These notes refer to the Corporation Tax Act 2009
(c.4) which received Royal Assent on 26 March 2009

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Trading income

Overview

Chapter 6: Trade profits: receipts

Overview

Section 101: Distribution of assets of mutual concerns

388. This section deals with the consequences for a trader of receiving a distribution from a mutual concern that is a corporate body. It is based on section 491 of ICTA. The corresponding rule for income tax is in section 104 of ITTOIA.

389. *Subsection (1)* sets out the circumstances in which a distribution may give rise to a tax charge. It refers to a distribution out of assets that "represent profits" of the concern. This is not quite the same as "assets of a body corporate, other than assets representing capital", as identified in section 491(1) of ICTA. The difference is that the section excludes assets that represent capital gains of the concern. See *Change 24* in Annex 1.

390. *Subsection (2)* is the general rule: the distribution is treated as a receipt of the trade.

391. *Subsection (3)* deals with the case where the distribution is received after the trade has ceased. The section treats the distribution explicitly as a post-cessation receipt. See *Change 19* in Annex 1.

392. In this Part the rules apply to the company carrying on a trade rather than to the trade itself. So section 337(1)(a) of ICTA is not needed to treat a trade as ceasing when there is a change of company carrying it on. Subsection (3) of this section reproduces the combined effect of section 491(3)(b) and (4) of ICTA.

393. *Subsection (5)* is a special rule that applies if the right to receive a distribution is transferred other than at arm's length. Market value is substituted for the actual amount received.

394. The section omits the references to mutual insurance and industrial and provident societies in section 491(9) and (11) of ICTA. Those examples were intended to help readers but there is no comprehensive definition of "mutual business". The subsections were intended to deal with particular doubts which were common when the provision was enacted in 1964. Those doubts do not exist today.