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SCHEDULES

SCHEDULE 2

TRADES AND PROPERTY BUSINESSES: CALCULATION OF PROFITS

PART 2

PROPERTY BUSINESSES: AMENDMENTS OF ITTOIA 2005

- 12 ITTOIA 2005 is amended as follows.
- 13 In Chapter 3 of Part 3 (profits of property businesses: basic rules), after section 271 insert—

“Basis of calculation of profits

271A Basis of calculation of profits: GAAP required

- (1) The profits of a property business for a tax year must be calculated in accordance with GAAP if condition A, B, C, D or E is met.
- (2) Condition A is that the business is carried on at any time in the tax year by—
 - (a) a company,
 - (b) a limited liability partnership,
 - (c) a corporate firm, or
 - (d) the trustees of a trust.
- (3) For the purposes of subsection (2) a firm is a “corporate firm” if a partner in the firm is not an individual.
- (4) Condition B is that the cash basis receipts for the tax year exceed £150,000.
- (5) In subsection (4) “the cash basis receipts for the tax year” means the total of the amounts that would be brought into account as receipts in calculating the profits of the property business for the tax year on the cash basis (see section 271D).
- (6) If the property business is carried on for only part of the tax year, the sum given in subsection (4) is proportionately reduced.
- (7) Condition C is that—
 - (a) the property business is carried on by an individual (“P”),
 - (b) a share of joint property income is brought into account in calculating the profits of the business for the tax year,
 - (c) a share of that joint property income is brought into account in calculating the profits for the tax year of a property business carried on by another individual (“Q’s property business”), and

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- (d) the profits of Q's property business for the tax year are calculated in accordance with GAAP.
- (8) In subsection (7) “joint property income” means income to which P and Q are treated for income tax purposes as beneficially entitled in equal shares by virtue of section 836 of ITA 2007.
- (9) Condition D is that—
 - (a) an allowance under Part 3A of CAA 2001 (business premises renovation allowances) is made at any time in calculating the profits of the property business, and
 - (b) if the profits of the business were to be calculated in accordance with GAAP for the tax year, there would be a day in the tax year on which the occurrence of a balancing event (within the meaning of that Part) would give rise to a balancing adjustment for the tax year (see section 360M of that Act).
- (10) Condition E is that an election under this subsection made by the person who is or has been carrying on the property business has effect in relation to the business for the tax year.
- (11) An election under subsection (10) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the election is made.
- (12) The Treasury may by regulations—
 - (a) amend subsection (2);
 - (b) amend subsection (4) so as to substitute another sum for the sum for the time being specified in that subsection.
- (13) A statutory instrument containing regulations under subsection (12) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.
- (14) Subsection (13) does not apply if the regulations omit one or more paragraphs of subsection (2) and make no other provision.

271B Calculation of profits in accordance with GAAP

- (1) In this Part, references to calculating the profits of a property business in accordance with GAAP are to calculating the profits in accordance with generally accepted accounting practice, subject to any adjustment required or authorised by law in calculating profits for income tax purposes.
- (2) A requirement under this Part to calculate profits in accordance with GAAP does not—
 - (a) require a person to comply with the requirements of the Companies Act 2006 or subordinate legislation made under that Act except as to the basis of calculation, or
 - (b) impose any requirements as to audit or disclosure.
- (3) See section 272 (application of trading income rules: GAAP) which applies only where profits are calculated in accordance with GAAP.

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271C Basis of calculation of profits: cash basis required

The profits of a property business for a tax year must be calculated on the cash basis if none of conditions A, B, C, D or E in section 271A is met.

271D Calculation of profits on the cash basis

- (1) In this Part, references to calculating the profits of a property business on the cash basis are to calculating the profits in accordance with subsections (2) and (3).
- (2) In calculating the profits, receipts of the business are brought into account at the time they are received, and expenses of the business are brought into account at the time they are paid.
- (3) Subsection (2) is subject to any adjustment required or authorised by law in calculating profits for income tax purposes.
- (4) For provision about the application of Chapter 4 (profits of property businesses: lease premiums etc) in relation to profits calculated on the cash basis, see section 276A.
- (5) For provision about the application of Chapter 5 (rules about deductions and receipts) in relation to profits calculated on the cash basis, see section 307A.
- (6) The following provisions apply only where profits are calculated on the cash basis—
 - (a) section 272ZA (application of trading income rules: cash basis), and
 - (b) Chapter 7A (cash basis: adjustments for capital allowances).”

14 In the italic heading before section 272, at the end insert “ : *application of trading income rules* ”.

15 After that italic heading insert—

Profits of a property business: application of trading income rules

“271E) The profits of a property business are calculated in the same way as the profits of a trade.

- (2) But this is subject to—
 - (a) section 272, which limits the rule in subsection (1) in relation to a property business whose profits are calculated in accordance with GAAP, and
 - (b) section 272ZA, which limits that rule in relation to a property business whose profits are calculated on the cash basis.”

16 (1) Section 272 (profits of a property business: application of trading income rules) is amended as follows.

(2) For the heading substitute “ Application of trading income rules: GAAP ”.

(3) Omit subsection (1).

(4) In subsection (2), for the words before the table substitute “ In relation to a property business whose profits are calculated in accordance with GAAP, the provisions of

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Part 2 (trading income) which apply as a result of section 271E(1) are limited to the following—”.

- (5) In the table in subsection (2), omit the entry relating to section 25 (generally accepted accounting practice).

17 After section 272 insert—

“272ZA Application of trading income rules: cash basis

- (1) In relation to a property business whose profits are calculated on the cash basis, the provisions of Part 2 (trading income) which apply as a result of section 271E(1) are limited to the following—

“In Chapter 3 (basic rules)—

section 26	losses calculated on same basis as profits
section 28A	money's worth
section 29	interest

In Chapter 4 (rules restricting deductions)—

section 34	expenses not wholly and exclusively for trade and unconnected losses
sections 38 to 42 and 44	employee benefit contributions
sections 45 to 47	business entertainment and gifts
section 52	exclusion of double relief for interest
section 53	social security contributions
section 54	penalties, interest and VAT surcharges
section 55	crime-related payments
section 55A	expenditure on integral features

In Chapter 5 (rules allowing deductions)—

section 57	pre-trading expenses
sections 58 and 59	incidental costs of obtaining finance
section 69	payments for restrictive undertakings
sections 70 and 71	seconded employees
section 72	payroll deduction schemes: contributions to agents' expenses
sections 73 to 75	counselling and retraining expenses
sections 76 to 80	redundancy payments etc
section 81	personal security expenses
sections 82 to 86	contributions to local enterprise organisations or urban regeneration companies
sections 86A and 86B	contributions to flood and coastal erosion risk management projects

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sections 87 and 88	scientific research
sections 89 and 90	expenses connected with patents, designs and trade marks
section 91	payments to Export Credits Guarantee Department
<i>In Chapter 6 (receipts)—</i>	
section 96	capital receipts
section 97	debts incurred and later released
section 104	distribution of assets of mutual concerns
section 105(1) and (2)(b) and (c)	industrial development grants
section 106	sums recovered under insurance policies etc
<i>In Chapter 6A (amounts not reflecting commercial transactions)—</i>	
section 106C	amounts not reflecting commercial transactions
section 106D	capital receipts
section 106E	gifts to charities etc
<i>In Chapter 7 (gifts to charities etc)—</i>	
section 109	receipt by donor or connected person of benefit attributable to certain gifts”

(2) In those provisions, the expression “this Part” is to be read as a reference to those provisions as applied by subsection (1) and to the other provisions of Part 3.

(3) In section 106D, the reference to subsection (4) or (5) of section 96A is to be read as a reference to subsection (2), (3) or (5) of section 307F (deemed capital receipts under, or after leaving, cash basis).”

18 After section 272ZA insert— “ Calculation of profits: other general rules ”.

19 In section 272A (restricting deductions for finance costs related to residential property), after subsection (6) insert—

“(7) See also section 307D (cash basis: modification of deduction for costs of loans).”

20 (1) Section 274 (relationship between rules prohibiting and allowing deductions) is amended as follows.

(2) For subsection (1)(b) substitute—

“(b) is subject to—

- (i) section 36 (unpaid remuneration), as applied by section 272,
- (ii) section 38 (employee benefit contributions), as applied by sections 272 and 272ZA,
- (iii) section 48 (car hire), as applied by section 272,
- (iv) section 55 (crime-related payments), as applied by sections 272 and 272ZA,
- (v) section 272A (finance costs), and

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(vi) section 307D (cash basis: modification of deduction for costs of loans).”

(3) In subsection (3)—

- (a) after “section 272” insert “ , or sections 38 and 55 as applied by section 272ZA ”, and
- (b) for “section 272A” insert “ sections 272A and 307D ”.

(4) In subsection (4), after “section 272” insert “ or 272ZA ”.

21 In section 276(5) (introduction: profits of property businesses: lease premiums etc), after “292” insert “ ; but see also section 276A ”.

22 After section 276 insert—

“276A Application of Chapter to property businesses using cash basis

The following provisions of this Chapter do not apply in calculating the profits of a property business on the cash basis—

- (a) sections 291 to 294 (tenants under taxed leases: deductions), and
- (b) sections 296 and 298 (ICTA modifications).”

23 In Chapter 5 of Part 3 (profits of property businesses: other rules about receipts and deductions), after the Chapter heading insert—

“Cash basis: application of Chapter

Cash basis: application of Chapter

307A(1) The following provisions of this Chapter apply only where the profits of a property business are calculated on the cash basis—

- (a) section 307B (cash basis: capital expenditure),
- (b) section 307C (cash basis: deduction for costs of loans), and
- (c) section 307D (cash basis: modification of deduction for costs of loans).

(2) Sections 307E and 307F make provision about capital receipts in certain cases where the profits of a property business are calculated on the cash basis or have previously been calculated on the cash basis.

Property businesses using cash basis

Cash basis: capital expenditure

307B(1) This section applies in relation to the calculation of the profits of a property business on the cash basis.

- (2) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the acquisition or disposal of a business or part of a business.
- (3) No deduction is allowed for an item of a capital nature incurred on, or in connection with, education or training.

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- (4) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the provision, alteration or disposal of land.
- (5) But subsection (4) does not prevent a deduction being made for expenditure that—
- (a) is incurred on the provision of a depreciating asset which, in being provided, is installed or otherwise fixed to qualifying land (see subsection (8)) so as to become, in law, part of the land, but
 - (b) is not incurred on, or in connection with, the provision of—
 - (i) a building,
 - (ii) a wall, floor, ceiling, door, gate, shutter or window or stairs,
 - (iii) a waste disposal system,
 - (iv) a sewerage or drainage system, or
 - (v) a shaft or other structure in which a lift, hoist, escalator or moving walkway may be installed.
- (6) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the provision, alteration or disposal of an asset for use in ordinary residential property (see subsection (8)). But see section 311A (replacement domestic items relief).
- (7) If an asset is provided partly for use in ordinary residential property and partly for other purposes, such apportionment of the expenditure incurred on, or in connection with, the provision, alteration or disposal of the asset is to be made for the purposes of subsection (6) as is just and reasonable.
- (8) In relation to the calculation of profits for a tax year—
- (a) “ordinary residential property” means a dwelling-house or part of a dwelling-house in relation to which an ordinary property business (see subsection (9)) is carried on in the tax year, and
 - (b) “qualifying land” means land not falling within paragraph (a).
- (9) “Ordinary property business” means—
- (a) so much of a UK property business as does not consist of the commercial letting of furnished holiday accommodation (within the meaning of Chapter 6) in the UK, or
 - (b) so much of an overseas property business as does not consist of the commercial letting of furnished holiday accommodation in one or more EEA states.
- (10) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the provision, alteration or disposal of—
- (a) any asset that is not a depreciating asset (see subsections (11) and (12)),
 - (b) any asset not acquired or created for use on a continuing basis in the property business,
 - (c) a car (see subsection (20)),
 - (d) a non-qualifying intangible asset (see subsections (13) to (16)), or
 - (e) a financial asset (see subsection (17)).

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- (11) An asset is a “depreciating” asset if, on the date the item of a capital nature is incurred, it is reasonable to expect that before the end of 20 years beginning with that date—
- (a) the useful life of the asset will end, or
 - (b) the asset will decline in value by 90% or more.
- (12) The useful life of an asset ends when it could no longer be of use to any person for any purpose as an asset of a business.
- (13) “Intangible asset” means anything that is capable of being an intangible asset within the meaning of FRS 105 and, in particular, includes—
- (a) an internally-generated intangible asset, and
 - (b) intellectual property.
- (14) An intangible asset is “non-qualifying” unless, by virtue of having a fixed maximum duration, it must cease to exist before the end of 20 years beginning with the date on which the item of a capital nature is incurred.
- (15) An intangible asset is “non-qualifying” if it consists of a right, whether conditional or not, to obtain an intangible asset without a fixed maximum duration by virtue of which that asset must, assuming the right is exercised at the last possible time, cease to exist before the end of 20 years beginning with the date on which the item of a capital nature is incurred.
- (16) Where—
- (a) the person carrying on the property business (“P”) has an intangible asset, and
 - (b) P grants a licence or any other right in respect of that asset to another person,
- any intangible asset that consists of a licence or other right granted to P in respect of the intangible asset mentioned in paragraph (a) is “non-qualifying”.
- (17) A “financial asset” means any right under or in connection with—
- (a) a financial instrument, or
 - (b) an arrangement that is capable of producing a return that is economically equivalent to a return produced under any financial instrument.
- (18) A reference to acquisition, provision, alteration or disposal includes potential acquisition, provision, alteration or (as the case may be) disposal.
- (19) If there is a letting of accommodation only part of which is furnished holiday accommodation, such apportionments as are just and reasonable in all the circumstances are to be made for the purposes of this section.
- (20) In this section—
- “arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
- “building” includes any fixed structure;
- “car” has the same meaning as in Part 2 of CAA 2001 (see section 268A of that Act);

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“financial instrument” has the same meaning as in FRS 105;
“FRS 105” means Financial Reporting Standard 105 (the Financial Reporting Standard applicable to the Micro-entities Regime), issued by the Financial Reporting Council in July 2015;
“intellectual property” means—

- (a) any patent, trade mark, registered design, copyright or design right, plant breeders' rights or rights under section 7 of the Plant Varieties Act 1997,
- (b) any right under the law of a country or territory outside the United Kingdom corresponding or similar to a right within paragraph (a),
- (c) any information or technique not protected by a right within paragraph (a) or (b) but having industrial, commercial or other economic value, or
- (d) any licence or other right in respect of anything within paragraph (a), (b) or (c);

“provision” includes creation, construction or acquisition.

Cash basis: deduction for costs of loans

307(1) Section 307D applies in calculating the profits of a property business for a tax year if conditions A to D are met.

- (2) Condition A is that the profits of the business are calculated on the cash basis for the tax year.
- (3) Condition B is that a deduction for costs of a loan is allowed in calculating the profits of the business for the tax year or, ignoring section 272A (restricting deductions for finance costs related to residential property) and section 307D (cash basis: modification of deduction for costs of loans), would be so allowed. In this section such a loan is referred to as a “relevant loan”.
- (4) Condition C is that an amount of the principal of one or more relevant loans is outstanding at the end time (and a relevant loan in respect of which such an amount is outstanding at the end time is referred to in this section as an “outstanding relevant loan”).
- (5) Condition D is that—

$$L > V$$

where—

L is the total outstanding amount of relevant loans (see subsections (6) and (7)), and

V is the sum of the values of all relevant properties (see subsections (8) to (10)).

- (6) The “total outstanding amount of relevant loans”—

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- (a) if there is only one outstanding relevant loan, is the outstanding business amount of that loan, and
- (b) if there are two or more outstanding relevant loans, is found by calculating the outstanding business amount of each such loan and adding those amounts together.

(7) The “outstanding business amount” of a relevant loan is given by—

$$\frac{X}{Y} \times A$$

where—

A is the amount of the principal of the loan which is outstanding at the end time,

X is the amount of the deduction for costs of the loan that would be allowed, apart from sections 272A and 307D, in calculating the profits of the business for the tax year, and

Y is the amount of the deduction for costs of the loan that would be allowed, apart from the wholly and exclusively rule and sections 272A and 307D, in calculating the profits of the business for the tax year.

- (8) A property is a “relevant property” if—
 - (a) it is involved in the property business at the end time, or
 - (b) although it is not involved in the business at the end time—
 - (i) it was last involved in the business at an earlier time in the tax year, and
 - (ii) the person carrying on the business holds the property throughout the period beginning with that earlier time and ending with the end time.
- (9) The “value” of a relevant property is the total of—
 - (a) the market value of the property at the time that it is first involved in the property business, and
 - (b) such amount of any expenditure of a capital nature incurred by the person carrying on the business in respect of the property as is not brought into account in calculating the profits of the business for the tax year or any previous tax year.
- (10) A property is “involved in the property business” if it is a property whose exploitation forms the whole or part of the business.
- (11) The “end time” is—
 - (a) the time immediately before the end of the tax year, or
 - (b) if in the tax year the person carrying on the business permanently ceases to carry it on, the time immediately before the person permanently ceases to carry on the business.
- (12) “Costs”, in relation to a loan, means—
 - (a) interest on the loan,

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- (b) an amount in connection with the loan that, for the person receiving or entitled to the amount, is a return in relation to the loan which is economically equivalent to interest, or
 - (c) incidental costs of obtaining finance by means of the loan.
- (13) Section 58(2) to (4) (meaning of “incidental costs of obtaining finance”) apply for the purposes of subsection (12)(c).
- (14) In this section—
- “market value”, in relation to a property, means the price which the property might reasonably be expected to fetch—
 - (a) in the market conditions then prevailing, and
 - (b) between persons dealing with each other at arm's length in the open market;
 - “property” means an estate, interest or right in or over land;
 - “the wholly and exclusively rule” means the rule in section 34 (expenses not wholly and exclusively for trade and unconnected losses), as applied by section 272ZA (application of trading income rules: cash basis).

Cash basis: modification of deduction for costs of loans

- 307D) Where section 307C provides that this section applies in calculating the profits of a property business for a tax year, the amount which is allowed as a deduction for costs of a loan in calculating the profits for the tax year is the non-adjusted deduction multiplied by the relevant fraction. This is subject to section 272A (restricting deductions for finance costs related to residential property).
- (2) “The non-adjusted deduction” means the deduction for costs of the loan that would be allowed, apart from section 272A and this section, in calculating the profits of the business for the tax year.
- (3) “The relevant fraction” means—

$$\frac{V}{L}$$

where V and L have the same meaning as in section 307C.

- (4) For the meaning of “costs of a loan” see section 307C.

Property businesses that use, or have used, cash basis

Capital receipts under, or after leaving, cash basis

- 307E) This section applies in relation to a property business carried on by a person in two cases—
- (a) Case 1 (see subsections (2) to (4)), and
 - (b) Case 2 (see subsections (5) to (8)).

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- (2) Case 1 is a case in which conditions A and B are met.
- (3) Condition A is that the person receives disposal proceeds or a capital refund in relation to an asset in a tax year for which the profits of the property business are calculated on the cash basis (see section 271D).

For the meaning of “disposal proceeds” and “capital refund” see subsections (9) and (10).

- (4) Condition B is that—
- (a) an amount of capital expenditure (see subsection (11)) relating to the asset has been brought into account in calculating the profits of the property business on the cash basis, or
 - (b) an amount of relevant capital expenditure (see subsection (17)) relating to the asset has been brought into account in calculating the profits of the property business in accordance with GAAP (see section 271B)—
 - (i) by means of a deduction allowed under section 58 or 59 (incidental costs of obtaining finance) (as applied by section 272) or section 311A (replacement domestic items relief), or
 - (ii) under CAA 2001 (see subsection (20)).

- (5) Case 2 is a case in which—
- (a) condition C is met, and
 - (b) condition D or E is met.
- (6) Condition C is that disposal proceeds or a capital refund arise to the person in relation to an asset in a tax year—
- (a) for which the profits of the property business are calculated in accordance with GAAP, and
 - (b) which is after a tax year for which the profits of the business had been calculated on the cash basis.

- (7) Condition D is that an amount of capital expenditure relating to the asset—
- (a) has been paid in a tax year for which the profits of the property business were calculated on the cash basis,
 - (b) has been brought into account in calculating the profits of the business on the cash basis, and
 - (c) on the assumption that the profits had not been calculated on the cash basis at the time the expenditure was paid, would not have been qualifying expenditure.

- (8) Condition E is that—
- (a) an amount of capital expenditure relating to the asset has been brought into account in calculating the profits of the property business for a tax year in accordance with GAAP by means of a deduction allowed under section 58 or 59 (as applied by section 272) or section 311A, and
 - (b) that tax year is before the tax year for which the person last entered the cash basis.

- (9) “Disposal proceeds” means—

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- (a) any proceeds arising from the disposal of an asset or any part of it,
- (b) any proceeds arising from the grant of any right in respect of, or any interest in, the asset, or
- (c) any amount of damages, proceeds of insurance or other compensation received in respect of the asset.

See also section 307F for circumstances in which a person is to be regarded as disposing of an asset.

- (10) “Capital refund” means an amount that is (in substance) a refund of capital expenditure relating to an asset.
- (11) “Capital expenditure” means expenditure of a capital nature incurred, or treated as incurred, on or in connection with—
 - (a) the provision, alteration or disposal of an asset, or
 - (b) the potential provision, alteration or disposal of an asset.
- (12) The disposal proceeds or capital refund mentioned in condition A or (as the case may be) condition C are to be brought into account as a receipt in calculating the profits of the property business.
- (13) In a case where only part of the total capital expenditure incurred, or treated as incurred, by the person in relation to the asset has been brought into account in calculating the profits of the property business (whether or not on the cash basis), the amount brought into account under subsection (12) is proportionately reduced. The reference in this subsection to expenditure brought into account includes a reference to expenditure brought into account under CAA 2001 (see subsection (20)).
- (14) Subsection (12) does not apply if the whole of the amount which would otherwise be brought into account under that subsection—
 - (a) has already been brought into account as a receipt in calculating the profits of the property business under this section,
 - (b) is brought into account as a receipt in calculating the profits of the business under any other provision of this Part (except section 334D(4) (assets not fully paid for)), or
 - (c) is brought into account under Part 2 or 3A of CAA 2001 as a disposal value.

The reference to any other provision of this Part in paragraph (b) includes a reference to any provision applied by section 272 or 272ZA.

- (15) If part of the amount which would otherwise be brought into account under subsection (12) has already been or is brought into account as mentioned in subsection (14), subsection (12) applies in relation to the remainder of that amount.
- (16) For the purposes of this section, any question as to whether or to what extent expenditure is brought into account in calculating the profits of a property business is to be determined on such basis as is just and reasonable in all the circumstances.
- (17) In subsection (4)(b) “relevant capital expenditure” means capital expenditure which—

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- (a) has been incurred (or treated as incurred) by the person before the tax year for which the person last entered the cash basis, and
 - (b) is cash basis deductible in relation to that tax year.
- (18) For the purposes of this section, a person carrying on a property business “enters the cash basis” for a tax year if the profits of the business are calculated—
- (a) on the cash basis for the tax year, and
 - (b) in accordance with GAAP for the previous tax year.
- (19) Expenditure is “cash basis deductible” in relation to a tax year if, on the assumption that the expenditure was paid in that tax year, a deduction would be allowed in respect of the expenditure in calculating the profits of the property business on the cash basis for that tax year.
- (20) For the purposes of this section, expenditure is “brought into account under CAA 2001” in calculating the profits of a property business if and to the extent that—
- (a) a capital allowance made under Part 2 of that Act in respect of the expenditure is treated as an expense in calculating those profits (see sections 248 to 250A of that Act), or
 - (b) qualifying expenditure (within the meaning of Part 2 of CAA 2001) is allocated to a pool for a relevant qualifying activity and is set-off against different disposal receipts.
- (21) An amount of qualifying expenditure is “set-off against different disposal receipts” if—
- (a) the amount would have been unrelieved qualifying expenditure carried forward in the pool for the relevant qualifying activity, but
 - (b) the amount is not so carried forward because (and only because) one or more disposal values in respect of one or more assets, other than the asset in respect of which the qualifying expenditure was incurred (or treated as incurred), have at any time been brought into account in that pool.
- (22) For the purposes of subsections (20) and (21), an activity is a “relevant qualifying activity” if—
- (a) it is a qualifying activity mentioned in section 15(1)(b) to (da) of CAA 2001 (property business activities), and
 - (b) the property business consists of or includes that qualifying activity.
- (23) For the purposes of subsection (21), an amount of qualifying expenditure incurred (or treated as incurred) by a person is not to be regarded as not carried forward because the person enters the cash basis.
- (24) In this section—
- “disposal value” means—
- (a) in subsection (14)(c)—
 - (i) a disposal value for the purposes of Part 2 of CAA 2001 (see, in particular, section 61 of that Act), or
 - (ii) proceeds from a balancing event for the purposes of Part 3A of that Act (see section 360O of that Act), and

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(b) in subsection (21), a disposal value for the purposes of Part 2 of that Act;

“pool” means the main pool or a class pool to which qualifying expenditure is allocated under Part 2 of CAA 2001 (see section 54 of that Act);

“provision” includes creation, construction or acquisition;

“qualifying expenditure” means qualifying expenditure within the meaning of Part 2 of CAA 2001 (see section 11(4) of that Act for the general rule);

“unrelieved qualifying expenditure” means unrelieved qualifying expenditure for the purposes of Part 2 of CAA 2001 (see section 59(1) and (2) of that Act).

Deemed capital receipts under, or after leaving, cash basis

307(F) This section makes provision supplementary to section 307E.

(2) If—

(a) at any time a person ceases to use an asset or any part of it for the purposes of a property business (other than in the circumstances mentioned in subsection (5)), but

(b) the person does not dispose of the asset (or that part) at that time, the person is to be regarded for the purposes of section 307E as disposing of the asset (or that part) at that time for an amount equal to the market value amount.

(3) If at any time there is a material increase in the person's non-business use of an asset or any part of it, the person is to be regarded for the purposes of section 307E as disposing of the asset (or that part) at that time for an amount equal to the relevant proportion of the market value amount.

(4) For the purposes of subsection (3)—

(a) there is an increase in a person's non-business use of an asset (or part of an asset) if—

(i) the proportion of the person's use of the asset (or that part) that is for the purposes of the property business decreases, and

(ii) the proportion of the person's use of the asset (or that part) that is for other purposes (the “non-business use”) increases;

(b) “the relevant proportion” is the difference between—

(i) the proportion of the person's use of the asset (or part of the asset) that is non-business use, and

(ii) the proportion of the person's use of the asset (or that part) that was non-business use before the increase mentioned in subsection (3).

(5) If—

(a) the property business in respect of which capital expenditure relating to an asset has been brought into account as mentioned in section 307E is an overseas property business, and

(b) there is a move overseas,

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the person is to be regarded for the purposes of section 307E as disposing of the asset at the time of the move overseas for an amount equal to the market value amount.

- (6) For the purposes of subsection (5) there is a “move overseas” if—
- (a) the person ceases to be UK resident, or
 - (b) the tax year is, as respects the person, a split year, and the overseas part of the tax year is the later part.
- (7) The move overseas occurs—
- (a) in a case falling within subsection (6)(a), on the last day of the tax year for which the person is UK resident, or
 - (b) in a case falling within subsection (6)(b), on the last day of the UK part of the tax year.
- (8) In this section—
- “capital expenditure” has the same meaning as in section 307E,
“market value amount” means the amount that would be regarded as normal and reasonable—
- (a) in the market conditions then prevailing, and
 - (b) between persons dealing with each other at arm's length in the open market.”

24 In section 311A (replacement domestic items relief), in subsection (15)—

- (a) for the definition of “the capital expenditure rule” substitute—

““the capital expenditure rule” means—

 - (a) in relation to a property business whose profits are calculated in accordance with GAAP, section 33 (capital expenditure), as applied by section 272, and
 - (b) in relation to a property business whose profits are calculated on the cash basis, section 307B (cash basis: capital expenditure);”;
- (b) in the definition of “the wholly and exclusively rule”—
 - (i) omit “the rule in”, and
 - (ii) after “section 272” insert “ or 272ZA ”.

25 In section 315 (deduction for expenditure on sea walls), after subsection (6) insert—

“(7) In calculating the profits of a property business on the cash basis, any reference in this section to the incurring of expenditure is to the paying of expenditure.”

26 In section 322 (commercial letting of furnished holiday accommodation), after paragraph (za) in subsections (2) and (2A) insert—

“(zaa) section 307B (cash basis: capital expenditure).”.

27 After section 329 insert—

“329A Application of Chapter where cash basis used

This Chapter applies if—

- (a) the profits of a property business are calculated—

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- (i) on the cash basis for a tax year (see section 271D), and
 - (ii) in accordance with GAAP (see section 271B) for the following tax year, or
 - (b) the profits of a property business are calculated—
 - (i) in accordance with GAAP for a tax year, and
 - (ii) on the cash basis for the following tax year.”
- 28 In section 331 (income charged)—
 - (a) the existing text becomes subsection (1), and
 - (b) after that subsection insert—
 - “(2) This is subject to section 334A (spreading on leaving cash basis and related election).”
- 29 After section 334 insert—

“Spreading of adjustment income on leaving cash basis

334A Spreading on leaving cash basis and related election

Sections 239A (spreading on leaving cash basis) and 239B (election to accelerate charge under section 239A) apply for the purposes of this Chapter as they apply for the purposes of Chapter 17 of Part 2, but as if—

- (a) for section 239A(1) there were substituted—
 - “(1) This section applies if the profits of a property business are calculated—
 - (a) on the cash basis for a tax year (see section 271D), and
 - (b) in accordance with GAAP (see section 271B) for the following tax year.”, and
 - (b) any reference to section 239A or 239B were to the section concerned as applied by this section.

CHAPTER 7A

CASH BASIS: ADJUSTMENTS FOR CAPITAL ALLOWANCES

334B “Entering the cash basis”

For the purposes of this Chapter, a person carrying on a property business enters the cash basis for a tax year if the profits of the business are calculated—

- (a) on the cash basis for the tax year (see section 271D), and
- (b) in accordance with GAAP (see section 271B) for the previous tax year.

334C Unrelieved qualifying expenditure

- (1) This section applies if—
 - (a) a person carrying on a property business enters the cash basis for a tax year (“the current tax year”), and

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- (b) the person would, apart from section 59(4A) of CAA 2001, have unrelieved qualifying expenditure relating to a relevant property business activity to carry forward from the chargeable period which is the previous tax year.
- (2) But this section does not apply if section 334D applies.
 - (3) In calculating the profits of the property business for the current tax year, a deduction is allowed for any cash basis deductible amount of the expenditure relating to each relevant property business activity.
 - (4) A “cash basis deductible amount” of the expenditure means any amount of the expenditure for which a deduction would be allowed in calculating the profits of the property business on the cash basis on the assumption that the expenditure was paid in the current tax year.
 - (5) Any cash basis deductible amount of the expenditure is to be determined on such basis as is just and reasonable in all the circumstances.
 - (6) In this section—
 - “relevant property business activity” means—
 - (a) in relation to a UK property business, an ordinary UK property business and a UK furnished holiday lettings business (within the meaning of Part 2 of CAA 2001 (see sections 16 and 17 of that Act)), and
 - (b) in relation to an overseas property business, an ordinary overseas property business and an EEA furnished holiday lettings business (within the meaning of Part 2 of that Act (see sections 17A and 17B of that Act));
 - “unrelieved qualifying expenditure” means unrelieved qualifying expenditure for the purposes of Part 2 of CAA 2001 (see section 59(1) and (2) of that Act).

334D Assets not fully paid for

- (1) This section applies if—
 - (a) a person carrying on a property business enters the cash basis for a tax year (“the current tax year”),
 - (b) at any time before the end of the chargeable period which is the previous tax year the person has incurred relevant expenditure, and
 - (c) not all of the relevant expenditure has actually been paid by the person.
- (2) “Relevant expenditure” means expenditure on plant or machinery—
 - (a) for which a deduction would be allowed in calculating the profits of the property business on the cash basis on the assumption that the expenditure was paid in the current tax year, and
 - (b) in respect of which the person has obtained capital allowances.
- (3) If the amount of the relevant expenditure that the person has actually paid exceeds the amount of capital allowances given in respect of the relevant expenditure, the difference is to be deducted in calculating the profits of the property business for the current tax year.

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- (4) If the amount of the relevant expenditure that the person has actually paid is less than the amount of capital allowances given in respect of the relevant expenditure, the difference is to be treated as a receipt in calculating the profits of the property business for the current tax year.
- (5) Any question as to whether or to what extent expenditure is relevant expenditure, or as to whether or to what extent any capital allowance obtained is in respect of relevant expenditure, is to be determined on such basis as is just and reasonable in all the circumstances.
- (6) If the amount of capital allowances given in respect of the relevant expenditure has been reduced under section 205 or 207 of CAA 2001 (reduction where asset provided or used only partly for qualifying activity), the amount of the relevant expenditure that the person has actually paid is to be proportionately reduced for the purposes of this section.

334E Effect of election where predecessor and successor are connected persons

- (1) This section applies if—
 - (a) a person carrying on a property business enters the cash basis for a tax year,
 - (b) the person is the successor for the purposes of section 266 of CAA 2001, and
 - (c) as a result of an election under that section, relevant plant or machinery is treated as sold by the predecessor to the successor at any time during the tax year.
- (2) The provisions of this Chapter have effect in relation to the successor as if everything done to or by the predecessor had been done to or by the successor.
- (3) Any expenditure actually incurred by the successor on acquiring the relevant plant or machinery is to be ignored for the purposes of calculating the profits of the property business for the tax year.
- (4) In this section—
 - “the predecessor” has the same meaning as in section 266 of CAA 2001, and
 - “relevant plant or machinery” has the same meaning as in section 267 of that Act.”

30 In section 351 (income charged), after subsection (2) insert—

- “(3) Further to subsection (2), section 254 applies for the purposes of this Chapter as if for subsection (2A) of that section there were substituted—
 - “(2A) If the time immediately before the person permanently ceases to carry on the UK property business falls in a cash basis tax year, assume for the purposes of subsection (2) that the profits of the business are calculated on the cash basis.”

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- (4) For the purposes of sections 254 (as so applied) and 353, a tax year is “a cash basis tax year” in relation to a property business if the profits of the business for the tax year are calculated on the cash basis (see section 271D).”
- 31 In section 353 (basic meaning of “post-cessation receipt”), after subsection (1) insert—
- “(1A) If the time immediately before a person permanently ceases to carry on a UK property business falls in a cash basis tax year (see section 351(4)), a sum is to be treated as a post-cessation receipt only if it would have been brought into account in calculating the profits of the business on the cash basis had it been received at that time.”
- 32 In section 356 (application to businesses within the charge to corporation tax), in subsection (1), for “section 355” substitute “ sections 353(1A) and 355, and in the modification of section 254 in section 351(3) ”.
- 33 In section 786 (meaning of “rent-a-room receipts”), after subsection (6) insert—
- “(6A) Subsections (6B) and (7) apply if—
- (a) the receipts would otherwise be brought into account in calculating the profits of a UK property business, and
- (b) the profits are calculated on the cash basis (see section 271D).
- (6B) Any amounts brought into account under section 307E (capital receipts under, or after leaving, cash basis) as a receipt in calculating the profits of the property business are to be treated as receipts within paragraph (a) of subsection (1) above.”
- 34 In section 860 (adjustment income), in subsection (5), after “Chapter 17 of Part 2” insert “, or under section 239B as applied to property businesses by section 334A, ”.
- 35 In section 866 (employee benefit contributions: non-trades and non-property businesses), in subsection (7)(b), for “section 272” substitute “ sections 272 and 272ZA ”.
- 36 In section 867 (business entertainment and gifts: non-trades and non-property businesses), in subsection (7)(b), for “section 272” substitute “ sections 272 and 272ZA ”.
- 37 In section 868 (social security contributions: non-trades etc), in subsection (6)(b), for “section 272” insert “ sections 272 and 272ZA ”.
- 38 In section 869 (penalties, interest and VAT surcharges: non-trades etc), in subsection (6)(b), for “section 272” substitute “ sections 272 and 272ZA ”.
- 39 In section 870 (crime-related payments: non-trades and non-property businesses), in subsection (4)(b), for “section 272” substitute “ sections 272 and 272ZA ”.
- 40 In section 872 (losses calculated on same basis as miscellaneous income), in subsection (4)(b), for “section 272” substitute “ sections 272 and 272ZA ”.
- 41 In Part 2 of Schedule 4 (index of defined expressions), at the appropriate place insert—

“the cash basis (in Part 3)	section 271D
in accordance with GAAP (in Part 3)	section 271B”.

Changes to legislation:

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

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

- Sch. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)