

Computation under Case I of Schedule D of profits or gains from dealing in or developing land. F(MP)A68 s18; FA81 s29(2)(a) 641.—(1) Where a business of dealing in or developing land is, or is to be regarded as, a trade within Schedule D or a part of such a trade, the provisions applicable to Case I of that Schedule shall, as respects the computation of the profits or gains of the business, apply subject to subsections (2) to (4).

(2) (a) Any consideration ) for the disposal of an interest in any land or in a part of any land shall be treated as a consideration for the disposal of trading stock and accordingly shall be taken into account as a trading receipt.

(b) Any interest in any land which is held by a person carrying on a trade (in this section referred to as “the trader”) and which has become trading stock of the trade shall thereafter, until the discontinuance of the trade, continue to be such trading stock.

(c) Where the trader has acquired an interest in any land otherwise than for consideration in money or money's worth, the trader shall, subject to paragraph (d), be deemed to have purchased the interest for a consideration equal to its market value at the time of acquisition.

(d) Where at the time of acquisition of an interest in any land the trade had not been commenced or the interest was not then appropriated as trading stock, the trader shall be deemed to have purchased the interest for a consideration equal to its market value at the time of its appropriation as trading stock.

(e) Any consideration (1)(b) the profits or gains arising from which are by virtue of that section chargeable to tax under Case V of Schedule D) for the granting by the trader of any right in relation to the development of any land shall be taken into account as a trading receipt.

(3) Account shall not be taken of any sum (in this subsection referred to as “the relevant sum”) which is paid or is payable at any time by the trader as consideration for the forfeiture or surrender of the right of any person to an annuity or other annual payment unless—

(a) the annuity or other annual payment arises under—

(i) a testamentary disposition, or

(ii) a liability incurred for—

(I) valuable and sufficient consideration all of which is required to be taken into account in computing for the purposes of income tax or corporation tax the income of the person to whom that consideration is given, or

(II) consideration given to a person who—

(A) has not at any time carried on a business of dealing in or developing land which is, or is to be

regarded as, a trade or a part of a trade, and

(B) is not and was not at any time connected with any of the following persons—

(aa) the trader,

(bb) a person who is or was at any time connected with the trader, and

(cc) any other person who, in the course of a business of dealing in or developing land which is, or is to be regarded as, a trade or a part of a trade, holds or held an interest in land on which the annuity or other annual payment was charged or reserved,

or

(b) the relevant sum is required to be taken into account in computing for the purposes of income tax or corporation tax the profits or gains of a trade of dealing in or developing land carried on by the person to whom the relevant sum is payable.

(4) (a) Paragraph (b) shall apply where—

(i) a sum (in this subsection referred to as “the relevant sum”) is payable—

(I) by a person (in this subsection referred to as “the relevant person”) who is not the trader, and

(II) as consideration for the forfeiture or surrender of the right (in this subsection referred to as “the right”) of any person to an annuity or other annual payment,

(ii) the relevant sum is not required to be taken into account in computing for the purposes of income tax or corporation tax the profits or gains of a trade of dealing in or developing land carried on by the person to whom the relevant sum is payable, and

(iii) the trader incurs expenditure (in this subsection referred to as “the cost”) in acquiring any interest (in this subsection referred to as “the interest”) in land on which the annuity or other annual payment had been reserved or charged.

(b) Where this paragraph applies—

(i) the trader shall be treated as having expended in acquiring the interest an amount equal to the amount which would have been expended if the right had not been forfeited or surrendered, and

(ii) the excess of the cost over the amount determined in accordance with subparagraph (i) shall be treated for the purposes of subsection (3) as having been payable by the trader as consideration for the forfeiture or surrender of the right.

(c) For the purposes of this subsection, all such apportionments and valuations shall be made as appear

to the inspector or on appeal to the Appeal Commissioners to be just and reasonable.

(d) This subsection shall not apply where the relevant person carries on a trade of dealing in or developing land and pays the relevant sum in the course of carrying on that trade.