Corporation Tax Act 2009

2009 CHAPTER 4

PART 3

TRADING INCOME

CHAPTER 9

TRADE PROFITS: OTHER SPECIFIC TRADES

Dealers in securities etc

128 Taxation of amounts taken to reserves

(1) This section applies for the purpose of calculating the profits of a company's trade if—

(a) the company carries on a banking business, an insurance business or a business consisting wholly or partly of dealing in securities, and

(b) a profit on the sale of securities held by the company would be brought into account in calculating the trading profits of that business.

(2) Profits and losses from the securities that in accordance with generally accepted accounting practice are—

(a) calculated by reference to the fair value of the securities, and

(b) recognised in the company's statement of recognised gains and losses or statement of changes in equity,

are brought into account in calculating the profits of the trade.

(3) But subsection (2) does not apply—

(a) to an amount so far as deriving from or otherwise relating to an amount brought into account under that subsection in an earlier period of account, or

(b) to an amount recognised for accounting purposes by way of correction of a fundamental error.

(4) In this section "securities" includes—

(a) shares,

(b) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of TCGA 1992, and

(c) in the case of a company with no share capital, interests in the company possessed by members of the company,

but does not include a loan relationship (within the meaning of Part 5).

129 Conversion etc of securities held as circulating capital

(1) This section applies for the purpose of calculating the profits of a company's trade if—

(a) the company carries on a banking business, an insurance business or a business consisting wholly or partly of dealing in securities,

(b) a transaction falling within subsection (2) occurs in relation to securities ("the original holding"), and

(c) a profit on the sale of the securities would be brought into account in calculating the trading profits of that business.

(2) A transaction falls within this subsection if—

(a) it results in a new holding being treated as the same as the original holding as a result of sections 126 to 136 of TCGA 1992 (roll-over relief in cases of conversion etc), or

(b) it is treated, as a result of section 134 of TCGA 1992 (compensation stock), as an exchange for a new holding which does not involve a disposal of the original holding.

(3) This section does not apply to securities in respect of which unrealised profits or losses, calculated by reference to the fair value of the securities at the end of the period of account, are taken into account in the period of account in which the transaction occurs.

(4) The transaction is treated as not involving a disposal of the original holding and the new holding is treated as the same asset as the original holding.

(5) But if, under the transaction, the company carrying on the trade—

(a) receives consideration in addition to the new holding, or

(b) becomes entitled to receive such consideration,

subsection (4) applies as if the references to the original holding were to the proportion of the original holding given by the following fraction.

(6) The fraction is—

$$\frac{NH}{NH + C}$$

where—

NH is the market value of the new holding at the time of the transaction, and

C is the market value of the consideration at the time of the transaction or (if the consideration is cash) the amount of the consideration.

(7) In determining whether subsection (2)(a) applies as a result of section 135 or 136 of TCGA 1992, the reference to capital gains tax in section 137(1) of TCGA 1992 is to be read as a reference to income tax.

(8) In this section "securities" includes—

(a) shares,

(b) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of TCGA 1992, and

(c) in the case of a company with no share capital, interests in the company possessed by members of the company.

[F1 Insurers

Textual Amendments

F1 S. 130 and cross-heading substituted (with effect in accordance with Sch. 14 para. 31 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 14 para. 22**

130 Insurers receiving distributions etc

(1) This section applies for the purpose of calculating the trading profits of—

(a) insurance business other than **[**F2business in relation to which section 111 of FA 2012 applies**]**, or

(b) any category of such business.

(2) A receipt that is exempt for the purposes of Part 9A (company distributions) is not brought into account in calculating the profits of the trade.**]**

Textual Amendments

F2 Words in s. 130(1)(a) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 144**

[F3**130A Insurers in financial difficulties: write-down orders**

(1) A receipt or expense that is attributable to the operation of a write-down order, or to a write-down order ceasing to have effect, is not brought into account in calculating the profits of a trade.

(2) In this section "write-down order" means an order under section 377A of the Financial Services and Markets Act 2000 (court order writing down liabilities of insurer).**]**

Textual Amendments

F3 S. 130A inserted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), **s. 32(1)**

Building societies

131 Incidental costs of issuing qualifying shares

(1) In calculating the profits of a trade carried on by a building society, a deduction is allowed for incidental costs of obtaining finance by means of issuing shares in the society if—

(a) the shares are qualifying shares for the purposes of section 117(4) of TCGA 1992, and

(b) the condition in subsection (2) is met.

(2) The condition is that the amount of any—

(a) dividend or other distribution, or

(b) interest,

payable in respect of the shares is deductible in calculating, for corporation tax purposes, the profits of the society's trade.

(3) But a deduction is not allowed by virtue of subsection (1) so far as the costs fall to be brought into account as debits for the purposes of Part 5 (loan relationships).

(4) "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.

(5) 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.

(6) 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 qualifying shares so far as attributable to their being repayable at a premium or having been issued at a discount, and

(d) stamp duty.

[F4Registered societies]

Textual Amendments

F4 Words in Act substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 143** (with Sch. 5)

132 Dividends etc granted by [F4registered societies]

(1) This section applies if a trade is carried on by a **[**F5registered society**]** and—

(a) the society does not sell to persons who are not its members, or

(b) the number of shares in the society is not limited by the society's rules or practice.

(2) In calculating the profits of the trade, a deduction is allowed for sums which meet conditions A and B.

(3) Condition A is that—

(a) the sum represents a discount, rebate, dividend or bonus granted by the society to a member or other person ("the recipient"),

(b) the discount, rebate, dividend or bonus is in respect of—

(i) amounts paid or payable by the recipient, or

(ii) amounts paid or payable to the recipient,

on account of the recipient's transactions with the society, and

(c) those transactions are taken into account in calculating the society's profits chargeable under this Part.

(4) Condition B is that the sum mentioned in subsection (2) is calculated by reference to—

(a) the amounts paid or payable by or to the recipient, or

(b) the size of the transactions,

and not by reference to the amount of any share or interest in the capital of the society.

(5) See also **[**[F6]section 1056 of CTA 2010**]** (dividend or bonus to which this section applies is not treated as a distribution).

Textual Amendments

F5 Words in Act substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 141** (with Sch. 5)

F6 Words in s. 132(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 598** (with Sch. 2)

Credit unions

133 Annual payments paid by a credit union

In calculating the profits of a credit union's trade, no deduction is allowed for annual payments made by the credit union.

I[F7]*Banking companies*

Textual Amendments

F7 Ss. 133A-133N and cross-heading inserted (with effect in accordance with s. 18(2) of the amending Act) by Finance (No. 2) Act 2015 (c. 33), **s. 18(1)**

133A Compensation payments: restriction of deductions

(1) In calculating the profits of a trade carried on by a company ("company A") no deduction is allowed for expenses incurred by the company if and so far as—

(a) the expenses are in respect of amounts of relevant compensation (see subsection (3)), and

(b) the disclosure condition is met in relation to the expenses (see section 133C).

(2) Subsection (1) does not apply to expenses which are excluded by section 133D.

(3) In relation to company A, "relevant compensation" means compensation which is paid or payable—

(a) to or for the benefit of a customer of company A in respect of relevant conduct (see subsection (6)) of company A, or

(b) to or for the benefit of a customer of a qualifying company in respect of relevant conduct of that qualifying company (but see subsection (4)).

(4) Compensation paid or payable as mentioned in subsection (3)(b) is not relevant compensation so far as it is paid or payable under arrangements entered into between company A and the qualifying company on arm's length terms.

(5) "Qualifying company", in relation to company A, means a company which is associated with company A (see section 133L) at the time when the expenses in question are recognised for accounting purposes.

(6) For the purposes of this section conduct of a company is "relevant conduct" if the conduct occurs—

(a) on or after 29 April 1988, and

(b) at a time when the company is a banking company (see section 133E).

(7) For the purposes of subsection (1) it does not matter whether the compensation is paid, or to be paid, by company A or another person.

(8) In this section—

"compensation", "payment" and references to compensation "paid or payable" in respect of relevant conduct of a company, are to be read in accordance with section 133K;

"conduct" includes any act or omission;

"customer" has the meaning given by section 133J.

133B Companies affected by section 133A: amounts treated as received

(1) This section applies where a company incurs in an accounting period expenses which would, but for section 133A, be deductible in calculating the profits of a trade carried on by that company.

(2) An amount equal to 10% of the relevant sum is to be brought into account as a receipt in calculating the profits of the trade.

(3) The amount is treated as arising at the end of the accounting period.

(4) In this section "the relevant sum" means the total amount of the expenses which as a result of section 133A are not deductible in calculating the profits of the trade for the accounting period.

133C The disclosure condition

(1) In relation to expenses incurred by a company ("company A") in respect of amounts of relevant compensation, the "disclosure condition" is met if—

(a) a relevant document indicates that the company—

(i) is or has been, or

(ii) will become,

liable to pay compensation in respect of a particular matter and the relevant compensation can reasonably be regarded as relating to that matter, or

(b) a relevant document refers to disciplinary action taken or to be taken by a regulator in respect of a particular matter and the relevant compensation can reasonably be regarded as relating to that matter.

(2) A disclosure in a relevant document is to be disregarded for the purposes of paragraph (a) of subsection (1) if the disclosure is concerned with liability to pay compensation to or for the benefit of one (and only one) customer of the company concerned in respect of a single error in the conduct of the company concerned.

(3) In subsection (2) "the company concerned" means company A or a company which is associated with company A (see section 133L).

(4) For the purposes of subsection (1)(a) it does not matter whether the indication is express or implicit (or how it is expressed or conveyed) provided that it is reasonably clear from the relevant document that the company is or has been, or will become, liable to pay compensation in respect of the matter concerned.

(5) In this section "a relevant document" means—

(a) relevant accounts,

(b) a relevant statutory report, or

(c) a relevant listing disclosure.

(6) For the purposes of this section the following are "relevant accounts" in relation to expenses incurred by company A—

(a) company A's statutory accounts for a relevant period, and

(b) relevant consolidated accounts for a relevant period.

(7) For the purposes of this section, any of the following is a "relevant statutory report" in relation to company A if the report in question is prepared for a relevant period—

(a) any published report prepared by the directors of the company for the purposes of any provision of the legislation under which company A is registered or, as the case may be, established;

(b) any published consolidated report prepared for such purposes, if the company is included in the consolidation.

(8) In this section "relevant listing disclosure" means a disclosure required—

(a) by rules under section 73A of FISMA 2000, or

(b) by virtue of a requirement imposed by or under a corresponding provision of the law of a territory outside the United Kingdom,

if the disclosure is made in the period of 5 years ending at the end of the period of account in which the expenses are recognised for accounting purposes.

(9) In this section "relevant period", in relation to expenses incurred by company A, means—

(a) the period of account in which the expenses are recognised for accounting purposes, or

(b) any period which begins not more than 5 years before, and ends not later than, the end of that period.

(10) In this section, in relation to a company—

"relevant compensation" has the meaning given by section 133A(3);

"statutory accounts" means accounts prepared for the purposes of any provision of the legislation under which the company is registered or, as the case may be, established;

"relevant consolidated accounts" means consolidated accounts prepared for any such purposes, if the company is included in the consolidation.

133D Excluded expenses

(1) Expenses in respect of relevant compensation are excluded by this section if the compensation is in respect of—

(a) an administrative error,

(b) the failure of a computer or electronic system, or

(c) loss or damage which is wholly or mainly attributable to an unconnected third party.

(2) In subsection (1) "third party" means a person who is neither the company mentioned in section 133A(1) nor (if different) the company in respect of whose conduct the compensation is paid or payable (see section 133A(3)(b)).

(3) For the purposes of this section a third party ("TP") is an "unconnected third party" unless—

(a) TP was, at the time of the relevant actions, connected with the company mentioned in section 133A(1) or (if different) the company in respect of whose conduct the compensation is paid or payable, or

(b) in taking one or more of the relevant actions, TP was acting under arrangements with the company mentioned in paragraph (a) or (as the case may be) either of the companies mentioned in paragraph (a).

(4) In this section "the relevant actions" means the actions as a result of which the loss or damage is wholly or mainly attributable to TP (and references to actions or the taking of actions include failures to act).

(5) Section 1122 of CTA 2010 (meaning of "connected persons") applies for the purposes of this section, but subject to the following modification.

(6) Section 1122 has effect as if after subsection (8) there were inserted—

"(9) A person ("A") is connected with any person who is an employee of A or by whom A is employed.

(10) For the purposes of this section any director or other officer of a company is to be treated as employed by that company."

133E Meaning of "banking company"

(1) For the purposes of section 133A, a company is a "banking company"—

(a) at a time when it meets conditions A to D,

(b) at a time when it meets condition A and is a member of a partnership which meets conditions B to D, or

(c) if it is a building society.

In subsections (2) to (6), "the relevant entity" means the company or partnership.

(2) Condition A is that the company is not an excluded company (see section 133F).

(3) Condition B—

(a) in relation to any time on or after 1 December 2001, is that the relevant entity is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act);

(b) in relation to any time before that date, is that the relevant entity—

(i) was at that time an authorised person under Chapter 3 of Part 1 of the Financial Services Act 1986 (persons authorised to carry on investment business),

(ii) was authorised under the Banking Act 1987, or

(iii) was entitled by virtue of the Banking Co-ordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218) to accept deposits (within the meaning of the Banking Act 1987) in the United Kingdom.

(4) Condition C is that—

(a) the relevant entity's activities include the relevant regulated activity described in the provision mentioned in section 133G(1)(a), or

(b) the relevant entity is an investment bank (see section 133H) whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in section 133G(1)(b) to (f).

(5) Condition D is that the relevant entity carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of trade.

(6) Where the relevant entity carries on activities outside the United Kingdom, Condition B is met—

(a) in relation to any time on or after 1 December 2001, if the relevant entity would be required to be an authorised person for the purposes of FISMA 2000 (see section 31 of that Act) in order to carry on any of those activities in the United Kingdom at that time;

(b) in relation to any time before that date, if in order to carry on those activities in the United Kingdom at that time the relevant entity—

(i) would have been required to be an authorised person under Chapter 3 of Part 1 of the Financial Services Act 1986 (persons authorised to carry on investment business), or

(ii) would have been required either to be authorised under the Banking Act 1987 or to be entitled by virtue of the Banking Co-ordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218) to accept deposits (within the meaning of the Banking Act 1987) in the United Kingdom.

(7) In this section "partnership" includes—

(a) a limited liability partnership, and

(b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,

and "member", in relation to a partnership, is to be read accordingly.

(8) For the meaning of "relevant regulated activity", see section 133G.

133F "Excluded company"

(1) This section gives the meaning of "excluded company" for the purposes of section 133E.

(2) A company is an "excluded company" at any time (in an accounting period) when the company is—

(a) an insurance company or an insurance special purpose vehicle;

(b) a company which is a member of a group and does not carry on any relevant regulated activities otherwise than on behalf of an insurance company or an insurance special purpose vehicle which is a member of the group;

(c) a company which does not carry on any relevant regulated activities otherwise than as the manager of a pension scheme;

(d) an investment trust;

(e) a company which does not carry on any relevant regulated activities other than asset management activities;

(f) an exempt commodities firm;

(g) a company which does not carry on any relevant regulated activities otherwise than for the purpose of trading in commodities or commodity derivatives;

(h) a company which does not carry on any relevant regulated activities otherwise than for the purpose of dealing in contracts for differences—

(i) as principal with persons all or all but an insignificant proportion of whom are retail clients, or

(ii) with any other person to enable the company or that other person to deal in contracts for differences as principal with persons all or all but an insignificant proportion of whom are retail clients;

(i) a friendly society;

(j) a society registered as a credit union under the Co-operative and Community Benefit Societies Act 2014 or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12));

(k) a building society.

[F8(2A) A company is also an "excluded company" at any time (in an accounting period) if—

(a) the company would fall within a relevant relieving provision but for one (and only one) line of business which it carries on,

(b) that line of business does not involve the relevant regulated activity described in the provision mentioned in section 133G(1)(a), and

(c) the company's activities in that line of business would not, on their own, result in it being **[**F9—

(i) in relation to a time on or after 1 January 2022, an FCA investment firm that meets the conditions in section 133H(1B);

(ii) in relation to a time before that date,**]**

both a 730k firm and a full scope investment firm.

(2B) For the purposes of subsection (2A) the "relevant relieving provisions" are paragraphs (b), (c), (e), (g) and (h) of subsection (2).**]**

(3) In this section "asset management activities" means activities which consist (or, if they were carried on in the United Kingdom, would consist) of any or all of the following—

(a) acting as the operator of a collective investment scheme (see subsection (5)),

(b) managing investments on a discretionary basis for clients none of which is a linked entity (see subsection (6)), and

(c) acting as an authorised corporate director.

(4) In subsection (2)(f) "exempt commodities firm" means—

[F10(za) in relation to a time on or after 1 January 2022, a commodity and emission allowance dealer;**]**

(a) in relation to a time on or after 1 January 2014 **[**F11but before 1 January 2022**]**, an exempt IFPRU commodities firm, as defined by the FCA Handbook at that time,

(b) in relation to a time on or after 1 April 2013 but before 1 January 2014, an exempt BIPRU commodities firm, as defined by the PRA Handbook at that time,

(c) in relation to a time on or after 1 January 2007 but before 1 April 2013, an exempt BIPRU commodities firm, as defined by the Handbook of the Financial Services Authority at that time, and

(d) in relation to a time before 1 January 2007, an exempt BIPRU commodities firm as defined by the Handbook of the Financial Services Authority as in force on 1 January 2007.

(5) In subsection (3)(a) "operator of a collective investment scheme"—

(a) in relation to times on and after 25 February 2001, has the same meaning as in Part 17 of FISMA 2000 (see sections 235 and 237 of that Act);

(b) in relation to times before that date, has the same meaning as in the Financial Services Act 1986.

(6) In subsection (3)(b) "linked entity", in relation to a company ("C"), means—

(a) a member of the same group as C;

(b) a company in which a company which is a member of the same group as C has a major interest, or

(c) a partnership the members of which include an entity—

(i) which is a member of the same group as C, and

(ii) whose share of the profits or losses of a trade carried on by the partnership for an accounting period of the partnership any part of which falls within the accounting period mentioned in the opening words of subsection (2) is at least a 40% share (see Part 17 for provisions about shares of partnership profits and losses).

(7) In this section—

[F12"730k firm"—

(a) in relation to any time on or after 1 January 2014 **[**F13but before 1 January 2022**]**, means an IFPRU 730k firm,

(b) in relation to any time before **[**F14 1 January 2014**]**, means a BIPRU 730k firm;**]**

"authorised corporate director"—

(a) in relation to any time on or after 1 April 2013, has the meaning given by the FCA Handbook at that time;

(b) in relation to any time before 1 April 2013, has the meaning given by the FCA Handbook as in force on 1 April 2013;

[[F15]"BIPRU 730k firm" and "full scope BIPRU investment firm" have the same meaning as in subsections (2) to (4) of section 133H;**]**

[[F16]"commodity and emission allowance dealer" has the meaning given by the FCA Handbook at the time in question;**]**

"contract for differences" has the meaning given by section 582;

"the FCA Handbook" means the Handbook made by the Financial Conduct Authority under FISMA 2000;

[[F16]"FCA investment firm" has the meaning given by section 143A of FISMA 2000;**]**

"friendly society" means a registered friendly society or an incorporated friendly society;

[[F15]"full scope investment firm"—

(a) in relation to any time on or after 1 January 2014 **[**[F17]but before 1 January 2022**]**, means a full scope IFPRU investment firm,

(b) in relation to any time before **[**[F18]1 January 2014**]**, means a full scope BIPRU investment firm;**]**

"group" has the same meaning as in Part 7A of CTA 2010 (see section 269BD of that Act);

[[F15]"IFPRU 730k firm" and "full scope IFPRU investment firm" have the meaning given by the FCA Handbook at the time in question;**]**

"incorporated friendly society" means a society incorporated under the Friendly Societies Act 1992;

"insurance company" has the meaning given by section 133I;

"insurance special purpose vehicle" has the meaning given by section 139 of FA 2012;

"major interest" has the same meaning as in Part 5 (see section 473);

"partnership" has the same meaning as in section 133E;

"the PRA Handbook", means the Handbook made by the Prudential Regulation Authority under FISMA 2000;

"registered friendly society" has the same meaning as in the Friendly Societies Act 1992 (and includes any society that as a result of section 96(2) of the Friendly Societies Act 1992 is treated as a registered friendly society);

"relevant regulated activity" has the meaning given by section 133G;

"retail client"—

(a) in relation to any time on or after 1 April 2013, has the meaning given by the FCA Handbook at that time;

(b) in relation to any time before 1 April 2013, has the meaning given by the FCA Handbook as in force on 1 April 2013.

Textual Amendments

F8 S. 133F(2A)(2B) inserted (retrospective to 18.11.2015) by Finance Act 2016 (c. 24), s. 56(1)**(2)**

F9 S. 133F(2A)(c)(i)(ii) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **3(2)**

F10 S. 133F(4)(za) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **3(3)(a)**

F11 Words in s. 133F(4)(a) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **3(3)(b)**

F12 Words in s. 133F(7) inserted (retrospective to 18.11.2015) by Finance Act 2016 (c. 24), s. 56(1)**(3)**

F13 Words in s. 133F(7) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **3(4)(a)(i)**

F14 Words in s. 133F(7) substituted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **3(4)(a)(ii)**

F15 Words in s. 133F(7) inserted (retrospective to 18.11.2015) by Finance Act 2016 (c. 24), s. 56(1)**(4)**

F16 Words in s. 133F(7) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **3(4)(c)**

F17 Words in s. 133F(7) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **3(4)(b)(i)**

F18 Words in s. 133F(7) substituted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **3(4)(b)(ii)**

133G Meaning of "relevant regulated activity"

(1) In sections 133E and 133F "relevant regulated activity" means an activity which is a regulated activity for the purposes of FISMA 2000 by virtue of any of the following provisions of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544)—

(a) article 5 (accepting deposits);

(b) article 14 (dealing in investments as principal);

(c) article 21 (dealing in investments as agent);

(d) article 25 (arranging deals in investments);

[
F19(da) article 25DA (operating an organised trading facility), but only where dealing on own account in relation to sovereign debt instruments for which there is no liquid market (within the meaning of the Handbook made by the Financial Conduct Authority under FISMA 2000);**]**

(e) article 40 (safeguarding and administering investments);

(f) article 61 (regulated mortgage contracts).

(2) In determining whether an activity carried on at any time before 1 December 2001 was at that time a relevant regulated activity, it is to be assumed that FISMA 2000 and the order mentioned in subsection (1) were in force in the form in which they had effect on 1 December 2001.

Textual Amendments

F19 S. 133G(1)(da) inserted (5.4.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(4)(11), **4**

133H Investment bank

(1) This section gives the meaning of "investment bank" for the purposes of section 133E; and in this section "the relevant entity" has the same meaning as in subsections (2) to (6) of that section.

[[F20](1A) At any time on or after 1 January 2022, the relevant entity is an investment bank if—

(a) it is an FCA investment firm that meets the conditions in subsection (1B), or

(b) it is designated by the Prudential Regulation Authority under Article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 (S.I. 2013/556) (dealing in investments as principal: designation by PRA).

(1B) An FCA investment firm meets the conditions in this subsection if it has a permanent minimum capital requirement of £750,000 and is not—

(a) a limited activity firm,

(b) a limited licence firm,

(c) a local firm, or

(d) a matched principal trading firm.

(1C) In subsection (1B)—

"limited activity firm" means an investment firm that—

(a) deals on own account only for the purpose of fulfilling or executing a client order or for the purpose of gaining entrance to a clearing and settlement system or a recognised exchange when acting in an agency capacity or executing a client order; or

(b) meets all the following conditions—

(i) it does not hold client money or securities;

(ii) it undertakes only dealing on own account;

(iii) it has no external customers; and

(iv) its execution and settlement transactions take place under the responsibility of a clearing institution and are guaranteed by that clearing institution;

"limited licence firm" means an investment firm that is not authorised to provide the investment services and activities of—

(a) dealing on own account; or

(b) underwriting of financial instruments or placing of financial instruments on a firm commitment basis;

"local firm" means a firm—

(a) dealing on own account on markets in financial futures or options or other derivatives and on cash markets for the sole purpose of hedging positions on derivatives markets, or

(b) dealing for the accounts of other members of those markets and being guaranteed by clearing members of the same markets, where responsibility for ensuring the performance of contracts entered into by such a firm is assumed by clearing members of the same markets;

"matched principal trading firm" means an investment firm that executes investors' orders for financial instruments and meets the following conditions—

(a) the firm only holds financial instruments for its own account as a result of its failure to match investors' orders precisely;

(b) the total market value of all such positions is no more than 15% of the firm's initial capital;

(c) such positions are incidental and provisional in nature and strictly limited to the time required to carry out the transaction in question.

(1D) In determining, for the purposes of subsection (1B), whether an FCA investment firm has a permanent minimum capital requirement of £750,000, any transitional provision in the FCA Handbook is to be disregarded.

(1E) In subsections (1A) to (1D), the following terms have the meaning given by the FCA Handbook—

"dealing on own account"

"financial instrument";

"initial capital";

"investment firm";

"market value";

"permanent minimum capital requirement".**]**

(2) At any time on or after 1 January 2014 **[**[F21]but before 1 January 2022**]**, the relevant entity is an investment bank if—

(a) it is both an IFPRU 730k firm and a full scope IFPRU investment firm, or

(b) it is designated by the Prudential Regulation Authority under article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 (S.I. 2013/556) (dealing in investments as principal: designation by PRA).

(3) At any time on or after 1 January 2007 but before 1 January 2014, the relevant entity was an investment bank if it was both a BIPRU 730k firm and a full scope BIPRU investment firm.

(4) At any time before 1 January 2007, the relevant entity was an investment bank if it would have been both a BIPRU 730k firm and a full scope BIPRU investment firm if the Handbook of the Financial Services Authority in force on 1 January 2007 had been in force at that earlier time.

(5) In subsections (2) to (4)—

"IFPRU 730k firm" and "full scope IFPRU investment firm" have the meaning given by the FCA Handbook at the time in question;

"BIPRU 730k firm" and "full scope BIPRU investment firm"—

(a) in relation to any time on or after 1 April 2013 have the meaning given by the PRA Handbook at that time;

(b) in relation to any time on or after 1 January 2007 but before 1 April 2013, have the meaning given by the Handbook of the Financial Services Authority at that time;

(c) in relation to any time before 1 January 2007, have the meaning given by the Handbook of the Financial Services Authority as in force on 1 January 2007.

(6) If the relevant entity would at any time be an investment bank under subsection **[**[F22](1A)(a),**]** (2)(a), (3) or (4) by virtue of activities carried on in the United Kingdom but for the fact that its registered office (or, if it does not have a registered office, its head office) is not in the United Kingdom, the relevant entity is to be treated for the purposes of section 133E as being an investment bank.

(7) In this section—

"the FCA Handbook" means the Handbook made by the Financial Conduct Authority under FISMA 2000;

[[F23]"FCA investment firm" has the meaning given by section 143A of FISMA 2000;**]**

"the PRA Handbook" means the Handbook made by the Prudential Regulation Authority under FISMA 2000.

Textual Amendments

F20 S. 133H(1A)-(1E) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **5(2)**

F21 Words in s. 133H(2) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **5(3)**

F22 Word in s. 133H(6) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **5(4)**

F23 Words in s. 133H(7) inserted (5.4.2022 with application from 1.1.2022) by The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022 (S.I. 2022/286), regs. 1(2)(3), **5(5)**

133I Meaning of "insurance company"

(1) For the purposes of section 133F a person who carries on the activity of effecting or carrying out contracts of insurance is an "insurance company" if—

(a) the person has permission under Part 4A of FISMA 2000 to carry on that activity,

[F24](b) . . . . . .

[F25](c) . . . . . .

(2) In relation to times in the period beginning with 1 December 2001 and ending with 31 March 2013, the reference in subsection (1)(a) to Part 4A of FISMA 2000 is to be read as a reference to Part 4 of that Act

(3) In relation to times before 1 December 2001, this section has effect as if the following were substituted for subsection (1)—

"(1) For the purposes of section 133F a person who carries on the activity of effecting or carrying out contracts of insurance is an "insurance company" if the person is—

(a) authorised under section 3 or 4 of the Insurance Companies Act 1982, or

(b) an EC company within the meaning of the Insurance Companies Act 1982 which, by virtue of paragraph 1 or 8 of Schedule 2F to that Act, was able to carry on direct insurance business through a branch in the United Kingdom or provide insurance in the United Kingdom."

Textual Amendments

F24 S. 133I(1)(b) omitted (31.12.2020) by virtue of The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **16(2)** (with regs. 39-41, 45); 2020 c. 1, Sch. 5 para. 1(1)

F25 S. 133I(1)(c) omitted (31.12.2020) by virtue of The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **16(2)** (with regs. 39-41, 45); 2020 c. 1, Sch. 5 para. 1(1)

133J Meaning of "customer"

(1) For the purposes of sections 133A and 133C, a person ("P") is a "customer" in relation to a company ("company A") if—

(a) P uses, has used or may have contemplated using a financial service provided by company A, or

(b) has relevant rights or interests in relation to a financial service provided by company A.

(2) In subsection (1) "financial service" means a service provided—

(a) in carrying on regulated activities,

(b) in communicating, or approving the communication by others of, invitations or inducements to engage in investment activity, or

(c) in providing relevant ancillary services (if company A is an investment firm or credit institution).

(3) P has a "relevant right or interest" in relation to any service if P has a right or interest—

(a) which is derived from, or is otherwise attributable to, the use of the service by another person, or

(b) which may be adversely affected by the use of the service by persons acting on P's behalf or in a fiduciary capacity in relation to P.

(4) If company A is providing a service as a trustee, the persons who are, have been, or may have been, beneficiaries of the trust are to be treated as persons who use, have used, or may have contemplated using, the service.

(5) A person who deals with company A in the course of company A providing a service is to be treated as using the service.

(6) In this section—

"credit institution" has the meaning given by section 1H(8) of FISMA 2000;

"engage in investment activity" has the meaning given in section 21 of FISMA 2000;

"investment firm" has the same meaning as in FISMA 2000 (see section 424A of that Act);

"regulated activities" has the same meaning as in FISMA 2000 (see section 22 of that Act);

"relevant ancillary services" means has the meaning given by section 1H(8) of FISMA 2000.

133K "Compensation" and related expressions

(1) In sections 133A to 133D references to compensation which is paid or payable "in respect of" relevant conduct include compensation which is paid (or to be paid)—

(a) in connection with a claim by the customer for compensation in respect of the conduct, or

(b) in circumstances where there is reason to suspect that company A may (or might in the absence of the payment) be or become liable to pay compensation in respect of relevant conduct—

(i) to the customer, or

(ii) in one or more of a class of cases which includes the customer's case.

(2) In sections 133A to 133D and this section "compensation" includes any form of redress, whether monetary or non-monetary, and accordingly includes interest.

References in those sections to "payment" are to be interpreted accordingly.

(3) In subsection (1)—

"claim" includes any claim or request, however made;

"customer" has the meaning given by section 133J;

"relevant conduct" is to be interpreted in accordance with section 133A(6).

133L Associated companies

(1) For the purposes of sections 133A and 133C a company ("company B") is associated with another company ("company A") at a time ("the relevant time") if any of the following 5 conditions is met.

(2) The first condition is that the financial results of company A and company B, for a period that includes the relevant time, meet the consolidation condition.

(3) The second condition is that there is a connection between company A and company B for the accounting period of company A in which the relevant time falls.

(4) The third condition is that, at the relevant time, company A has a major interest in company B or company B has a major interest in company A.

(5) The fourth condition is that—

(a) the financial results of company A and a third company, for a period that includes the relevant time, meet the consolidation condition (see subsection (7)), and

(b) at the relevant time the third company has a major interest in company B.

(6) The fifth condition is that—

(a) there is a connection (see subsection (9)) between company A and a third company for the accounting period of company A in which the relevant time falls, and

(b) at the relevant time the third company has a major interest in company B.

(7) In this section, the financial results of any two companies for any period meet the "consolidation condition" if—

(a) they are required to be comprised in group accounts,

(b) they would be required to be comprised in group accounts but for the application of an exemption, or

(c) they are in fact comprised in such accounts.

(8) In subsection (7), "group accounts" means accounts prepared under—

(a) section 399 of the Companies Act 2006, or

(b) any corresponding provision of the law of a territory outside the United Kingdom.

(9) Sections 466 to 471 (companies connected for accounting period) apply for the purposes of this section.

(10) In this section "major interest" has the same meaning as in Part 5 (see section 473).

133M Application of sections 133A and 133B in relation to corporate partner

(1) If a firm carries on a trade and any partner in the firm ("the corporate partner") is within the charge to corporation tax, this section applies in determining the profits of the trade, in relation to the corporate partner, in accordance with section 1259(3) or (4).

(2) No deduction is allowed for expenses incurred by the firm if and so far as section 133A would prevent the expenses from being deductible if the firm were, and at all relevant times had been, a company.

(3) In its application for the purposes of subsection (2), section 133A is to be read subject to subsections (4) to (6).

(4) Section 133A(3)(b) is to be disregarded.

(5) Conduct of the firm is "relevant conduct" if the conduct occurs—

(a) on or after 29 April 1988, and

(b) at a time when—

(i) the corporate partner is for the purposes of section 133A a banking company, and

[[F26](ii) the firm would not (if references in section 133F(2) and (3) to companies included firms) be an excluded company for the purposes of section 133E.**]**

(6) The disclosure condition in section 133C may be met by a relevant document relating to the liability of the corporate partner (as well as by a relevant document relating to the liability of the firm).

(7) Where in any accounting period of the firm (as defined by section 1261) the firm incurs expenses which but for section 133A (as read with subsections (2) to (6)) would be deductible in calculating the profits of the trade, the profits of the firm's trade are to

be determined as if the references in section 133B to a company were a reference to the firm.

Textual Amendments

F26 S. 133M(5)(b)(ii) substituted (retrospective to 18.11.2015) by Finance Act 2016 (c. 24), s. 56(5)**(6)**

133N Powers to amend

(1) The Treasury may by regulations make such amendments of sections 133A to 133L as they consider appropriate in consequence of—

(a) any change made to, or replacement of, the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) or the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 (S.I. 2013/556) (or any replacement);

(b) any change made to, or replacement of, the FCA Handbook or the PRA Handbook (or any replacement);

(c) any regulatory requirement, or change to any regulatory requirement, imposed by EU legislation, or by or under any Act (whenever adopted, enacted or made).

(2) The Treasury may by regulations—

(a) amend sections 133A(1) and 133C for the purpose of varying the class of expenses to which section 133A(1) applies;

(b) amend section 133D for the purpose of adding cases to those for the time being listed in subsection (1) of that section;

(c) amend section 133D for any other purpose;

(d) amend any of sections 133E to 133I;

(e) amend section 133M.

(3) Regulations under this section may include transitional provision.

[F27(3A) Regulations under this section made on or before 30 June 2022 may have retrospective effect in relation to any time on or after 1 January 2022.**]**

(4) A statutory instrument containing only regulations under subsection (1) or (2)(b) is subject to annulment in pursuance of a resolution of the House of Commons.

(5) Any other statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

(6) In this section—

"the FCA Handbook" means the Handbook made by the Financial Conduct Authority under FISMA 2000 (as that Handbook has effect from time to time);

"the PRA Handbook" means the Handbook made by the Prudential Regulation Authority under FISMA 2000 (as that Handbook has effect from time to time).**]**

Textual Amendments

F27 S. 133N(3A) inserted (10.6.2021) by Finance Act 2021 (c. 26), **s. 134(1)**

Dealers in land etc

134 Purchase or sale of woodlands

(1) This section applies for the purpose of calculating the profits of a trade of dealing in land.

(2) If the company carrying on the trade buys woodlands in the United Kingdom in the course of the trade, the part of the cost of the woodlands which is attributable to trees or saleable underwood growing on the land is ignored.

(3) If—

(a) the woodlands are subsequently sold in the course of the trade, and

(b) any of the trees or underwood are still growing on the land at the time of the sale,

the part of the price that is equal to the amount ignored under subsection (2) for those trees or that underwood is ignored.

F28 135 Relief in respect of mineral royalties

. . . . . .

Textual Amendments

F28 S. 135 repealed (with effect in accordance with Sch. 39 para. 44(3) of the amending Act) by Finance Act 2012 (c. 14), **Sch. 39 para. 44(1)(a)**

136 Lease premiums etc: reduction of receipts

(1) This section applies for the purpose of calculating the profits of a trade of dealing in land if a receipt of the trade falls within one of the following categories—

(a) lease premiums within section 217,

(b) sums within section 219 (sums payable instead of rent),

(c) sums within section 220 (sums payable for surrender of a lease),

(d) sums within section 221 (sums payable for variation or waiver of terms of lease),

(e) consideration for the assignment of a lease within section 222 (lease granted at an undervalue), and

(f) amounts received on the sale of an estate or interest in land within section 224 (sales with right to reconveyance) or section 225 (sale and leaseback transactions).

(2) The receipt is reduced by the relevant amount.

(3) The relevant amount is the amount which is treated as a receipt of a property business as a result of any of sections 217 to 225.

(4) But if—

(a) the company carrying on the trade makes a claim under section 238 or 239, and

(b) as a result of the claim a repayment of tax is made to that company,

the relevant amount is the amount which, for the purpose of determining the amount of the repayment of tax, is treated as brought into account as a receipt in calculating the profits of the property business.

(5) If subsection (4) applies, any adjustment of liability to tax may be made—

(a) by assessment or otherwise, and

(b) at any time at which it could be made if it related only to tax for the accounting period in which the claim under section 238 or 239 is made.

Mineral exploration and access

137 Mineral exploration and access

(1) This section applies for the purpose of calculating the profits of a trade if—

(a) the company carrying on the trade incurs expenditure on mineral exploration and access in an area or group of sands, and

(b) the presence of mineral deposits in commercial quantities has already been established in that area or group of sands.

(2) A deduction is allowed for the expenditure only if a deduction would have been allowed for it if the presence of mineral deposits in commercial quantities had not already been established in that area or group of sands.

(3) In this section "mineral exploration and access" has the same meaning as in Part 5 of CAA 2001 (see section 396(1) of that Act).

Companies liable to pool betting duty

[F29]138 Payments by companies liable to pool betting duty

. . . . . .

Textual Amendments

F29 S. 138 repealed (with effect in accordance with Sch. 39 para. 21(3) of the amending Act) by Finance Act 2012 (c. 14), **Sch. 39 para. 22(1)(a)**

Intermediaries treated as making employment payments

139 Deduction for deemed employment payment

(1) This section applies for the purpose of calculating the profits of a trade carried on by an intermediary which is treated as making a deemed employment payment in connection with the trade.

(2) A deduction is allowed for—

(a) the amount of the deemed employment payment, and

(b) the amount of any employer's national insurance contributions paid by the intermediary in respect of it.

(3) The deduction is allowed for the period of account in which the deemed employment payment is treated as made.

(4) No deduction in respect of—

(a) the deemed employment payment, or

(b) any employer's national insurance contributions paid by the intermediary in respect of it,

may be made except in accordance with this section.

(5) In this section "deemed employment payment" and "intermediary" have the same meaning as in Chapter 8 of Part 2 of ITEPA 2003 (see sections 49 and 50 of that Act).

140 Special rules for partnerships

(1) This section applies for the purpose of calculating the profits of a trade carried on by a firm that is treated as making a deemed employment payment in connection with the trade.

(2) The amount of the deduction allowed under section 139 is limited to the amount that reduces the profits of the firm of the period of account to nil.

(3) The expenses of the firm in connection with the relevant engagements for any period of account are limited to the total of—

(a) 5% of the amount taken into account at Step 1 of the calculation in section 54(1) of ITEPA 2003 (calculation of deemed employment payment), and

(b) the amount deductible at Step 3 of that calculation.

(4) In this section "deemed employment payment" and "the relevant engagements" have the same meaning as in Chapter 8 of Part 2 of ITEPA 2003 (see sections 49 and 50 of that Act).

Managed service companies

141 Deduction for deemed employment payments

(1) This section applies for the purpose of calculating the profits of a trade carried on by a managed service company (the "MSC") which is treated as making a deemed employment payment in connection with the trade.

(2) A deduction is allowed for—

(a) the amount of the deemed employment payment, and

(b) the amount of any employer's national insurance contributions paid by the MSC in respect of it.

(3) The deduction is allowed for the period of account in which the deemed employment payment is treated as made.

(4) If the MSC is a firm, the amount of the deduction allowed under subsection (2) is limited to the amount that reduces the profits of the firm of the period of account to nil.

(5) No deduction in respect of—

(a) the deemed employment payment, or

(b) any employer's national insurance contributions paid by the MSC in respect of it,

may be made except in accordance with this section.

(6) In this section the following expressions have the same meanings as in Chapter 9 of Part 2 of ITEPA 2003—

"deemed employment payment" (see section 61D(2) of that Act),

"employer's national insurance contributions" (see section 61J(1) of that Act),

"managed service company" (see section 61B of that Act).

[F30[F31 Worker's services provided through intermediary to public authority or medium or large client]

Textual Amendments

F30 S. 141A and cross-heading inserted (with effect in accordance with Sch. 1 paras. 16, 17 of the amending Act) by Finance Act 2017 (c. 10), **Sch. 1 para. 14**

F31 S. 141A cross-heading substituted (22.7.2020) by Finance Act 2020 (c. 14), **Sch. 1 para. 21** (with Sch. 1 paras. 30-34)

141A Intermediaries providing worker's services to [F32public authority or medium or large client]

(1) This section applies for the purposes of calculating the trading profits of a person where—

(a) the person is the intermediary in a chain identified under section 61N of ITEPA 2003 (see section 61N(1)(b)),

(b) a deemed direct payment is treated as made under subsection (3) of that section, and

(c) the person receives a payment which can reasonably be taken to be in respect of the same services as those in respect of which the underlying chain payment is made.

(2) The payment mentioned in subsection (1)(c) is not required to be brought into account in calculating the profits of the trade.

(3) In this section "underlying chain payment" means the payment whose amount is used at Step 1 of section 61Q(1) of ITEPA 2003 as the starting point for calculating the amount of the deemed direct payment mentioned in subsection (1)(b).**]**

Textual Amendments

F32 Words in s. 141A heading substituted (22.7.2020) by Finance Act 2020 (c. 14), **Sch. 1 para. 22** (with Sch. 1 paras. 30-34)

Waste disposal

142 Deduction for site preparation expenditure

(1) This section applies for the purpose of calculating the profits of a trade of a period of account in which waste materials are deposited on a waste disposal site if—

(a) the company carrying on the trade ("the trader"), or a predecessor, has incurred site preparation expenditure in relation to the site in the course of carrying on the trade, and

(b) at the time the trader first deposits waste materials on the site, the trader holds a waste disposal licence which is then in force.

(2) A deduction is allowed for the amount of the site preparation expenditure allocated to the period of account under section 143.

(3) For the purposes of this section "predecessor", in relation to the trader, means a person who—

(a) has ceased to carry on the trade carried on by the trader or ceased to carry on a trade so far as relating to the site, and

(b) has transferred the whole of the site to the trader,

and it does not matter for this purpose whether or not the estate or interest in the site transferred to the trader is the same as that held by that person.

(4) For the purposes of this section and section 143, if site preparation expenditure has been incurred by a predecessor—

(a) the trade carried on by the trader is treated as the same as the trade carried on by the predecessor, and

(b) deductions are to be allowed to the trader (and not to the predecessor) as if everything done to or by the predecessor were done to or by the trader.

(5) For—

(a) the meaning of "site preparation expenditure", "waste disposal licence" and "waste disposal site", and

(b) a rule about pre-trading expenditure,

see section 144.

143 Allocation of site preparation expenditure

(1) The amount of site preparation expenditure allocated to a period of account for the purposes of section 142(2) is the amount given by the formula—

$$RE \times \frac{WD}{SV + WD}$$

where—

RE means residual expenditure (see subsection (2)),

WD means the volume of waste materials deposited on the waste disposal site during the period, and

SV means the volume of the waste disposal site not used up for the deposit of waste materials at the end of the period.

(2) "Residual expenditure" means the total of all site preparation expenditure incurred by the trader in relation to the waste disposal site at any time before the end of the period, less—

(a) any of that expenditure for which an allowance has been, or may be, made for corporation or income tax purposes under the enactments relating to capital allowances,

(b) any of that expenditure for which a deduction has been made in calculating for corporation or income tax purposes the profits of an earlier period of account, and

(c) if the trader started to carry on the trade before 6 April 1989, the excluded amount of any unrelieved old expenditure (see subsections (3) and (4)).

(3) The excluded amount of unrelieved old expenditure is calculated by multiplying the unrelieved old expenditure (see subsection (4)) by the fraction—

$$\frac{WD}{SV + WD}$$

where—

WD means the volume of waste materials deposited on the site before 6 April 1989, and

SV means the volume of the site not used up for the deposit of waste materials immediately before that date.

(4) "Unrelieved old expenditure" means site preparation expenditure which—

(a) was incurred by the trader in relation to the waste disposal site before 6 April 1989, and

(b) does not fall within subsection (2)(a) or (b).

144 Site preparation expenditure: supplementary

(1) For the purposes of this section and sections 142 and 143 "waste disposal licence" means—

(a) a disposal licence under Part 1 of the Control of Pollution Act 1974 (c. 40) or Part 2 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (S.I. 1978/1049 (N.I. 19)),

(b) a waste management licence under Part 2 of the Environmental Protection Act 1990 (c. 43) or any corresponding provision for the time being in force in Northern Ireland,

(c) a permit **[**F33or authorisation**]** under regulations under—

(i) section 2 of the Pollution Prevention and Control Act 1999 (c. 24), F34 …

(ii) Article 4 of the Environment (Northern Ireland) Order 2002 (S.I. 2002/3153 (N.I. 7)), **[**F35or

(iii) any corresponding provision for the time being in force in Scotland,**]**

[F36(d) an authorisation under the Radioactive Substances Act 1960 (c. 34) or the Radioactive Substances Act 1993 (c. 12) for the disposal of radioactive waste, or**]**

(e) a nuclear site licence under the Nuclear Installations Act 1965 (c. 57).

(2) For the purposes of this section and sections 142 and 143—

"site preparation expenditure", in relation to a waste disposal site, means expenditure incurred on preparing the site for the deposit of waste materials, and

"waste disposal site" means a site used, or to be used, for the disposal of waste materials by their deposit on the site.

(3) For the purposes of sections 142 and 143, expenditure incurred for the purposes of a trade by a company about to carry on the trade is treated as if it were incurred—

(a) on the date on which the company starts to carry on the trade, and

(b) in the course of carrying it on.

Textual Amendments

F33 Words in s. 144(1)(c) inserted (26.2.2015) by The Regulatory Reform (Scotland) Act 2014 (Consequential Modifications) Order 2015 (S.I. 2015/374), arts. 1(1), **8(2)(a)**

F34 Word in s. 144(1)(c) omitted (26.2.2015) by virtue of The Regulatory Reform (Scotland) Act 2014 (Consequential Modifications) Order 2015 (S.I. 2015/374), arts. 1(1), **8(2)(b)**

F35 S. 144(1)(c)(iii) and word inserted (26.2.2015) by The Regulatory Reform (Scotland) Act 2014 (Consequential Modifications) Order 2015 (S.I. 2015/374), arts. 1(1), **8(2)(c)**

F36 S. 144(1)(d) repealed (E.W.) (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), Sch. 26 Pt. 1 para. 20, **Sch. 28** (with reg. 1(2), Sch. 4)

145 Site restoration payments

(1) This section applies for the purpose of calculating the profits of a trade if the company carrying on the trade makes a site restoration payment in the course of carrying it on.

(2) **[**F37Subject to subsection (3A),**]** a deduction is allowed for the unrelieved amount of the payment.

[F38(3) The deduction is allowed—

(a) (if the payment is made, whether directly or indirectly, to a connected person) for the period of account in which that part of the restoration work to which the payment relates is completed, or

(b) (in any other case) for the period of account in which the payment is made.

(3A) But no deduction is allowed if the payment arises from arrangements—

(a) to which the person carrying on the trade is a party, and

(b) the main purpose, or one of the main purposes, of which is to obtain a deduction under this section.**]**

(4) The unrelieved amount of a site restoration payment is the amount of the payment, less—

(a) any amount of the payment that represents expenditure for which an allowance has been, or may be, made under the enactments relating to capital allowances, and

(b) any amount of the payment that represents expenditure for which a deduction has been made in calculating the profits of the trade of an earlier period of account.

(5) A "site restoration payment" means a payment made in connection with the restoration of a site (or part of a site) in order to comply with—

(a) a condition of a waste disposal licence (as defined in section 144(1)),

(b) a condition imposed on the grant of planning permission to use the site for the collection, treatment, conversion and final depositing of waste materials or for the carrying out of any of those activities, or

(c) a relevant planning obligation.

(6) For this purpose "a relevant planning obligation" means—

(a) an obligation arising under an agreement made under section 106 of the Town and Country Planning Act 1990 (c. 8) (as originally enacted) or any corresponding provision for the time being in force in Northern Ireland,

(b) an obligation arising under an agreement made under section 75 of the Town and Country Planning (Scotland) Act 1997 (c. 8),

(c) a planning obligation entered into under section 106 of the Town and Country Planning Act 1990 (as substituted by section 12 of the Planning and Compensation Act 1991 (c. 34)) or any corresponding provision for the time being in force in Northern Ireland, or

(d) a planning obligation entered into under section 299A of the Town and Country Planning Act 1990 or any corresponding provision for the time being in force in Northern Ireland.

[F39(7) Arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).**]**

Textual Amendments

F37 Words in s. 145(2) inserted (with effect in accordance with s. 53(7)(8) of the amending Act) by Finance Act 2012 (c. 14), **s. 53(4)**

F38 S. 145(3)(3A) substituted for s. 145(3) (with effect in accordance with s. 53(7)(8) of the amending Act) by Finance Act 2012 (c. 14), **s. 53(5)**

F39 S. 145(7) inserted (with effect in accordance with s. 53(7)(8) of the amending Act) by Finance Act 2012 (c. 14), **s. 53(6)**

[**F40Cemeteries and crematoria: interests in land**]

Textual Amendments

F40 S. 146 crossheading substituted (1.3.2012) by The Enactment of Extra-Statutory Concessions Order 2012 (S.I. 2012/266), arts. 1, **5(2)** (with art. 5(5))

146 Cemeteries and crematoria: introduction

(1) This section and sections 147 to 149 apply for the purpose of calculating the profits of a period of account ("the relevant period") of a trade which consists of or includes—

(a) the carrying on of a cemetery, or

(b) the carrying on of a crematorium and, in connection with doing so, the maintenance of memorial garden plots,

and the following provisions of this section apply for the interpretation of this section and those sections.

(2) References to the sale of land in a cemetery include the sale of a right of interment in land in a cemetery.

(3) References to the sale of land in a memorial garden include the appropriation of part of a memorial garden in return for a dedication fee or similar payment.

(4) "Ancillary capital expenditure" means capital expenditure incurred for the purposes of the trade by the company carrying on the trade ("the trader"), or a predecessor, on—

(a) any building or structure (other than a dwelling-house) which is in the cemetery or memorial garden and is likely to have little or no value when the cemetery or memorial garden is full,

(b) the purchase of an interest in, or the preparation of, any land taken up by such a building or structure, or

(c) the purchase of an interest in, or the preparation of, any other land in the cemetery or memorial garden which is not suitable or adaptable for use for interments or memorial garden plots and which is likely to have little or no value when the cemetery or memorial garden is full.

(5) "Predecessor", in relation to the trader, means a person who carried on the trade at any time before the trader started to do so.

(6) "Preparation", in relation to land, means levelling or draining the land or making it suitable in some other way for use as a cemetery or memorial garden.

147 Deduction for capital expenditure

(1) This section applies if, in the relevant period, an interest in land in the cemetery or memorial garden is sold with a view to the land being used—

(a) for the purpose of interments, or

(b) for memorial garden plots.

(2) A deduction is allowed for—

(a) capital expenditure incurred by the trader, or a predecessor, on the purchase of an interest in the land or on the preparation of the land, and

(b) ancillary capital expenditure allocated to the relevant period under section 148 (allocation of ancillary capital expenditure).

(3) But no expenditure is to be brought into account—

(a) under both paragraphs (a) and (b) of subsection (2), [F41]...

(b) under both subsection (2)(a) above and section 170(2)(b) of ITTOIA 2005 (relief for income tax purposes) or under both subsection (2)(b) above and section 170(2)(a) of ITTOIA 2005, **[**[F42]or

(c) under both subsection (2)(b) above and section 149B(4), 149C(4) or 149D(3).**]**

whether for the same or different periods of account.

(4) Any purchase price paid on a sale in connection with a change in the persons carrying on the trade is ignored in calculating the amount of the deduction.

(5) No deduction is allowed for any expenditure which is excluded by section 149 (exclusion of expenditure met by subsidies).

Textual Amendments

F41 Word in s. 147(3)(a) omitted (1.3.2012) by virtue of The Enactment of Extra-Statutory Concessions Order 2012 (S.I. 2012/266), arts. 1, **5(3)(a)** (with art. 5(5))

F42 S. 147(3)(c) and word inserted (1.3.2012) by The Enactment of Extra-Statutory Concessions Order 2012 (S.I. 2012/266), arts. 1, **5(3)(b)** (with art. 5(5))

148 Allocation of ancillary capital expenditure

(1) The amount of ancillary capital expenditure allocated to the relevant period for the purposes of section 147(2)(b) is the amount given by the formula—

$$RE \times \frac{PSR}{PAR + PSR}$$

where—

RE means residual expenditure (see subsection (2)),

PSR means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden sold in the relevant period, and

PAR means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden which are or could be made available for sale at the end of the relevant period.

(2) "Residual expenditure" means the total of all ancillary capital expenditure incurred at any time before the end of the relevant period, less—

(a) ancillary capital expenditure incurred on buildings or structures which were destroyed before the beginning of the first sale period,

(b) the excluded amount of any remaining old expenditure (see subsection (3)),

(c) if, after the beginning of the first sale period and before the end of the relevant period, an asset representing ancillary capital expenditure was sold or destroyed, the net sale proceeds or the compensation, and

(d) any amount deducted under section 147(2)(b) above, or under section 170(2)(b) of ITTOIA 2005, for a period of account ending before the relevant period.

(3) The excluded amount of remaining old expenditure is calculated by multiplying the remaining old expenditure by the fraction—

$$\frac{PSB}{PAB + PSB}$$

where—

PSB means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden sold before the beginning of the basis period for the tax year 1954-55, and

PAB means the number of grave-spaces or memorial garden plots in the cemetery or memorial garden which were or could have been made available for sale immediately before the beginning of the basis period for that tax year.

(4) In this section—

"compensation", in relation to the destruction of an asset, means—

(a) insurance money or other compensation received by the trader, or a predecessor, in respect of the destruction, and

(b) money received for the remains of the asset by the trader or predecessor,

"the first sale period" means—

(a) the period of account in which an interest in land in the cemetery or memorial garden was first sold for the purposes of the trade with a view to the land being used for the purpose of interments or for memorial garden plots, or

(b) if later, the basis period for the tax year 1954-55, and

"remaining old expenditure" means ancillary capital expenditure which—

(a) was incurred before the beginning of the basis period for the tax year 1954-55, and

(b) does not fall within subsection (2)(a).

149 Exclusion of expenditure met by subsidies

(1) Expenditure is excluded for the purposes of section 147 so far as it has been, or is to be, met (directly or indirectly) by—

(a) the Crown,

(b) a government or local or other public authority (whether in the United Kingdom or elsewhere), or

(c) any person other than the person incurring the expenditure.

(2) This is subject to the following exceptions.

(3) Expenditure is not excluded for the purposes of section 147 if it is met (directly or indirectly) by a grant—

(a) made under Northern Ireland legislation, and

(b) declared by the Treasury by an order under section 534 of CAA 2001 to correspond to a grant under Part 2 of the Industrial Development Act 1982 (c. 52).

(4) Expenditure is not excluded for the purposes of section 147 if it is met (directly or indirectly) by—

(a) insurance money, or

(b) other compensation money,

payable in respect of an asset which has been destroyed, demolished or put out of use.

(5) Expenditure is not excluded for the purposes of section 147 if—

(a) it has been, or is to be, met (directly or indirectly) by a person other than the Crown or a government or local or other public authority, and

(b) no deduction is allowed for the expenditure in calculating for corporation or income tax purposes the profits of a trade carried on by that person.

[F43 Crematoria: niches, memorials and inscriptions

Textual Amendments

F43 Ss. 149A-149E inserted (1.3.2012) by The Enactment of Extra-Statutory Concessions Order 2012 (S.I. 2012/266), arts. 1, **5(4)** (with art. 5(5))

149A Niches, memorials and inscriptions: introduction

(1) Sections 149B to 149E apply in calculating the profits of a trade which consists of or includes—

(a) the carrying on of a crematorium, and

(b) in connection with carrying on the crematorium—

(i) the sale of niches or memorials, or

(ii) the making of inscriptions.

(2) In those sections—

(a) "the trade" is the trade mentioned in subsection (1),

(b) "the trader" is the company carrying on the trade, and

(c) a "predecessor" is a person who carried on the trade at any time before the trader started doing so.

149B Allowable deductions: niches

(1) This section sets out the deductions that are allowed in respect of a niche if proceeds from the sale of the niche are brought into account as a receipt in calculating the profits of the trade.

(2) A deduction is allowed for two-thirds of the costs incurred (by the trader or a predecessor) in the formation of the niche.

(3) Formation of the lining and of any tablet associated with the niche is taken to be part of the formation of the niche.

(4) If the niche is in a building that is used wholly or mainly for the purpose of providing niches, a further deduction is allowed for two-thirds of the associated building costs.

(5) In relation to a niche in a building—

(a) "the associated building costs" is the relevant proportion of the costs of the building, and

(b) "the relevant proportion" is the proportion that the area occupied by the niche bears to the area of the building as a whole or, if the proportion cannot reasonably be calculated on that basis, such proportion as may be calculated on a just and reasonable basis.

149C Allowable deductions: memorials

(1) This section sets out the deductions that are allowed in respect of a memorial if proceeds from the sale of the memorial are brought into account as a receipt in calculating the profits of the trade.

(2) A deduction is allowed for the costs incurred (by the trader or a predecessor) in producing the memorial.

(3) If the memorial includes an inscription, making that inscription is taken to be part of producing the memorial.

(4) If the memorial is attached to a building that is used wholly or mainly for the purpose of accommodating memorials or the memorial comprises an entire building, a further deduction is allowed for two-thirds of the associated building costs.

(5) In relation to a memorial attached to or comprising a building, "the associated building costs" means—

(a) the amount found by dividing the costs of the building by the total number of memorials that the building is capable of accommodating, or

(b) if the memorial comprises an entire building, the costs of that building.

149D Allowable deductions: inscriptions

(1) This section sets out the deductions that are allowed in respect of an inscription if proceeds from making the inscription are brought into account in calculating the profits of the trade.

(2) A deduction is allowed for the costs incurred (by the trader or a predecessor) in making the inscription.

(3) If the inscription is made on an existing framework designed to hold more than one inscription, a further deduction is allowed for two-thirds of the associated framework costs.

(4) In relation to an inscription made on an existing framework, "the associated framework costs"—

(a) is the amount found by dividing the costs of the framework by the total number of inscriptions that the framework is designed to hold, and

(b) includes, if the framework is attached to a building that is used wholly or mainly for the purpose of accommodating memorials, the amount found by dividing the costs of the building by the total number of memorials that the building is capable of accommodating.

(5) This section does not apply to an inscription if it is made as part of producing a memorial (see section 149C).

149E Costs of the building

(1) For the purposes of sections 149B to 149D, the costs of a building are to be determined in accordance with this section.

(2) If the building was acquired for the purposes of the trade, the costs of the building are the lower of—

(a) the market value of the building when it was acquired, and

(b) the costs incurred in acquiring the building.

(3) If the building was constructed for the purposes of the trade, the costs of the building are the costs incurred in constructing the building.

(4) In either case—

(a) the acquisition cost (or market value) of the land on which the building is situated is to be ignored, and

(b) for these purposes, costs (or values) are to be apportioned between the land and the building on a just and reasonable basis.

(5) Any construction costs incurred with respect to the building after it was acquired or constructed for the purposes of the trade must be brought into account as costs of the building.

(6) But costs incurred in maintaining the building must not be brought into account.

(7) Costs must not be included as costs of the building if a deduction is or is to be brought into account for them under section 147(2) (deduction for capital expenditure).

(8) A reference in this section to costs incurred is to costs incurred either by the trader or a predecessor.

(9) In sections 149B to 149D and this section, "building" includes any other type of structure.**]**

Sound recordings

150 Revenue nature of expenditure

(1) If a company carrying on a trade incurs expenditure on the production or acquisition of the original master version of a sound recording, the expenditure is treated for corporation tax purposes as expenditure of a revenue nature.

(2) If expenditure is treated under this section as revenue in nature, sums received by the company from the disposal of the original master version of the sound recording—

(a) are treated for corporation tax purposes as receipts of a revenue nature, and

(b) are brought into account in calculating the profits of the relevant period in which they are received.

(3) For this purpose sums received from the disposal of the original master version include—

(a) sums received from the disposal of any interest or right in or over the original master version (including an interest or right created by the disposal), and

(b) insurance, compensation or similar money derived from the original master version.

151 Allocation of expenditure

(1) This section applies in calculating for corporation tax purposes the profits or losses of a company from a trade if—

(a) the trade consists of or includes the exploitation of original master versions of sound recordings, and

(b) the original master versions do not constitute trading stock of the trade as defined by section 163.

(2) Expenditure that—

(a) is incurred on the production or acquisition of the original master version of a sound recording, and

(b) is of a revenue nature (whether as a result of section 150 or otherwise),

must be allocated to relevant periods in accordance with this section.

(3) The company must allocate to a relevant period so much of the expenditure as is just and reasonable having regard to—

(a) the amount of the expenditure that remains unallocated at the beginning of the period,

(b) the proportion that the estimated value of the original master version of the sound recording that is realised in that period (whether by way of income or otherwise) bears to the total value so realised and the estimated remaining value of the original master version at the end of the period, and

(c) the need to bring the whole of the expenditure into account over the time during which the value of the original master version is expected to be realised.

(4) The company may also allocate to a relevant period a further amount, so long as the total amount allocated does not exceed the value of the original master version of the sound recording realised in that period (whether by way of income or otherwise).

152 Interpretation of sections 150 and 151

(1) For the purposes of sections 150 and 151—

(a) "sound recording" does not include a film soundtrack,

(b) "original master version" means the master tape or master audio disc of the recording,

(c) references to the original master version of a sound recording include any rights in the original master version that are held or acquired with it, and

(d) "relevant period" means—

(i) a period for which accounts of the trade are made up, or

(ii) if no accounts of the trade are made up for a period, an accounting period of the company.

(2) In subsection (1)(a) "film" is to be read in accordance with section 1181.

Reserves of marketing authorities etc

153 Reserves of marketing authorities and certain other statutory bodies

(1) This section applies to a statutory body if its object (or one of its objects) is—

(a) marketing an agricultural product, or

(b) stabilising the price of an agricultural product.

(2) Subsections (3) and (4) apply if the body is required, by or under an approved scheme or arrangement ("the scheme"), to pay the whole or part of any trading surplus into a reserve fund meeting the conditions specified in section 154.

(3) Any sums which the body is required by or under the scheme to pay into the fund out of the profits of its trade are allowed as deductions in calculating the profits of the trade.

(4) Any sums withdrawn by the body from the fund are taken into account as trading receipts, except so far as—

(a) they are required, by or under the scheme, to be paid to a Minister or department,

(b) they are distributed to producers of the product in question, or

(c) they are refunded to persons who pay any levy or duty.

(5) In this section—

"approved scheme or arrangement" means a scheme or arrangement approved by, or made with, a Minister or department,

"producers of the product" includes persons producing the product from another product,

"statutory body" means a body established by or under an enactment,

"trading surplus" means a surplus from the body's trading operations or other trade receipts.

154 Conditions to be met by reserve fund

(1) These are the conditions to be met by the reserve fund (see section 153(2)).

(2) The first condition is that no sum may be withdrawn from the fund without the authority or consent of a Minister or department.

(3) The second condition is that if—

(a) money has been paid to the body by a Minister or department—

(i) in connection with arrangements for maintaining guaranteed prices, or

(ii) in connection with the body's trading arrangements, and

(b) the money is repayable to the Minister or department,

sums standing to the credit of the fund are required to be applied (in whole or in part) in repaying the money.

(4) The requirement mentioned in subsection (3) must be imposed by or under the scheme or arrangement mentioned in section 153(2).

(5) The third condition is that—

(a) the fund is reviewed by a Minister at intervals fixed by or under the scheme or arrangement mentioned in section 153(2), and

(b) if the fund appears to the Minister to exceed what is reasonably required by the body, the excess is withdrawn from the fund.

155 Interpretation of sections 153 and 154

(1) In sections 153 and 154 "Minister" means—

(a) a Minister of the Crown,
(b) the Scottish Ministers,
(c) the Welsh Ministers, or
(d) a Minister within the meaning of the Northern Ireland Act 1998 (c. 47).

(2) In sections 153 and 154 "department" means—
(a) a government department,
(b) a part of the Scottish Administration,
(c) a part of the Welsh Assembly Government, or
(d) a Northern Ireland department.

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Corporation Tax Act 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations.
View outstanding changes

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

- Blanket amendment words substituted by S.I. 2011/1043 art. 34

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

- s. 322(2A)(zb) inserted by 2016 c. 24 s. 73(5)
- s. 934(1A)(1B) inserted by 2023 c. 30 Sch. 2 para. 12(2)
- s. 962(3A) inserted by 2023 c. 30 Sch. 2 para. 12(5)(b)
- s. 962A(3A) inserted by 2023 c. 30 Sch. 2 para. 12(6)(b)
- s. 963(1A) inserted by 2023 c. 30 Sch. 2 para. 12(7)(a)
- s. 1058B(5)(ea) inserted by 2023 c. 20 Sch. para. 57
- s. 1094(2A)-(2C) inserted by 2012 c. 14 Sch. 3 para. 13(3)
- s. 1106(4A)-(4C) inserted by 2012 c. 14 Sch. 3 para. 14(3)
- s. 1138A applied by S.I. 2024/348 reg. 3