

# CORPORATION TAX ACT 2009

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 16: Companies with investment business**

##### **Overview**

##### *Chapter 3: Amounts treated as expenses of management*

##### *Sections 1239 to 1243: Redundancy payments etc*

3135. These five sections are based on sections 90, 579 and 580 of ICTA. The parts of the rules that deal with the employee's liability are in section 309 of ITEPA. The corresponding rules for trading income are in sections 76 to 81.

##### **Timing**

3136. In sections 1240(4) and 1242(4) there is a special timing rule for management expenses. For trading income the Act adopts a "person-based" approach. So the corresponding trading income rules refer to a "payment ... made after the employer has permanently ceased to carry on the trade [or part of the trade]".

3137. In these sections the rules refer to a payment "referable to ... an accounting period beginning after the business [or the part of the business] has [permanently] ceased to be carried on". This produces the same result as the trading income sections, without the need to explain the rule for businesses carried on in partnership.

3138. If an investment business ceases, the closing words of the second sentence of section 90(1) and section 579(3A) of ICTA make the payments referable to the "accounting period ending on the last day on which the ... business was carried on". These sections specify instead "the last accounting period in which the business was carried on". See *Change 82* in Annex 1.

##### **Just and reasonable apportionment**

3139. [Section 1241\(2\)](#) requires a "just and reasonable" apportionment. Section 579(5) of ICTA does not specify the basis of apportionment. See *Change 12* in Annex 1.

##### **Part of a business**

3140. [Section 1242](#) applies to payments in connection with the cessation of *part* of a business in the same way as it applies to payments in connection with the cessation of a whole business. See *Change 17* in Annex 1.

##### **Devolution**

3141. [Section 1243\(2\)\(b\)](#) reflects the effect of the devolution settlements. See *Change 15* in Annex 1.