

PART 43 Partnerships and European Economic Interest Groupings (EEIG)

Interpretation). ITA67 s69; FA75 s33(2) and Sch1 PtII 1007.—(1) In this Part—

“annual payment” means any payment from which, apart from any insufficiency of profits or gains of the persons making it, income tax is deductible under section 237;

“balancing charge” means a balancing charge under Part 9 or Chapter 1 of Part 29, as the case may be;

“basis period”, in relation to a year of assessment, means the period on the profits or gains of which income tax for that year is to be finally computed under Case I of Schedule D in respect of the trade in question or, where by virtue of the Income Tax Acts the profits or gains of any other period are to be taken to be the profits or gains of that period, that other period;

“partnership trade” means a trade carried on by 2 or more persons in partnership;

“precedent partner”, in relation to a partnership, means the partner who, being resident in the State—

(a) is first named in the partnership agreement,

(b) if there is no agreement, is named singly or with precedence over the other partners in the usual name of the firm, or

(c) is the precedent acting partner, if the person named with precedence is not an acting partner,

and any reference to precedent partner shall, in a case in which no partner is resident in the State, be construed as a reference to the agent, manager or factor of the firm resident in the State;

“relevant period”, in relation to a partnership trade, means a continuous period the whole or part of which is after the 5th day of April, 1965—

(a) beginning at a time when either—

(i) the trade was not carried on immediately before that time by 2 or more persons in partnership, or

(ii) none of the persons then carrying on the trade in partnership was one of the persons who immediately before that time carried on the trade in partnership, and

(b) continuing only so long as there has not occurred a time when either—

(i) the trade is not carried on immediately after that time by 2 or more persons in partnership, or

(ii) none of the persons then carrying on the trade in partnership is one of the persons who immediately

after that time carry on the trade in partnership,

subject to the condition that, in the case of any such period which apart from this condition would have begun before the 6th day of April, 1965, "the relevant period" shall be taken as having begun at the time, or at the last of 2 or more times, at which, a change having occurred in the partnership of persons then engaged in carrying on the trade, the persons so engaged immediately after the time were to be treated for the purposes of income tax as having set up or commenced the trade at that time.

(2) In relation to a case in which a partnership trade is from time to time during a relevant period carried on by 2 or more different partnerships of persons, any reference in this Part to the partnership shall, unless the context otherwise requires, be construed as including a reference to any partnership of persons by whom the trade has been carried on since the beginning of the relevant period and any reference to a partner shall be construed correspondingly.

(3) This Part shall, with any necessary modifications, apply in relation to professions as it applies in relation to trades.