

Separate assessment of partners. ITA67 s71 1008.—(1) In the case of a partnership trade, the Income Tax Acts shall, subject to this Part, apply in relation to any partner in the partnership as if for any relevant period—

(a) any profits or gains arising to that partner from the trade and any loss sustained by that partner in the trade were respectively profits or gains of, and loss sustained in, a trade (in this Part referred to as a “several trade”) carried on solely by that partner, being a trade—

(i) set up or commenced at the beginning of the relevant period, or if that partner commenced to be engaged in carrying on the partnership trade at some time in the relevant period other than the beginning of that period, at the time when that partner so commenced, and

(ii) when that partner ceases to be engaged in carrying on the partnership trade either during the relevant period or at the end of that period, permanently discontinued at the time when that partner so ceases, and

(b) that partner had paid the part that partner was liable to bear of any annual payment paid by the partnership.

(2) (a) For any year or period within the relevant period the amount of the profits or gains arising to any partner from that partner's several trade, or the amount of loss sustained by that partner in that trade, shall for the purposes of subsection (1) be taken to be so much of the full amount of the profits or gains of the partnership trade or, as the case may be, of the full amount of the loss sustained in the partnership trade as would fall to that partner's share on an apportionment of those profits or gains or, as the case may be, of that loss made in accordance with the terms of the partnership agreement as to the sharing of profits and losses.

(b) Where the year or period (in this paragraph referred to as “the period of computation”) for which the profits or gains of, or the loss sustained in, the several trade of a partner is to be computed under this subsection is or is part of a year or period for which an account of the partnership trade has been made up, sections 65 and 107 shall apply in relation to the partner as if an account of that partner's several trade had been made up for the period of computation.

(3) (a) For the purposes of subsection (2) and subject to paragraph (b), the full amount of the profits or gains of the partnership trade for any year or period, or the full amount of the loss sustained in such trade in any year or period, shall, subject to section 1012, be determined by the inspector, and any such determination shall be made as it would have been made if the trade—

(i) had been set up or commenced at the beginning of the relevant period,

(ii) where the relevant period has come to an end, had been permanently discontinued at the end of that period, and

(iii) had at all times within the relevant period been carried on by one and the same person and everything done in the carrying on of the trade to or by the persons by whom it was in fact carried on had been done to or by that person.

(b) In a case in which the relevant period began at some time before the 6th day of April, 1965, and the trade was not treated for the purposes of income tax as having been set up or commenced at that time—

(i) the relevant period shall for the purposes of this subsection be deemed to have begun at the time at which the trade was treated for the purposes of income tax as having been set up or commenced, and

(ii) any profits or gains arising to any person from the trade, or any loss sustained by that person in the trade, for any year or period within the relevant period during which that person was engaged in the trade on that person's own account shall be deemed to be profits or gains arising to that person from, or, as the case may be, a loss sustained by that person in, a partnership trade in which that person was entitled during the year or period in question to the full amount of the profits or gains arising or was liable to bear the full amount of the loss.

(4) Where the shares to which the partners are entitled in the basis period for a year of assessment do not exhaust the profits of the trade carried on by the partnership for that period, an assessment shall be made under Case IV of Schedule D on the precedent partner in respect of the unexhausted portion of the profits and the precedent partner shall, if and when such balance is to be paid to a person entitled to such balance, be entitled to deduct from such balance any amounts of tax which have been assessed on and paid by him or her and he or she shall be acquitted and discharged of any such amounts.

(5) This section shall not cause any income which apart from this section is not earned income to become earned income.