

Receipts accruing after discontinuance of trade or profession. FA70 s20(1) to (4) and (5)(b), (c) and (d) 91.—(1) Subject to subsection (2), this section shall apply to all sums arising from the carrying on of a trade or profession during any period before the discontinuance of the trade or profession (not being sums otherwise chargeable to tax), in so far as the amount or value of the sums was not taken into account in computing the profits or gains for any period before the discontinuance, and whether or not the profits or gains for the period were computed on an earnings basis or on a conventional basis.

(2) This section shall not apply to any of the following sums—

(a) sums received by a person beneficially entitled to such sums who is not resident in the State, or by a person acting on such person's behalf, which represent income arising directly or indirectly from a country or territory outside the State,

(b) a lump sum paid to the personal representatives of the author of a literary, dramatic, musical or artistic work as a consideration for the assignment by them, wholly or partially, of the copyright in the work,

(c) sums realised by the transfer of trading stock belonging to a trade at the discontinuance of the trade or, in a case in which the profits or gains of a profession were computed on an earnings basis at the discontinuance of the profession, sums realised by the transfer of the work of the profession in progress at the discontinuance, and

(d) sums arising to an individual from a work which is such that any profits or gains that might have arisen to the individual from its publication, production or sale, as the case might be, would in accordance with section 195 (3) have been disregarded for the purposes of the Income Tax Acts if they had arisen before the discontinuance of that individual's profession.

(3) Where any trade or profession, the profits or gains of which are chargeable to tax under Case I or II of Schedule D, has been permanently discontinued, tax shall be charged under Case IV of that Schedule in respect of any sums to which this section applies received after the discontinuance subject to any such deduction as is authorised by subsection (4).

(4) In computing the charge to tax in respect of sums received by any person which are chargeable to tax by virtue of this section ), there shall be deducted from the amount which apart from this subsection would be chargeable to tax—

(a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade or profession had not been discontinued, would have been deducted in computing for tax purposes the profits or gains of the person by whom the trade or profession was carried on before the discontinuance, or would have been deducted from or set off against those profits or gains as so computed, and

(b) any capital allowance to which the person who carried on the trade or profession was entitled

immediately before the discontinuance and to which effect has not been given by means of relief before the discontinuance.

(5) For the purposes of this Chapter—

(a) the profits or gains of a trade or profession in any period shall be treated as computed by reference to earnings where all credits and liabilities accruing during that period as a consequence of the carrying on of the trade or profession are taken into account in computing those profits or gains for tax purposes, and not otherwise, and “earnings basis” shall be construed accordingly,

(b) the profits or gains of a trade or profession in any period shall be treated as computed on a conventional basis where they are computed otherwise than by reference to earnings, and

(c) the value of any sum received in payment of a debt shall be treated as not taken into account in the computation to the extent that a deduction has been allowed in respect of that sum under section 81 (2)(i).