

Miscellaneous special rules for computation of income

Part 4, Chapters 5 & 6

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This manual outlines a number of special rules for the computation of income.

1 Miscellaneous special rules for computation of income

Section 76(5)(b), specifically prohibits any deduction in computing income in respect of any **yearly interest, annuity** or other **annual payment** or in respect of such other payments as are mentioned in section 104 (certain mining and other rents) or section 237 (**patent royalties**), but not including sums chargeable under Case V of Schedule D (rents, etc.). But, by reason of section 77(3), this is not to prevent the deduction of yearly interest in computing the income from a trade (see para. 2).

Annual payments (including any yearly interest which is not allowable in computing trading income) may be “charges on income” - see Section 243/243A and 243B TCA 1997

Annual interest, royalties and other payments received under deduction of income tax from other persons (including other companies) are income for corporation tax purposes. The income tax borne on payments received less tax is therefore available for repayment or set off against corporation tax for the relevant accounting period.

Payments received by a non-resident company which is not trading in the State, however, continue within the charge to income tax (subject to double taxation agreements). This also applies to payments received by non-resident companies trading in the State unless the payments are income from property or rights used by, or held by or for, the branch or agency through which the trade is carried on, in which case they may be chargeable to corporation tax. (see Tax and Duty Manual [Part 02-02-04](#))

2 Computation of income: special rules

Where a company begins or ceases to carry on a trade, the company's income from the trade is to be computed as if the trade had commenced or discontinued, even though it may previously have been carried on by some other person or will be so carried on. This gives effect to the **special rules** which apply on commencement or discontinuance of a trade, e.g., Section 89 TCA 1997 (valuation of trading stock on discontinuance of a trade), and Section 92 TCA 1997 (receipts and losses accruing after change treated as discontinuance).

This provision also applies where a company begins or ceases to be within the charge to corporation tax in respect of a trade.

A specific provision for any purpose that a trade is not to be treated as permanently discontinued (e.g., section 303(3)), by virtue of which a balancing allowance in relation to expenditure on dredging is to be given only on the actual discontinuance of the trade), however, overrides the above general provision.

Where a loan is for business purposes, the effect of section 77(3) TCA 1997, is to authorise the deduction, in computing income from a trade, of yearly interest which is wholly and exclusively laid out or expended for the purposes of the trade within section 81(2)(a).

“Short” interest, e.g., to a bank, will in any event normally be allowable under that test.

In computing for corporation tax income from the letting of rights to work minerals in the State, there may be deducted any sums disbursed wholly, exclusively and necessarily as expenses of management or supervision of those minerals, in the same way and to the same extent as such sums are deductible for income tax under section 111. The cost of collection may be included in these expenses.

Where, exceptionally, a company has been charged to income tax under Case III of Schedule D in respect of a trade carried on wholly abroad, the income from the trade is to be computed for corporation tax purposes in accordance with the rules applicable to Case I of Schedule D. The charge under corporation tax is on the income arising in the accounting period, whether or not remitted to the State.

In computing the amount of any income arising to a company from foreign securities and possessions a deduction is to be allowed in respect of foreign income tax on that income, to the extent that such a deduction cannot be made under, and is not forbidden by, any provision of the Income Tax Acts applied to corporation tax by the Corporation Tax Acts.

As regards certain income arising abroad of companies not resident in the State, see Tax and Duty Manual [Part 02-02-04](#).