



Finance Act 2016

2016 CHAPTER 24

PART 1

INCOME TAX

Trading and other income

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.
- (2) The volatility condition is that—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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).
- (6) In section 224 (effect of adjustment)—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2016. 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:

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\(3\)](#)