



# Finance Act 2016

## 2016 CHAPTER 24

### PART 1

#### INCOME TAX

##### *Trading and other income*

#### **24 Fixed-rate deductions for use of home for business purposes**

- (1) In Part 2 of ITTOIA 2005 (trading income), Chapter 5A (trade profits: deductions allowable at a fixed rate) is amended as follows.
- (2) Section 94H (use of home for business purposes) is amended as follows.
- (3) In subsection (1), for the words from “in respect of” to the end substitute “in respect of—
  - (a) the use of the person's home for the purposes of the trade, or
  - (b) where the person is a firm, the use of a partner's home for those purposes.”
- (4) In subsection (4), for the words from “work done” to the end substitute “qualifying work”.
- (5) After subsection (4) insert—

“(4A) Qualifying work” means—

  - (a) work done by the person, or any employee of the person, in the person's home wholly and exclusively for the purposes of the trade, or
  - (b) where the person is a firm, work done by a partner, or any employee of the firm, in the partner's home wholly and exclusively for those purposes.

(4B) Where more than one person does qualifying work in the same home at the same time, any hour spent wholly and exclusively on that work is to be taken into account only once for the purposes of subsection (4).”

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- (6) In subsection (5), after “person” insert “, or, where the person is a firm, a partner of the firm,”.
- (7) After subsection (5) insert—
- “(5A) Where a firm makes a deduction for a period under this section in respect of the use of a partner's home for the purposes of a trade, the only deduction which the firm may make for the period in respect of the use of any other partner's home for those purposes is a deduction under this section.”
- (8) Section 94I (premises used both as a home and as business premises) is amended as follows.
- (9) In subsection (1)(b), for “used by the person as a home,” substitute “used as a home by—
- (i) the person carrying on the trade, or
  - (ii) where that person is a firm, a partner of the firm,”.
- (10) After subsection (6) insert—
- “(6A) Where a person makes a deduction for a period under this section in respect of expenses incurred in relation to premises falling within subsection (1) (b), the only deduction which the person may make for the period in respect of expenses incurred in relation to any other premises falling within subsection (1)(b) is a deduction under this section.”
- (11) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

## 25 Averaging profits of farmers etc

- (1) Chapter 16 of Part 2 of ITTOIA 2005 (averaging profits of farmers and creative artists) is amended as specified in subsections (2) to (7).
- (2) In section 221 (claim for averaging of fluctuating profits)—
- (a) in subsection (2), at the beginning insert “ For the purposes of section 222 (two-year averaging) ”;
  - (b) after that subsection insert—
- “(2A) For the purposes of section 222A (five-year averaging), a trade, profession or vocation is a “qualifying trade, profession or vocation” if it falls within subsection (2)(a) or (b).”;
- (c) in subsection (3), for “this purpose” substitute “ the purpose of subsection (2) ”.
- (3) After section 222 insert—

### **“222A Circumstances in which claim for five-year averaging may be made**

- (1) An averaging claim may be made under this section in relation to five consecutive tax years in which a taxpayer is or has been carrying on the qualifying trade, profession or vocation if the volatility condition in subsection (2) is met.

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- (2) The volatility condition is that—
- (a) one of the following is less than 75% of the other—
    - (i) the average of the relevant profits of the first four tax years to which the claim relates;
    - (ii) the relevant profits of the last of the tax years to which the claim relates; or
  - (b) the relevant profits of one or more (but not all) of the five tax years to which the claim relates are nil.
- (3) Any of the first four tax years to which an averaging claim under this section relates may be a tax year in relation to which an averaging claim under this section or section 222 has already been made.
- (4) An averaging claim (“the subsequent claim”) may not be made under this section if an averaging claim in respect of the trade, profession or vocation has already been made under this section or section 222 in relation to a tax year which is later than the last of the tax years to which the subsequent claim relates.
- (5) An averaging claim may not be made under this section in relation to the tax year in which the taxpayer starts, or permanently ceases, to carry on the trade, profession or vocation.
- (6) An averaging claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the last of the tax years to which the claim relates.
- (7) But see section 225(4) (extended time limit if profits adjusted for some other reason).”
- (4) In section 222 (circumstances in which claim may be made)—
- (a) in the heading, after “claim” insert “ for two-year averaging ”;
  - (b) in subsection (1), after “made” insert “ under this section ”;
  - (c) for subsection (2) substitute—
 

“(2) The earlier of the two years to which an averaging claim under this section relates may be a tax year in relation to which an averaging claim under this section or section 222A has already been made.”;
  - (d) in subsection (3)—
    - (i) after “made”, in the first place, insert “ under this section ”;
    - (ii) after “made”, in the second place, insert “ under this section or section 222A ”;
  - (e) in subsection (4), after “made” insert “ under this section ”;
  - (f) in subsection (5), after “averaging claim” insert “ under this section ”.
- (5) In section 223 (adjustment of profits)—
- (a) in subsection (2), for “second of the two tax years” substitute “ last of the two or five tax years ”;
  - (b) for subsection (3) substitute—
 

“(3) The amount of the adjusted profits of each of the tax years to which the claim relates is the average of the relevant profits of those tax years.”;
  - (c) omit subsection (4).

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- (6) In section 224 (effect of adjustment)—
- (a) in subsection (4), for “either” substitute “ any ”;
  - (b) in subsection (6), for “second of the two tax years” substitute “ last of the two or five tax years ”.
- (7) In section 225 (effect of later adjustment of profits), in subsection (1), for “either or both” substitute “ any one or more ”.
- (8) In section 31C of ITTOIA 2005 (excluded provisions), in subsection (6), for “section 221” substitute “ Chapter 16 ”.
- (9) In section 1025 of ITA 2007 (meaning of “modified net income”), in subsection (2) (d), for “the earlier of the tax years” substitute “ any earlier tax year ”.
- (10) In paragraph 3 of Schedule 1B to TMA 1970 (relief for fluctuating profits of farmers etc)—
- (a) in sub-paragraph (1), for the words from “for two” to the end substitute—
    - “(a) in the case of a two-year claim, for two consecutive years of assessment, and
    - (b) in the case of a five-year claim, for five consecutive years of assessment.”;
  - (b) in sub-paragraph (2), for “the later year” substitute “ the last of the two or five years ”;
  - (c) in sub-paragraph (3), for “the earlier year”, where it occurs first, substitute “ an earlier year ”;
  - (d) in sub-paragraph (5)—
    - (i) for “the earlier year” substitute “ an earlier year ”;
    - (ii) for “the later year” substitute “ the last of the two or five years ”;
  - (e) after sub-paragraph (6) insert—
 

“(7) In this paragraph—

“two-year claim” means a claim under section 222 of ITTOIA 2005;

“five-year claim” means a claim under section 222A of ITTOIA 2005.”
- (11) In paragraph 4 of Schedule 1B to TMA 1970 (relief claimed by virtue of section 224(4) of ITTOIA 2005)—
- (a) in sub-paragraph (1)—
    - (i) after “for two” insert “ or five ”;
    - (ii) omit “(“the earlier year” and “the later year”);”;
    - (iii) for “either” substitute “ any ”;
  - (b) in sub-paragraph (2), for “the later year” substitute “ the last of the two or five years ”;
  - (c) in sub-paragraph (3), for “the earlier year”, where it occurs first, substitute “ an earlier year ”;
  - (d) in sub-paragraph (5)—
    - (i) for “the earlier year” substitute “ an earlier year ”;
    - (ii) for “the later year” substitute “ the last of the two or five years ”.

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- (12) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

## **26 Relief for finance costs related to residential property businesses**

- (1) In ITTOIA 2005, for sections 274A and 274B and the preceding italic heading (tax reductions for non-deductible costs of dwelling-related loans: individuals, and accumulated or discretionary trust income) substitute—

*“Tax reductions for non-deductible costs of a dwelling-related loan*

### **274A Reduction for individuals: entitlement**

- (1) If for a tax year an individual has—
- (a) a relievable amount in respect of a property business, or
  - (b) two or more relievable amounts each in respect of a different property business,
- the individual is entitled to relief under this section for that year in respect of that relievable amount or (as the case may be) each of those relievable amounts.
- (2) An individual has a relievable amount for a tax year in respect of a property business if for that year the individual has any one or more of the following in respect of that business—
- (a) a current-year amount;
  - (b) a current-year estate amount;
  - (c) a brought-forward amount.
- (3) An individual's relievable amount for a tax year in respect of a property business is the total of—
- (a) the individual's current-year amount (if any) for that year in respect of that business,
  - (b) the individual's current-year estate amounts (if any) for that year in respect of that business, and
  - (c) the individual's brought-forward amount (if any) for that year in respect of that business.
- (4) An individual has a current-year amount for a tax year in respect of a property business if—
- (a) an amount (“A”) would be deductible in calculating the profits for income tax purposes of that business for that year but for section 272A,
  - (b) the individual is liable for income tax on N% of those profits, where N is a number—
    - (i) greater than 0, and
    - (ii) less than or equal to 100, and
  - (c) that liability is not under Chapter 6 of Part 5 (estate income),
- in which event the individual's current-year amount for that tax year in respect of that business is equal to N% of A.

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- (5) An individual has a current-year estate amount for a tax year (“the current year”), in respect of a property business and a particular deceased person's estate, if—
- (a) an amount (“A”) would, but for section 272A, be deductible in calculating the profits for income tax purposes of that business for a particular tax year (“the profits year”), whether that year is the current year or an earlier tax year,
  - (b) the personal representatives of the deceased person are liable for income tax on N% of those profits, where N is a number—
    - (i) greater than 0, and
    - (ii) less than or equal to 100,
  - (c) the individual is liable for income tax on estate income treated under Chapter 6 of Part 5 as arising in the current year from an interest in the estate, and
  - (d) the basic amount of that estate income consists of, or includes, an amount representative of E% of the personal representatives' N% of the profits of the business for the profits year, where E is a number—
    - (i) greater than 0, and
    - (ii) less than or equal to 100,
 in which event the individual's current-year estate amount for the current tax year, in respect of that business and estate and the profits year, is equal to E % of N% of A.
- (6) As to whether an individual has a brought-forward amount for a tax year in respect of a property business, see section 274AA(4).
- (7) In this section and section 274AA—  
 “estate income”, and  
 “basic amount” in relation to any estate income,  
 have the same meaning as in Chapter 6 of Part 5 (see sections 649 and 656(4)).

#### **274AA Reduction for individuals: calculation**

- (1) This section applies if for a tax year an individual is entitled to relief under section 274A in respect of a relievable amount or in respect of each of two or more relievable amounts, and in the following subsections of this section “relievable amount” means that relievable amount or (as the case may be) any of those relievable amounts.
- (2) In respect of a relievable amount, the actual amount on which relief for the year is to be given is (subject to subsection (3)) the amount (“L”) that is the lower of—
- (a) the relievable amount, and
  - (b) the total of—
    - (i) the profits for income tax purposes of the property business concerned for the year after any deduction under section 118 of ITA 2007 (“the adjusted profits”) or, if less, the share (if any) of the adjusted profits on which the individual is liable to income tax otherwise than under Chapter 6 of Part 5, and

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(ii) so much (if any) of the relievable amount as consists of current-year estate amounts.

- (3) If S is greater than the individual's adjusted total income for the year ("ATI"), the actual amount on which relief for the year is to be given in respect of a relievable amount is given by—

$$\frac{\text{ATI}}{S} \times L$$

where—

S is the total obtained by identifying the amount that is L for each relievable amount and then finding the total of the amounts identified, and

L has the same meaning as in subsection (2).

- (4) Where—
- (a) a relievable amount,
- is greater than—
- (b) the actual amount on which relief for the year is to be given in respect of the relievable amount,
- the difference is the individual's brought-forward amount for the following tax year in respect of the property business concerned.
- (5) The amount of the relief for the year in respect of a relievable amount is given by—

$$AA \times BR$$

where—

AA is the actual amount on which relief for the year is to be given in respect of the relievable amount, and

BR is the basic rate of income tax for the year,

- (6) For the purposes of this section, an individual's adjusted total income for a tax year is identified as follows—

*Step 1* Identify the individual's net income for the year (see Step 2 of the calculation in section 23 of ITA 2007).

*Step 2* Exclude from that net income—

- (a) so much of it as is within section 18(3) or (4) of ITA 2007 (income from savings), and
- (b) so much of it as is dividend income.

*Step 3* Reduce what is left after Step 2 of this calculation by the amount of any allowances deducted for the year in the individual's case at Step 3 of the calculation in section 23 of ITA 2007. The result is the individual's adjusted total income for the year.

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### **274B Reduction for accumulated or discretionary trust income: entitlement**

- (1) If for a tax year the trustees of a settlement have—
  - (a) a relievable amount in respect of a property business, or
  - (b) two or more relievable amounts each in respect of a different property business,
 the trustees of the settlement are entitled to relief under this section for that year in respect of that relievable amount or (as the case may be) each of those relievable amounts.
- (2) The trustees of a settlement have a relievable amount for a tax year in respect of a property business if for that year the trustees of the settlement have a current-year amount, or brought-forward amount, in respect of that business (or have both).
- (3) In the case of trustees of a settlement, their relievable amount for a tax year in respect of a property business is the total of—
  - (a) their current-year amount (if any) for that year in respect of that business, and
  - (b) their brought-forward amount (if any) for that year in respect of that business.
- (4) The trustees of a settlement have a current-year amount for a tax year in respect of a property business if—
  - (a) an amount (“A”) would be deductible in calculating the profits for income tax purposes of that business for that year but for section 272A,
  - (b) the trustees of the settlement are liable for income tax on N% of those profits, where N is a number—
    - (i) greater than 0, and
    - (ii) less than or equal to 100, and
  - (c) in relation to the trustees of the settlement, that N% of those profits is accumulated or discretionary income,
 in which event the current-year amount of the trustees of the settlement for that tax year in respect of that business is equal to N% of A.
- (5) As to whether the trustees of a settlement have a brought-forward amount for a tax year in respect of a property business, see section 274C(3).
- (6) In this section and section 274C “accumulated or discretionary income” has the meaning given by section 480 of ITA 2007.

### **274C Reduction for accumulated or discretionary trust income: calculation**

- (1) This section applies if for a tax year the trustees of a settlement are entitled to relief under section 274B in respect of a relievable amount or in respect of each of two or more relievable amounts, and in the following subsections of this section “relievable amount” means that relievable amount or (as the case may be) any of those relievable amounts.



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(2) The amount of the relief in respect of a relievable amount is given by—

$$L \times BR$$

where—

BR is the basic rate of income tax for the year, and

L is the lower of—

- (a) the relievable amount, and
- (b) the profits for income tax purposes of the property business concerned for the year after any deduction under section 118 of ITA 2007 (“the adjusted profits”) or, if less, the share of the adjusted profits—
  - (i) on which the trustees of the settlement are liable for income tax, and
  - (ii) which, in relation to the trustees of the settlement, is accumulated or discretionary income.

(3) Where L in the case of a relievable amount is less than the relievable amount, the difference between them is the brought-forward amount of the trustees of the settlement for the following tax year in respect of the property business concerned.”

(2) In consequence of the amendment made by subsection (1), in F(No.2)A 2015 omit section 24(5).

## 27 Individual investment plans of deceased investors

(1) In Chapter 3 of Part 6 of ITTOIA 2005 (power to exempt income from individual investment plans from income tax), after section 694 insert—

### “694A Deceased investors

(1) In section 694(1) “income of an individual from investments under a plan” includes—

- (a) income (of any person) from administration-period investments under a plan, and
- (b) income (of any person) from the estate of a deceased person (“D”) where the whole or any part of the income of D’s personal representatives is income from administration-period investments under a plan.

(2) For the purposes of sections 694(3)(a) and (4) and 695(1) “individual”, in relation to investments that are administration-period investments, includes—

- (a) the personal representatives of the deceased individual concerned, and
- (b) any other person on whose directions plan managers agree to act in relation to the investments.

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- (3) In sections 699 and 701 “investor” includes a person entitled to an exemption given by investment plan regulations by virtue of subsection (1) of this section.
- (4) Investments are “administration-period investments” if—
- (a) an individual dies, and
  - (b) immediately before the individual's death—
    - (i) the investments were held under a plan,
    - (ii) the individual was entitled to the income from the investments, and
    - (iii) as a result of investment plan regulations, the individual's income from investments under the plan was exempt from income tax (either wholly or to an extent specified in the regulations).
- (5) Investments are also “administration-period investments” if (directly or indirectly) they represent investments that are administration-period investments as a result of subsection (4).
- (6) Investment plan regulations may provide that investments are administration-period investments as a result of subsection (4) or (5) only at times specified in, or ascertained in accordance with, the regulations.
- (7) Provision under subsection (6) may (in particular) be framed by reference to the completion of the administration of a deceased individual's estate.
- (8) In the application of subsection (7) in relation to Scotland, the reference to the completion of the administration is to be read in accordance with section 653(2).”
- (2) In section 151(2) of TCGA 1992 (Chapter 3 of Part 6 of ITTOIA 2005 applies with modifications in relation to regulations giving relief from capital gains tax in respect of investments under plans)—
- (a) in the words before paragraph (a), for “section 694(1) to (2)” substitute “sections 694(1) to (2) and 694A(1)”, and
  - (b) after paragraph (a) insert—
    - “(aa) section 694A(2) applies also for the purposes of subsection (1) of this section,
    - (ab) the reference in section 694A(3) to section 694A(1) is to be read as a reference to paragraph (aa) of this subsection,
    - (ac) the reference in section 694A(4)(b)(iii) to the individual's income from investments under the plan being exempt from income tax is to be read as a reference to the individual being entitled to relief from capital gains tax in respect of the investments,”.
- (3) In section 62 of TCGA 1992 (death: general provisions), after subsection (4) (acquisition of asset as legatee) insert—
- “(4A) The Treasury may by regulations make provision having effect in place of subsection (4)(b) above in a case where there has been a time when the personal representatives—
- (a) held the asset acquired by the legatee, and

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- (b) would, if they had disposed of the asset at that time—
  - (i) by way of a bargain at arm's length, and
  - (ii) otherwise than to a legatee,have been entitled as a result of regulations under section 151 (investments under plans) to relief from capital gains tax in respect of any chargeable gain accruing on the disposal.
- (4B) Provision made by regulations under subsection (4A) above may (in particular) treat a person who acquires an asset as legatee as doing so at a time or for a consideration, or at a time and for a consideration, ascertained as specified by the regulations.”
- (4) In consequence of subsection (2)(a), in FA 2011 omit section 40(6)(a).

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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. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)