

# **CORPORATION TAX ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 4: Property income**

##### **Overview**

##### *Chapter 2: Property businesses*

##### *Section 203: Overview of Chapter*

758. This section introduces the Chapter and provides a “road map” to the key provisions. It is new.
759. Chapter 2 sets out the key concepts underlying the main component of income within this Part of this Act by defining “property business” and “generating income from land”.

##### *Section 204: Meaning of “property business”*

760. This section defines “property business”. It is new.
761. *Subsection (1)* reflects the fact that section 70A of ICTA applies the same basic rules for income from UK land to income from overseas land. So most of the provisions in this Part apply to both UK and overseas property businesses alike. Where they do not, the particular section makes that clear by, for example, referring to a UK property business only.
762. The term “property business” is not entirely straightforward. The term used in the source legislation, “Schedule A business”, was introduced as part of the 1995 reform of Schedule A for income tax and was applied to corporation tax in 1998. That concept was helpful in providing a vessel to contain all the income from land previously charged under Schedule A and to which the rules for calculating trade profits could be applied. But the concept of a Schedule A business, and a UK property business, is rather more complex than that of a trade. That is reflected in this and the other sections that, together, define the range of income that is assessed as income of a property business.

##### *Section 205: UK property business*

763. This section defines “UK property business” and introduces the concept of “generating income from land”. It is based on section 15(1) of ICTA. The corresponding rule for income tax is in section 264 of ITTOIA.
764. It gives a basic “one business per company” rule: that (subject to special cases such as those mentioned in section 203(3) and (4)) all the income from a company’s UK land interests is treated as falling within a single UK property business.
765. Although the Chapter builds on the concept of the “business”, the approach differs from the approach in the source legislation. This Act adopts the same approach as ITTOIA and uses the term “UK property business” rather than “Schedule A business”.

***Section 206: Overseas property business***

- 766. This section defines “overseas property business”. It is based on section 70A of ICTA. The corresponding rule for income tax is in section 265 of ITTOIA.
- 767. The definition is identical to that of “UK property business” except that the land from which the income arises is outside the United Kingdom..
- 768. For the purpose of deciding whether there is an overseas property business, overseas land law is interpreted in accordance with section 290.

***Section 207: Meaning of “generating income from land”***

- 769. This section defines “generating income from land”. It is based on sections 15(1) and 24 of ICTA. The corresponding rule for income tax is in section 266 of ITTOIA.
- 770. The section defines what may be described as the essence of the property business. That is, exploiting rights of land ownership for profit. But it is not intended to identify everything that must be taken into account in calculating the profits of such a business. The concept of the property business is wider than that. “Property business” includes, for example, amounts specifically charged under other provisions such as certain insurance recoveries (see section 103 applied by section 210(2)).
- 771. *Subsection (2)* extends the meaning of “rents” and is based on section 24(6)(b) of ICTA. Including this extension in the main section (in the source legislation it is relegated to a “construction” section) keeps all the relevant definitions together.
- 772. *Subsection (3)* explains “other receipts” in subsection (1). This list is not exhaustive but amounts that are not listed here would have to be of a similar nature to those that are listed to come within the definition.
- 773. *Subsection (4)* extends the charge to particular types of receipt. The source legislation cross-refers to a definition of “caravan” in the Caravan Sites and Control of Development Act 1960. There is a Act-wide definition of “caravan” in section 1314 (and see *Change 96* in Annex 1). “Houseboat” is defined in section 1319 (other definitions).

***Section 208: Activities not for generating income from land***

- 774. This section excludes certain “land-related” income from property income and cross-refers to the trading income provisions under which that income is charged. It is based on section 15(1) of ICTA. The corresponding rule for income tax is in section 267 of ITTOIA.