlier than three months before the date on which the order is made.

[^{F30}Contributions to flood and coastal erosion risk management projects

Textual Amendments

F30 Ss. 86A, 86B and cross-heading inserted (with effect in accordance with Sch. 5 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 5 para. 1](#)

86A Contributions to flood and coastal erosion risk management projects

- (1) This section applies if—
 - (a) a person carrying on a trade (“the contributor”) incurs expenses in making a qualifying contribution to a qualifying flood or coastal erosion risk management project, and
 - (b) a deduction would not otherwise be allowable for the expenses in calculating the profits of the trade.
- (2) In determining whether the condition in subsection (1)(b) is satisfied, a deduction giving effect to a capital allowance is to be disregarded.

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- (3) In calculating the profits of the trade, a deduction is allowed under this section for the expenses.
- (4) But if, in connection with the making of the contribution, the contributor or a connected person—
 - (a) receives a disqualifying benefit, or
 - (b) is entitled to receive such a benefit,no deduction is allowed.
- (5) For the purposes of subsection (4) it does not matter whether a person receives, or is entitled to receive, the benefit—
 - (a) from the carrying out of the project, or
 - (b) from any person.
- (6) Subsection (7) applies if—
 - (a) a deduction has been made under this section in relation to the contribution, and
 - (b) the contributor or a connected person receives—
 - (i) a refund of any part of the contribution, if the contribution is a sum of money, or
 - (ii) compensation for any part of the contribution, if the contribution is the provision of services,in money or money's worth.
- (7) The amount of, or an amount equal to the value of, the refund or compensation (so far as not otherwise brought into account in calculating the profits of the trade or treated as a post-cessation receipt)—
 - (a) is brought into account in calculating the profits of the trade, as a receipt arising on the date on which the refund or compensation is received, or
 - (b) if the contributor has permanently ceased to carry on the trade before that date, is treated as a post-cessation receipt (see Chapter 18).
- (8) In this section “disqualifying benefit” means a benefit consisting of money or other property, but it does not include—
 - (a) a refund of the contribution, if the contribution is a sum of money;
 - (b) compensation for the contribution, if the contribution is the provision of services;
 - (c) a structure that—
 - (i) is or is to be used for the purposes of flood or coastal erosion risk management, and
 - (ii) is put in place in carrying out the project;
 - (d) an addition to a structure where—
 - (i) the structure is or is to be used for the purposes of flood or coastal erosion risk management, and
 - (ii) the addition is made in carrying out the project;
 - (e) land, plant or machinery that is or is to be used, in the realization of the project, for the purposes of flood or coastal erosion risk management;
 - (f) a right over land that is or is to be used, in the realization of the project, for the purposes of flood or coastal erosion risk management.

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(9) In subsection (8) “structure” includes road, path, pipe, earthwork, plant and machinery.

86B Interpretation of section 86A

- (1) This section applies for the purposes of section 86A.
- (2) A flood or coastal erosion risk management project is a qualifying project if—
 - (a) an English risk management authority has applied to the Environment Agency for a grant under section 16 of the Flood and Water Management Act 2010 in order to fund the project, or
 - (b) the Environment Agency has determined that it will carry out the project, and the Environment Agency has allocated funding by way of grant-in-aid to the project.
- (3) A contribution to a flood or coastal erosion risk management project is a qualifying contribution if the contribution is made—
 - (a) for the purposes of the project, and
 - (b) under an agreement between—
 - (i) the person making the contribution, and
 - (ii) the applicant authority or (as the case may be) the Environment Agency,
 or between those two persons and other persons.
- (4) References to a flood risk management project or a coastal erosion risk management project are to be interpreted in accordance with sections 1 to 3 of the Flood and Water Management Act 2010.
- (5) In section 86A and this section—

“contribution”, in relation to a period of account, means—

 - (a) a sum of money paid in that period of account, or
 - (b) any services provided in that period of account;

“English risk management authority” has the meaning given by section 6(14) of the Flood and Water Management Act 2010.]

Scientific research

87 Expenses of research and development

- (1) If a person carrying on a trade incurs expenses of a revenue nature on research and development—
 - (a) related to the trade, and
 - (b) directly undertaken by or on behalf of the person,
 a deduction is allowed for the expenses in calculating the profits of the trade.
- (2) For this purpose expenses incurred on research and development—
 - (a) do not include expenses incurred in the acquisition of rights in, or arising out of, research and development, but
 - (b) subject to that, include all expenses incurred in carrying out, or providing facilities for carrying out, research and development.

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- (3) The reference in this section to research and development related to a trade includes—
 - (a) research and development which may lead to or facilitate an extension of the trade, and
 - (b) research and development of a medical nature which has a special relation to the welfare of workers employed in the trade.
- (4) The same expenses may not be brought into account under this section in relation to more than one trade.
- (5) In this section “research and development” has the meaning given by [F31]section 1006 of ITA 2007] and includes oil and gas exploration and appraisal.
- (6) This section does not apply to professions or vocations.

Textual Amendments

F31 Words in s. 87(5) substituted (6.4.2007 with effect as noted in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 499](#) (with transitional provisions and savings in [Sch. 2](#))

88 Payments to research associations, universities etc.

- (1) If a person carrying on a trade—
 - [F32](a) pays any sum to an Association in the case of which exemption may be claimed under section 508 of ICTA and which has as its object the undertaking of research and development which may lead to or facilitate an extension of the class of trade to which the trade carried on by the person belongs, or
 - (b) pays any sum to be used for scientific research related to that class of trade to an approved university, college research institute or other similar institution,]a deduction is allowed for the sum in calculating the profits of the trade.
- (2) The deduction is allowed for the period of account in which the payment is made.
- (3) “Scientific research” means any activities in the fields of natural or applied science for the extension of knowledge.
- (4) For the purposes of this section—
 - (a) [F33]
 - (b) a university, college research institute or other similar institution,is approved if it is for the time being approved for the purposes of this section by the Secretary of State.
- (5) The [F34]reference in subsection (1)(b)] to scientific research related to a class of trade include—
 - (a) scientific research which may lead to or facilitate an extension of trades of the class, and
 - (b) scientific research of a medical nature which has a special relation to the welfare of workers employed in trades of the class.
- (6) If a question arises as to—
 - (a) whether, or
 - (b) [F35]to] what extent,

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any activities constitute or constituted scientific research, the Inland Revenue must refer the question for decision to the Secretary of State, whose decision is final.

- (7) The same expenses may not be brought into account under this section in relation to more than one trade.
- (8) This section does not apply to professions or vocations.

Textual Amendments

- F32** Words in s. 88(1)(a)(b) substituted (with effect as mentioned in s. 14(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 14(2)
- F33** S. 88(4)(a) repealed (with effect as mentioned in s. 14(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), ss. 14(2), 70, Sch. 11 Pt. 2(2)
- F34** Words in s. 88(5) substituted (with effect as mentioned in s. 14(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 14(4)
- F35** Word in s. 88(6)(b) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 600 (with Sch. 2 Pts. 1, 2)

Expenses connected with patents, designs and trade marks

89 Expenses connected with patents

- (1) In calculating the profits of a trade, a deduction is allowed for expenses incurred—
- (a) in obtaining for the purposes of the trade the grant of a patent or the extension of a patent's term, or
 - (b) in connection with a rejected or abandoned application for a patent made for the purposes of the trade.
- (2) This section does not apply to professions or vocations.

90 Expenses connected with designs or trade marks

- (1) In calculating the profits of a trade, a deduction is allowed for expenses incurred in obtaining for the purposes of the trade—
- (a) the registration of a design or trade mark,
 - (b) the extension of a period for which the right in a registered design subsists, or
 - (c) the renewal of registration of a trade mark.
- (2) This section does not apply to professions or vocations.

Export Credits Guarantee Department

91 Payments to Export Credits Guarantee Department

In calculating the profits of a trade, a deduction is allowed for a sum payable by the person carrying on the trade to the Export Credits Guarantee Department—

- (a) under an agreement entered into as a result of arrangements made under section 2 of the Export and Investment Guarantees Act 1991 (c. 67) (insurance in connection with overseas investment), or

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- (b) with a view to entering into such an agreement.

Expenses connected with foreign trades

92 Expenses connected with foreign trades

- (1) This section applies if—
- (a) an individual (“the trader”) carries on a foreign trade (alone or in partnership),
 - (b) the trader is absent from the United Kingdom wholly and exclusively for the purpose of carrying on the foreign trade or the foreign trade and one or more other trades (whether or not foreign trades),
 - (c) qualifying expenses are incurred in connection with the foreign trade, and
 - (d) a deduction for the expenses would not otherwise be allowable in calculating the profits of the foreign trade because (and only because) they were not incurred wholly and exclusively for the purposes of the foreign trade.
- (2) In calculating any profits of the foreign trade which are not charged in accordance with section 832 (relevant foreign income charged on the remittance basis), a deduction is allowed for the expenses.
- (3) Any of the following expenses are qualifying expenses incurred in connection with the foreign trade—
- (a) expenses incurred by the trader in travelling between a place in the United Kingdom and a place where the foreign trade is carried on,
 - (b) expenses incurred by the trader on board and lodging at a place where the foreign trade is carried on,
 - (c) if the trader's absence from the United Kingdom is for a continuous period of 60 days or more, family expenses (as defined in section 94), and
 - (d) if the trader also carries on another trade outside the United Kingdom (whether or not a foreign trade), expenses incurred by the trader in travelling between a place where the foreign trade is carried on and a place outside the United Kingdom where the other trade is carried on.
- (4) In this section and section 93 “foreign trade” means a trade carried on wholly outside the United Kingdom.

93 Allocation of expenses

- (1) Expenses within section 92(3)(a), (b) or (c) are allocated to the foreign trade.
- (2) If—
- (a) the expenses are within section 92(3)(a) or (b), and
 - (b) the trader carries on more than one foreign trade at the place in question outside the United Kingdom,
- those expenses are allocated between the foreign trades on a just and reasonable basis.
- (3) If—
- (a) the expenses are within section 92(3)(c), and
 - (b) the trader's absence is for the purpose of carrying on more than one foreign trade,
- those expenses are allocated between the foreign trades on a just and reasonable basis.

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- (4) Expenses within section 92(3)(d) are allocated—
- (a) to the trade carried on at the trader's place of destination, if that trade is a foreign trade, and
 - (b) in any other case, to the foreign trade carried on at the trader's place of departure.
- (5) If the trader carries on more than one foreign trade at—
- (a) the place of destination (in a case falling within subsection (4)(a)), or
 - (b) the place of departure (in a case falling within subsection (4)(b)),
- the expenses are allocated between the foreign trades on a just and reasonable basis.

94 Family expenses

- (1) In section 92(3)(c) “family expenses” means expenses of a journey made by the trader's spouse [^{F36}or civil partner] or child if the journey—
- (a) is between a place in the United Kingdom and a place outside the United Kingdom where any of the trades is carried on, and
 - (b) is made in order to accompany the trader at the beginning of the period of absence or to visit the trader during that period or to return after a journey made for either purpose.
- (2) But no more than two outward and two return journeys made by the same person in a tax year fall within subsection (1).
- (3) In this section “child” includes a stepchild but does not include a person who is aged 18 or over at the start of the outward journey.

Textual Amendments

F36 Words in s. 94(1) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), [reg. 184](#)

^{F37} SAYE option schemes, CSOP schemes

Textual Amendments

F37 S. 94A and cross-heading inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 7 para. 28](#) (with [Sch. 9 paras. 1-9, 22](#))

94A Costs of setting up SAYE option scheme or CSOP scheme

- (1) This section applies if—
- (a) a company incurs expenses in setting up a scheme within subsection (2) ^{F38}... and
 - ^{F39}(b)
- (2) The schemes within this subsection are—

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- (a) [^{F40}Schedule 3] SAYE option schemes within the meaning of the SAYE code (see section 516(4) of ITEPA 2003), and
- (b) [^{F41}Schedule 4] CSOP schemes within the meaning of the CSOP code (see section 521(4) of ITEPA 2003).

^{F42} ...

- (3) A deduction for the expenses is to be made in calculating the profits of a trade carried on by the company.
- (4) If the [^{F43}relevant date falls] more than 9 months after the end of the period of account in which the expenses are incurred, for the purposes of subsection (3) the deduction is to be made for the period of account in which the [^{F43}relevant date falls] .

[In subsection (4) “the relevant date”—

- ^{F44}(4A) (a) in relation to a Schedule 3 SAYE option scheme, has the meaning given in paragraph 40A(6) of Schedule 3 to ITEPA 2003, and
- (b) in relation to a Schedule 4 CSOP scheme, has the meaning given in paragraph 28A(6) of Schedule 4 to ITEPA 2003.]

[But subsection (4) does not apply in calculating the profits of a trade on the cash ^{F45}(5) basis.]]

Textual Amendments

- F38** Words in s. 94A(1)(a) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 140\(2\)\(a\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F39** S. 94A(1)(b) and word omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 140\(2\)\(b\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F40** Words in s. 94A(2)(a) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 140\(3\)\(a\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F41** Words in s. 94A(2)(b) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 140\(3\)\(b\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F42** Words in s. 94A(2) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 140\(3\)\(c\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F43** Words in s. 94A(4) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 140\(4\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F44** S. 94A(4A) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 140\(5\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F45** S. 94A(5) inserted (with effect in accordance with [Sch. 4 paras. 56, 57](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 4 para. 17](#)

[^{F46}Limited liability partnerships: salaried members

Textual Amendments

- F46** S. 94AA and cross-heading inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 17 paras. 3\(2\)](#), 6

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94AA Deductions in relation to salaried members

- (1) This section applies in relation to a limited liability partnership if section 863A(2) (limited liability partnerships: salaried members) applies in the case of a member of the partnership (“M”).
- (2) In calculating for a period of account under section 849 (calculation of firm's profits and losses) the profits of a trade carried on by the limited liability partnership, a deduction is allowed for expenses paid by the partnership in respect of M's employment under section 863A(2) if no deduction would otherwise be allowed for the payment.
- (3) This section is subject to section 33 (capital expenditure), section 34 (expenses not wholly and exclusively for trade etc), section 45 (business entertainment and gifts) and section 53 (social security contributions).]

Changes to legislation:

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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\(7\)\(a\)](#)