CURRENT YEAR BASIS OF ASSESSMENT FOR TRADES AND BUSINESSES

Comptroller of Income Tax.
August 2007.
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PART 1
PRELIMINARY AND TRANSITIONAL PROVISION FOR 2007

1 Interpretation

2 Schedule 5 amended
(1) After paragraph 4 of Schedule 5 to the principal Law there shall be added the following paragraph –

“5 Income Tax (Amendment No. 28) (Jersey) Law 200-: transitional provision for Article 67
(1) A notice cannot be given under Article 67 in the case of a trade, profession or vocation which was set up or commenced in 2006.
(2) However, a person charged or liable to be charged to income tax in respect of the profits or gains of a trade, profession or vocation which was set up or commenced in 2006 shall be entitled, on giving notice, in writing, to the Comptroller on or after 1st January 2008 but no later than 31st December 2008, to require that tax shall be charged for the year of assessment 2007 on the amount of the profits or gains for that year.
(3) A person may, by giving notice, in writing, to the Comptroller on or before 31st December 2008, revoke a notice given under sub-paragraph (2).
(4) If, at any time during 2007, any such change as is mentioned in Article 75 occurs in the persons engaged in the trade, profession or vocation, a notice given under
sub-paragraph (2) or (3) must be signed by each of the persons who were engaged in the trade, profession or vocation at any time between 1st January 2007 and the giving of the notice or, in the case of a deceased person, by his or her legal representatives.

(5) In the case of the death of a person who, if he or she had not died would, under sub-paragraph (2), have become chargeable to income tax for 2007, the tax that would have been so chargeable shall be assessed and charged on his or her executors or administrators and shall be a debt due from and payable out of his or her estate.

(6) There shall be made such additional assessments, reductions of assessments or repayments of tax as may in any case be required in order to give effect to sub-paragraph (2)."

(2) This Article shall have effect for the year of assessment 2007 and ensuing years.

Currently Article 67 enables an election to be made for a new trade, profession or vocation to be taxed, in its second and third years of assessment, on an actual year basis. The above transitional rule applies to a trade, profession or vocation commenced in 2006, which would, accordingly have 2007 as its second year of assessment and 2008 as its third year of assessment. However, it will not be possible to make an election under Article 67 in respect of a trade, profession or vocation commenced in 2006. Instead, the transitional arrangement allows for an election to be made for taxation on an actual year basis, but only for the second year of assessment (2007), not the third.

**Example**
Trade commences 1 July 2006.

**Results.**
Accounts to 30 June 2007 = £2,000
Accounts to 30 June 2008 = £1,000
Accounts to 30 June 2009 = £4,000

Notice given for 2007 assessment to be based upon profits and gains for year ended 31 December 2007.

2006 Assessment (1 July 2006 to 31 December 2006) (6 months) = £1,000 *
2007 Assessment (year ended 31 December 2007) (12 months) = £1,500 **
2008 Assessment (year ended 30 June 2008) (12 months) = £500 ***
2009 Assessment (year ended 30 June 2009) (12 months) = £4,000

* Accounts to 30 June 2007 = £2,000 x \( \frac{1}{2} \) = £1,000

** Accounts to 30 June 2007 = £2,000 x \( \frac{1}{2} \) = £1,000

Accounts to 30 June 2008 = £1,000 x \( \frac{500}{1,500} \) = £500

**4**
*** Deduct £500 from 2008 assessment as assessed twice ie in 2007.
2008 Assessment (year ended 30 June 2008) (12 months) = £1,000
Less profits or gains which have been charged to tax in 2007 = £ 500
£ 500

PART 2

CHANGE TO BASIS OF ASSESSMENT FOR TRADES, PROFESSIONS AND VOCATIONS FROM 2008

3 Article 3 amended
In Article 3(1) of the principal Law the following definitions shall be inserted in their appropriate places in the alphabetical order of definitions –

“‘accounting date’ shall be construed in accordance with Article 4A;”;
“‘financial period’ shall be construed in accordance with Article 4A;”.

4 Article 4A inserted
After Article 4 of the principal Law there shall be inserted the following Article –

“4A Meaning of, and provision as to, financial period and accounting date
(1) The financial period of a company or of a trade, profession or vocation is the period for which its accounts are made up.
(2) Subject to any power in this Law for the Comptroller to determine an accounting date, the accounting date for a company or a trade, profession or vocation, is the day on which its financial period ends.
(3) A financial period shall not exceed 18 months.”

This Article defines “accounting date” and “financial period” for the purposes of the Law. It also provides that a financial period cannot be longer than 18 months (this rule already applies to a company incorporated in Jersey, by virtue of the Companies (Jersey) Law 1991).
5 Articles 64A to 64H inserted

After Article 64 of the principal Law there shall be inserted the following Articles –

“64A General provision as to period of computation for trade, profession or vocation

Subject to Articles 64B to 64E, tax shall be charged in the case of a trade, profession or vocation on the full amount of the balance of the profits or gains of the trade, profession or vocation for the financial period ending in the year of assessment.

Currently, a trade, profession or vocation is assessed to tax, for a year of assessment, on the basis of its profits or gains for the financial period ending in the year before the year of assessment (the preceding year end basis). From 2008, the assessment is on the basis of the profits or gains for the financial period ending in the year of assessment (the current year end basis).

Article 64A states the general rule that a trade, profession or vocation will be assessed to tax, for a year of assessment, on its profits or gains for the financial period ending in the year of assessment.

Example

On going business.

Results.

Accounts to 30 June 2006 = £1,000
Accounts to 30 June 2007 = £2,000
Accounts to 30 June 2008 = £3,000
Accounts to 30 June 2009 = £4,000

2007 Assessment (year ended 30 June 2006) (12 months) = £1,000
2008 Assessment (transitional year) (12 months) = £2,500 *
2009 Assessment (year ended 30 June 2009) (12 months) = £4,000

* Accounts to 30 June 2007 = £2,000
Accounts to 30 June 2008 = £3,000

£5,000 ÷ 2 = £2,500
This Article provides alternative bases for assessment where the accounting date for a trade, profession or vocation is altered.

(1) Where, by virtue of a change in the financial period for a trade, profession or vocation, there are 2 or more accounting dates for it in a year of assessment, tax shall be charged on the aggregate of the full amounts of the balance of profits or gains for each financial period ending on those dates.

If the consequence is that there are 2 or more accounting dates in one year, tax is charged for that year on the aggregate of the profits or gains of every financial period ending in the year.

Example
On going business.
Accounts usually made up to 30th June each year.
Accounts submitted for a 6 month financial period ending 31 December 2011 (new accounting date).

Results.
Accounts to 30 June 2010 = £4,000
Accounts to 30 June 2011 = £6,000
Accounts for period 1 July 2011 to 31 December 2011 = £8,000
Accounts to 31 December 2012 = £10,000

2010 Assessment (year ended 30 June 2010) (12 months) = £4,000
2011 Assessment (see below) (18 months) = £14,000 *
2012 Assessment (year ended 31 December 2012) (12 months) = £10,000

* Accounts to 30 June 2011 = £6,000
  Accounts for period 1 July 2011 to 31 December 2011 = £8,000
  £14,000
Where –
(a) there is a change in the financial period for a trade, profession or vocation;
(b) the new accounting date is in the year of assessment immediately following
the year of assessment in which the preceding accounting date fell; and
(c) the Comptroller is of the opinion that the change is not made in good faith
and for the purpose of facilitating the good management of the business,
the Comptroller may charge the trade, profession or vocation to tax, for the
year of assessment in which the new accounting date falls, on the full
amount of the balance of the profits or gains for the period of 12 months
ending on that date.

If the accounting date is altered, but not with the effect that there is no accounting date in
a year, and the Comptroller is of the opinion that the change of date was not in good faith
or for the purposes of good management, the Comptroller can assess the trade, profession
or vocation for the year in which the accounting date is altered, on the basis of the profits
or gains for the period of 12 months preceding that date.

**Example**

On going business.

**Results.**

Accounts to 30 June 2009 = £4,000
Accounts for period 1 July 2009 to 31 January 2010 = £6,000
Accounts to 31 January 2011 = £8,000

2009 Assessment (year ended 30 June 2009) (12 months) = £4,000
2010 Assessment (period 1 July 2009 to 31 January 2010) (7 months) = £6,000
2011 Assessment (year ended 31 January 2011) (12 months) = £8,000

OR .....if the Comptroller is of the opinion that the change of date was not made in good
faith and for the purposes facilitating the good management of the business.

2009 Assessment (year ended 30 June 2009) (12 months) = £4,000
2010 Assessment (year ended 31 January 2010) (12 months) = £7,667*
2011 Assessment (year ended 31 January 2011) (12 months) = £8,000

*Accounts for period 1 February 2009 to 30 June 2009 (£4,000 x 5/12) = £1,667
Accounts for period 1 July 2009 to 31 January 2010 = £6,000

£7,667
(3) Where –
   (a) there is a change in the financial period for a trade, profession or vocation;
   (b) the new accounting date is neither in the same year of assessment as the
       preceding accounting date nor in the year of assessment immediately
       following that year; and
   (c) the Comptroller is of the opinion that the change is not made in good faith
       and for the purpose of facilitating the good management of the business,
       the Comptroller may –
       (i) determine an accounting date in the year of assessment
           immediately following the year of assessment in which the
           preceding accounting date fell; and
       (ii) charge the trade, profession or vocation to tax, for the year of
            assessment in which the determined accounting date falls, on the
            full amount of the balance of the profits or gains for the period of
            12 months ending on that date.

(4) The accounting date determined under paragraph (3) shall be the same day,
    in the same month, as the new accounting date.

If the accounting date is altered with the consequence that there is no accounting date in a
year, the Comptroller may determine an accounting date for that year. The date
determined will be the same day in the same month as the new accounting date that will
fall in the following year. The trade, profession or vocation is then charged to tax on the
profits or gains of the period of 12 months ending on the determined accounting date.

Example
On going business

Results
Accounts to 31 October 2009 = £4,000
Accounts for period 1 November 2009 to 31 January 2011 = £6,000
Accounts to 31 January 2012 = £8,000

2009 Assessment (year ended 31 October 2009) (12 months) = £4,000
2010 Assessment = £Nil
2011 Assessment (period 1 November 2009 to 31 January 2011) (15 months) = £6,000
2012 Assessment (year ended 31 January 2012) (12 months) = £8,000

OR ....if the Comptroller is of the opinion that the change of date was not made in good
faith and for the purposes facilitating the good management of the business.
2009 Assessment (year ended 31 October 2009) (12 months) = £4,000
2010 Assessment (year ended 31 January 2010) (12 months) = £4,200*
2011 Assessment (period 1 November 2009 to 31 January 2011) (15 months) = £6,000
2012 Assessment (year ended 31 January 2012) (12 months) = £8,000

* Year ended 31 October 2009 (£4,000 x 9/12) = £3,000
Period ended 31 January 2011 (£6,000 x 3/15) = £1,200
£4,200

64C Commencement of trade, profession or vocation

(1) Subject to paragraph (2), where a trade, profession or vocation is set up and commenced, tax shall first be charged for the year of assessment in which the first financial period ends, on the full amount of the balance of the profits or gains of the trade, profession or vocation for that period.

If the first financial period for the trade, profession or vocation ends within the year of assessment in which it is started up (the first year), the trade, profession or vocation will be assessed for that year on the profits or gains of that first financial period.

Example
Trade commences 1 July 2009

Results.
Accounts for period 1 July 2009 to 31 December 2009 = £4,000
Accounts to 31 December 2010 = £6,000
Accounts to 31 December 2011 = £8,000
2009 Assessment (period 1 July 2009 to 31 December 2009) (6 months) = £4,000
2010 Assessment (year ended 31 December 2010) (12 months) = £6,000
2011 Assessment (year ended 31 December 2011) (12 months) = £8,000

Where the first financial period ends in the year following the year of assessment (the second year) the trade, profession or vocation is assessed to tax for the first time in the second year, on the profits or gains of the first financial period.
Example
Trade commences 1 July 2009
Results.
Accounts for period 1 July 2009 to 31 January 2010 = £4,000
Accounts to 31 January 2011 = £6,000
Accounts to 31 January 2012 = £8,000

2009 Assessment = £Nil
2010 Assessment (period 1 July 2009 to 31 January 2010) (7 months) = £4,000
2011 Assessment (year ended 31 January 2011) (12 months) = £6,000
2012 Assessment (year ended 31 January 2012) (12 months) = £8,000

(2) Where the first financial period of the trade, profession or vocation does not end in the first year of assessment or the second year of assessment, the Comptroller shall determine an accounting date in the second year of assessment for it.

(3) Subject to paragraph (4), the accounting date determined under paragraph (2) shall be the same day, in the same month, as the accounting date which falls in the third year of assessment.

If the end of the first financial period falls in the third year the trade, profession or vocation will be taxed in the second year on the basis of an accounting date determined by the Comptroller. As in Article 64B, the date determined will be the same day in the same month as the accounting date that falls in the following year. In that case, when the trade, profession or vocation is taxed in the third year, any profits or gains already taxed in the second year are deducted before the assessment is made.

Example
Trade commences 1 September 2009
Results.
Accounts for period 1 September 2009 to 31 January 2011 = £8,000
Accounts to 31 January 2012 = £4,000
Accounts to 31 January 2013 = £6,000
2009 Assessment = £Nil
2010 Assessment (period 1 September 2009 to 31 January 2010) (5 months) = £2,353*
2011 Assessment (period 1 September 2009 to 31 January 2011) (12 months) = £5,647**
2012 Assessment (year ended 31 January 2012) (12 months) = £4,000
2013 Assessment (year ended 31 January 2013) (12 months) = £6,000

* Determined accounting date is 31 January 2010
  £8,000 x 5/17 = £2,353
** Period 1 September 2009 to 31 January 2011 = £8,000
  Less assessed in 2010 assessment = £2,353 (see paragraph (5) below)
  £5,647

(4) Where there is more than one accounting date in the third year of assessment, the first of those dates shall be used for the purposes of paragraph (3).

Example
Trade commences 1 September 2009

Results
Accounts for period 1 September 2009 to 31 January 2011 = £8,000
Accounts for period 1 February 2011 to 30 June 2011 = £4,000
Accounts to 30 June 2012 = £6,000
2009 Assessment = £Nil
2010 Assessment (period 1 September 2009 to 31 January 2010) (5 months) = £2,353*
2011 Assessment (period 1 September 2009 to 30 June 2011) (17 months) = £9,647**
2012 Assessment (year ended 30 June 2012) (12 months) = £6,000

* Determined accounting date is 31 January 2010
  £8,000 x 5/17 = £2,353
** Period 1 September 2009 to 31 January 2011 = £8,000
  Period 1 February 2011 to 30 June 2011 = £4,000
  £12,000
  Less assessed in 2010 assessment = £2,353 (see paragraph (5) below)
  £9,647
(5) Where the profits or gains of a trade, profession or vocation are charged to tax in the second year of assessment by virtue of an accounting date being determined under paragraph (2), tax shall be charged for the third year of assessment on the full amount of the balance of the profits or gains of the first financial period, after deduction of an amount equal to the profits or gains charged to tax in the second year of assessment by virtue of paragraph (2).

(6) For the purposes of this Article and Article 64D –

‘first financial period’, in relation to a trade, profession or vocation, means the financial period beginning on the day it is set up and commenced;
‘first year of assessment’, in relation to a trade, profession or vocation, means the year in which it is set up and commenced;
‘second year of assessment’ means the year following the first year of assessment;
‘third year of assessment’ means the year following the second year of assessment.

64D Discontinuance of trade, profession or vocation

This Article states the rule applicable when a trade, profession or vocation is discontinued. The assessment is made, for the year of assessment in which the discontinuance occurs, on the profits or gains for the period from the end of the last financial period to the date of discontinuance. In most cases this will be a period of less than 12 months. If a trade, profession or vocation is discontinued in the year it is started up, or in the year after that, it will be assessed to tax on the profits or gains of the single period from start up to discontinuance.
Subject to paragraphs (2) and (3), where a trade, profession or vocation is permanently discontinued, tax shall be charged, in the year of assessment in which the discontinuance occurs, on the full amount of the balance of the profit or gains for the period beginning on the day following the accounting date preceding the date of discontinuance and ending on the date of discontinuance.

Example 1
Trade ceased 31 March 2012

Results.
Accounts to 31 December 2010 = £6,000
Accounts to 31 December 2011 = £8,000
Accounts for period 1 January 2012 to 31 March 2012 = £2,000

2010 Assessment (year ended 31 December 2010) (12 months) = £6,000
2011 Assessment (year ended 31 December 2011) (12 months) = £8,000
2012 Assessment (period 1 January 2012 to 31 March 2012) (3 months) = £2,000

Example 2
Trade ceased 31 March 2012

Results.
Accounts to 30 September 2010 = £6,000
Accounts to 30 September 2011 = £8,000
Accounts for period 1 October 2011 to 31 March 2012 = £4,000

2010 Assessment (year ended 30 September 2010) (12 months) = £6,000
2011 Assessment (year ended 30 September 2011) (12 months) = £8,000
2012 Assessment (period 1 October 2011 to 31 March 2012) (6 months) = £4,000
Where, in the year of assessment in which the trade, profession or vocation is permanently discontinued, there are one or more accounting dates preceding the date of discontinuance, tax shall be charged on the aggregate of the full amounts of the balance of profits or gains for each financial period ending on those dates and for the period described in paragraph (1).

Example
Trade ceased 31 December 2011

Results
Accounts to 30 June 2010 = £6,000
Accounts to 30 June 2011 = £8,000
Accounts for period 1 July 2011 to 31 December 2011 = £2,000

2010 Assessment (year ended 30 June 2010) (12 months) = £6,000
2011 Assessment (period 1 July 2010 to 31 December 2011) (18 months) = £10,000*

* Year ended 30 June 2011 = £8,000
  Period 1 July 2011 to 31 December 2011 = £2,000
  £10,000

Example 1 (Cessation in year 1)
Trade commenced 1 January 2010
Trade ceased 30 September 2010

Results
Accounts for period 1 January 2010 to 30 September 2010
2010 Assessment (period 1 January 2010 to 30 September 2010) (9 months) = £8,000
**Example 2 (Cessation in year 2)**

Trade commenced 1 January 2010  
Trade ceased 30 March 2011

**Results**

Accounts for period 1 January 2010 to 30 March 2011 = £10,000

2010 Assessment = £Nil  
2011 Assessment (period 1 January 2010 to 30 March 2011) (15 months) = £10,000

**Example 3 (Cessation in year 3)**

Trade commenced 1 October 2010  
Trade ceased 30 March 2012

**Results**

Accounts for period 1 October 2010 to 31 December 2010 = £2,000  
Accounts to 31 December 2011 = £6,000  
Accounts for period 1 January 2012 to 30 March 2012 = £1,000

2010 Assessment (period 1 October 2010 to 31 December 2010) (3 months) = £2,000  
2011 Assessment (year ended 31 December 2011) (12 months) = £6,000  
2012 Assessment (period 1 January 2012 to 30 March 2012) (3 months) = £1,000

**Example 4 (Cessation in year 3)**

Trade commenced 1 October 2010  
Trade ceased 30 March 2012

**Results**

Accounts for period 1 October 2010 to 31 December 2011 = £8,000  
Period 1 January 2012 to 30 March 2012 = £1,000

2010 Assessment = £Nil  
2011 Assessment (period 1 October 2010 to 31 December 2011) (15 months) = £8,000  
2012 Assessment (Period 1/1/12 to 30/3/12) (3 months) = £1,000
This Article provides that a trade, profession or vocation that transfers to or from Jersey is taxed, for the year in which the transfer occurs, on such portion of its profits or gains for the financial period ending in that year as equates to the portion of the year for which it is carried on in Jersey.

**Example 1**

Transfer of trade to Jersey on 1 July 2010

**Results**

Accounts to 31 December 2010 = £6,000

Accounts to 31 December 2011 = £8,000

2010 Assessment (period 1 July 2010 to 31 December 2010) (6 months) = £3,000*

2011 Assessment (year ended 31 December 2011) (12 months) = £8,000

* Year ended 31 December 2010 = £6,000 x ½ = £3,000

**Example 2**

Transfer of trade outside of Jersey on 1 July 2011

**Results**

Accounts to 31 December 2010 = £6,000

Accounts to 31 December 2011 = £8,000

2010 Assessment (year ended 31 December 2010) (12 months) = £6,000

2011 Assessment (period 1 January 2011 to 1 July 2011) (6 months) = £4,000*

* Year ended 31 December 2011 = £8,000 x ½ = £4,000
64F Apportionment of profits or gains of trade, profession or vocation

(1) Where the period for which tax is to be charged on the full amount of the balance of the profits or gains of a trade, profession or vocation does not coincide with a financial period, the full amount of the balance of the profits or gains for the financial periods which overlap with the period for which tax is to be charged shall be apportioned so as to arrive at the full amount of the balance of the profits or gains for the period for which tax is to be charged.

(2) Where the full amount of the balance of the profits or gains for the period for which tax is to be charged, determined in accordance with paragraph (1), does not, in the opinion of the Comptroller, fairly represent the full amount of the balance of the profits or gains of the period for which tax is to be charged, the Comptroller may direct that the apportionment shall be made another way.

This Article provides a method for apportioning profits or gains where a trade profession or vocation is to be assessed on a period other than its financial period. For example, where a new trade, profession or vocation is to be taxed in the second year of assessment on the basis of an accounting date determined by the Comptroller (see Article 64C) or where a trade, profession or vocation which has changed its accounting date is to be taxed on a 12 month period (see Article 64B(2)). If the method provided does not appear to the Comptroller to produce an amount of profits or gains that fairly represents the profits or gains of the trade, profession or vocation for the period in question, the Comptroller may direct that a different method of apportionment be used.

Example
Trade commences 1 September 2009

Results
Accounts for period 1 September 2009 to 31 January 2011 = £8,000
Accounts to 31 January 2012 = £4,000
Accounts to 31 January 2013 = £6,000

Period for which tax is to be charged for 2010....1 September 2009 to 31 January 2010
Covered in financial period ..... 1 September 2009 to 31 January 2011
Profits for financial period = £8,000
Apportionment calculation (by months)

2009 Assessment = £Nil
2010 Assessment (period 1 September 2009 to 31 January 2010) (5 months) = £2,353*
2011 Assessment (period 1 September 2009 to 31 January 2011) (12 months) = £5,647**
2012 Assessment (year ended 31 January 2012) (12 months) = £4,000
2013 Assessment (year ended 31 January 2013) (12 months) = £6,000

* Determined accounting date is 31 January 2010

£8,000 x 5/17 = £2,353

** Period 1 September 2009 to 31 January 2011 = £8,000
Less assessed in 2010 assessment = £2,353
£5,647

OR

Trade commences 1 September 2009

Results

Accounts for period 1 September 2009 to 31 January 2011 = £8,000
Accounts to 31 January 2012 = £4,000
Accounts to 31 January 2013 = £6,000

- £8,000 profit fell in the period 1 September 2009 to 31 January 2010
- £Nil profit fell in the period 1 February 2010 to 31 January 2011

The Comptroller may determine the assessments as follows.

2009 Assessment = £Nil
2010 Assessment (period 1 September 2009 to 31 January 2010) (5 months) = £8,000*
2011 Assessment (period 1 September 2009 to 31 January 2011) (12 months) = £Nil**
2012 Assessment (year ended 31 January 2012) (12 months) = £4,000
2013 Assessment = £6,000

* Determined accounting date is 31 January 2010
** Period 1 September 2009 to 31 January 2011 = £8,000
Less assessed in 2010 assessment = £8,000
£Nil
64G Liability of executors or administrators for tax on the profits or gains of a trade, profession or vocation

In the case of the death of a person who, if he or she had not died, would have been chargeable to income tax for any year under Articles 64A to 64E, the tax which would have been so chargeable –

(a) shall be assessed and charged on the person’s executors or administrators; and

(b) shall be a debt due from and payable out of the person’s estate.

This Article provides that, where a person dies before the charge to tax arises on the profits or gains of a trade, profession or vocation, the tax is instead charged on, and paid out of, the person’s estate.

64H Deduction from profits or gains of trade or profession for premiums payable

(1) Where any land in Jersey is occupied for the purposes of any trade or profession, a deduction shall be allowed, in calculating the full amount of the balance of the profits or gains arising from that trade or profession, for any premium paid in consideration of the grant of a lease or sub-lease, or for the assignment of a lease, of that land to the extent that the premium has been charged to tax under Schedule A of this Law.

(2) In this Article ‘land’ and ‘premium’ have the same meanings as in Part 8.”.

This Article re-enacts what is now Article 69 of the principal Law, so that provisions about the assessment of the profits or gains of a trade, profession or vocation are grouped together in the principal Law. The Article allows a premium paid for the grant or assignment of a lease of land that is occupied for the purposes of a trade or profession to be deducted from its profits or gains, if the premium has been brought into the charge to tax under Schedule A.
**6 Article 65 amended**

(1) In the heading to Article 65 of the principal Law, for the words “under Cases I and II” there shall be substituted the words “for offices, employments and pensions”.

(2) In paragraph (1) of Article 65 of the principal Law –
   (a) for the words “Cases I and II” there shall be substituted the words “Case II”;
   (b) sub-paragraph (a) shall be deleted.

*Article 6* amends Article 65 of the principal Law consequentially upon the insertion of new Articles creating a separate regime for the assessment of trades, professions or vocations. As amended, Article 65 is concerned only with the basis of assessment for the emoluments of an office or employment or a pension.

**7 Article 66 to 69 repealed**

Articles 66 to 69 shall be repealed.

*Article 7* repeals Articles 66 to 69 of the principal Law as these are replaced by the new Articles inserted by Article 5.

Repealed:-

- Article 66...Period of computation at commencement of trade, profession or vocation.
- Article 67...Option as to period of computation for the 2 years next after commencement of trade, profession or vocation.
- Article 68...Period of computation on discontinuance of trade, profession or vocation.
- Article 69...Deduction for premiums payable.

**8 Article 149A amended**

In Article 149A of the principal Law, for the words “Schedule 5” there shall be substituted the words “Schedules 5 and 6”.

*Article 8* amends Article 149A of the principal Law so as to give effect to the new Schedule 6 added by Article 9.

So as to read...

Article 149A...Savings and transitional provisions: general.

Schedules 5 and 6 shall have effect to make transitional provisions and savings consequential upon amendments to this law.
Article 9 adds a new Schedule 6 to the principal Law. Schedule 6 contains transitional provisions for the assessment of existing trades, professions and vocations in 2008.

“SCHEDULE 6
(Article 149A)

TRANSITIONAL ARRANGEMENTS IN AND RELATED TO 2008 FOR BASIS OF COMPUTATION FOR TRADE, PROFESSION OR VOCATION

1 Basis of computation in 2008 for existing trade, profession or vocation

This paragraph states the general rule that, in 2008, a trade, profession or vocation which was assessed on a preceding year end basis in 2007 will be assessed on one half of the aggregate of its profits or gains for the financial periods ending in 2007 and 2008. Its capital allowances will be determined for the same aggregate period. In the event that the aggregate period includes a period of loss for which relief has already been given, the aggregate amount of profits or gains will be adjusted to take account of the relief. This paragraph also contains an alternative means of calculating the profits or gains of the trade, profession or vocation where a change in accounting date results in an aggregate period of less than 24 months. In this case, instead of taxing the trade, profession or vocation on one half of its profits or gains for the aggregate period, the profits or gains are pro-rated so as to find an amount of profits applicable to a 12 month period.

(1) This paragraph applies in the case of a trade, profession or vocation which, for the year of assessment 2007, was charged to tax in accordance with Article 65(1) in the case described in sub-paragraph (a) of that provision.
65 General provisions as to period of computation under Cases I and II

(1) Subject to the provisions of Articles 66, 67 and 68, tax shall be charged under Cases I and II of Schedule D –

(a) in the case of a trade, profession or vocation, on the full amount of the balance of the profits or gains for the year ending on that day of the year immediately preceding the year of assessment on which the accounts of the trade, profession or vocation have been usually made up, or on 31st December preceding the year of assessment;

(2) Notwithstanding Article 64A but subject to sub-paragraph (3), tax shall be charged in the case of the trade, profession or vocation for the year of assessment 2008 on one half of the aggregate of the full amount of the profits or gains of the trade, profession or vocation for the financial periods ending in 2007 and 2008.

Ongoing businesses.

Example 1

Results.

Accounts to 30 September 2007 = £15,000
Accounts to 30 September 2008 = £25,000

£40,000 \( \div 2 \) = £20,000

2008 Assessment = £20,000

Example 2

Results.

Accounts to 30 September 2007 = £15,000
Accounts to 30 September 2008 = (£10,000)

£ 5,000 \( \div 2 \) = £2,500

2008 Assessment = £2,500

Example 3

Results.

Accounts to 30 September 2007 = (£15,000)
Accounts to 30 September 2008 = (£10,000)

(£25,000) \( \div 2 \) = (£12,500)

2008 Assessment = £Nil

Average loss = (£12,500)
(3) Where, by virtue of a change in an accounting date, the aggregate of the financial periods ending in 2007 and 2008 for a trade, profession or vocation is less than 24 months, tax shall be charged on the product of the following formula –

\[ \frac{A \times 365}{D} \]

Where –

\( A \) is the aggregate of the full amount of the profits or gains of the trade, profession or vocation for the financial periods ending in 2007 and 2008

\( D \) is the aggregate of the number of days in those financial periods.

**Example 1**

**Results.**

Change of accounting date from 30 September to 31 January.

Accounts to 30 September 2006 = £10,000
Accounts to 31 January 2007 = £15,000 (123 days)
Accounts to 31 January 2008 = £20,000 (365 days)

\[ \frac{£35,000 \times 365}{488} = £26,178 \]

2007 Assessment = £10,000
2008 Assessment = £26,178
2009 Assessment = £25,000

**Example 2**

**Results.**

Change of accounting date from 30 September to 31 January.

Accounts to 30 September 2006 = £10,000
Accounts to 30 September 2007 = (£15,000) (365 days)
Accounts to 31 January 2008 = £20,000 (123 days)

\[ \frac{5,000 \times 365}{488} = £5,000 \]

2007 Assessment = £10,000
2008 Assessment = £20,000
2009 Assessment = £5,000
Accounts to 31 January 2009 = £25,000

£5,000 x 365 days = £3,740
488 days

2007 Assessment = £10,000
2008 Assessment = £3,740
2009 Assessment = £25,000

(4) Notwithstanding Article 106C(5), the basis period for the purposes of Articles 106A and 106B shall be the same as the aggregate of the financial periods ending in 2007 and 2008.

Capital Allowances.

Article 106C.

(5) In this Part “basis period” means, in the case of a person to or on whom an allowance or charge falls to be made in charging the profits of the person’s trade, the period on the profits of which tax for the year of assessment falls to be finally computed in respect of that trade:

Provided that, in the case of any trade –

(a) where 2 basis periods overlap, the period common to both shall be deemed for the purposes of this paragraph to fall in the first basis period only;

(b) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then, unless the second mentioned year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to form part of the second basis period; and

(c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period.
Notwithstanding the above, capital allowances for 2008 will be based on expenditure (plus any residual value of qualifying capital expenditure brought forward) in the accounting periods used in computing the profits and gains for the year of assessment 2008.

**Example**

**Results.**

Accounts to 31 March 2007.

Accounts to 31 March 2008.

Thus, the basis period for the year of assessment 2008 is the 24 months from 1 April 2006 to 31 March 2008 and the capital allowances for the year of assessment 2008 will be based on:

- residual value of plant and machinery held at 31 March 2006 (i.e. after 2007 allowances), plus
- any additions and disposals in period 1 April 2006 to 31 March 2008.

Residual value brought forward after 2007 allowance  = £1,000

Add additions in period 1 April 2006 to 31 March 2008 = £2,000

Less disposals in period 1 April 2006 to 31 March 2008 = £500

2008 capital allowances 25% = £625

Residual value carried forward at 31 March 2008 = £1,875

(5) Where the aggregate amount of profits or gains determined in accordance with sub-paragraph (2) or (3) has been adjusted, pursuant to Article 107 or 108, by reference to a loss sustained for the year of assessment 2007, an amount equal to the amount of relief already given shall be credited to the amount on which tax is to be charged by virtue of sub-paragraph (2) or (3).

Where a loss arises for the year of assessment 2007 and a claim has been made for loss relief, the amount of relief given shall be credited to the sum of the profits and gains computed for the purpose of determining the 2008 assessment.
**Example**

**Results.**
Accounts to 30 June 2007 = (£6,000)  
Accounts to 30 June 2008 = £2,000

Computation of Article 107 on strict basis ...year of assessment 2007.

\[
\frac{1}{2} \times (£6,000) = (£3,000) \\
\frac{1}{2} \times £2,000 = £1,000 \\
\text{(£2,000)} \quad \text{Article 107 loss sustained for the year of assessment 2007.}
\]

Computation of 2008 assessment.

 Accounts to 30 June 2007 = (£6,000)  
 Accounts to 30 June 2008 = £2,000  
 \((£4,000) \div 2 = (£2,000)\)  

Credit Article 107 loss = £2,000  
2008 Assessment = £Nil

No losses carried forward.

**Or by concession (see paragraph 37 in Concession & Practice)**

Article 107 relief claimed for the year of assessment 2007 using the loss for the financial period ended 30 June 2007 = (£6,000).

Computation of 2008 assessment.

 Accounts to 30 June 2007 = (£6,000)  
 Accounts to 30 June 2008 = £2,000  
 \((£4,000) \div 2 = (£2,000)\)  

Credit Article 107 loss = £6,000  
2008 Assessment = £4,000

No losses carried forward.
(6) Where, apart from this sub-paragraph, relief would be allowed in respect of losses sustained in a trade, profession or vocation in a financial period ending in 2008 instead of in respect of losses sustained in that year –

(a) for the purposes of Articles 107 to 108, the amount of losses taken to have been sustained in the trade, profession or vocation shall be one half of the aggregate of the losses sustained in the financial periods ending in 2007 and 2008; and

(b) without prejudice to any relief already given and to which sub-paragraph (5) applies, no relief shall be granted under those Articles in respect of the remainder of the aggregate of those losses.

This paragraph states that any loss in the financial period ending in 2008 shall not, for the purposes of Articles 107 to 108, be determined by reference to the financial period ending in 2008 but rather to one half of losses sustained in the financial periods ending in 2007 and 2008.

Example

Results.

Accounts to 30 March 2007 = £10,000
Account to 30 March 2008 = (£15,000)

\[ \frac{(-£15,000)}{-£5,000} \div 2 = £(2,500) \]

2008 assessment = £Nil

For the purposes of Article 107 to 108 the loss for the year of assessment 2008 is as follows.

Accounts to 30 March 2007 = £10,000
Account to 30 March 2008 = (£15,000)

\[ \frac{(-£15,000)}{-£5,000} \div 2 = £(2,500) \]

AND NOT £(15,000).

The effect of paragraph (b) is that, having applied the transitional rules, no further loss relief is available under Articles 107 to 108.
This paragraph applies to a trade, profession or vocation started up in 2006 or 2007. In 2008, the trade profession or vocation shall be assessed according to the rule in paragraph 1, except that the aggregate of its profits or gains shall be adjusted to incorporate amounts which were not brought into charge in 2006 or 2007 and to exclude amount which were brought into charge in those years.

(1) This paragraph applies in the case of a trade, profession or vocation commenced and set up in 2006 or 2007.

(2) Notwithstanding Articles 64A and 64C, tax shall be charged for the year of assessment 2008 on the full amount of the profits or gains of the trade, profession or vocation for the financial period ending in 2008 save that –
   (a) there shall be included in that amount any profits or gains which have not been charged to tax in 2006 or 2007;
   (b) there shall be excluded from that amount any profits or gains which have been charged to tax in 2006 or 2007.

Example 1
Trade commences 1 July 2006.

Results.
Accounts to 30 June 2007 = £2,000
Accounts to 30 June 2008 = £1,000
Accounts to 30 June 2009 = £4,000

2006 Assessment (1 July 2006 to 31 December 2006) (6 months) = £1,000 *
2007 Assessment (year ended 30 June 2007) (first 12 months) = £2,000
2008 Assessment (year ended 30 June 2008) (12 months) = £1,000
2009 Assessment (year ended 30 June 2009) (12 months) = £4,000

* Accounts to 30 June 2007 = £2,000 x ½ = £1,000

However, it would be beneficial if the business gave notice for the 2007 assessment to be based upon profits and gains for year ended 31 December 2007 under the provisions of Article 67 (see Schedule 5 Income Tax (Amendment No. 28) (Jersey) Law 200-: transitional provision for Article 67).
2006 Assessment (1 July 2006 to 31 December 2006) (6 months) = £1,000 *
2007 Assessment (year ended 31 December 2007) (12 months) = £1,500 **
2008 Assessment (year ended 30 June 2008) (12 months) = £500 ***
2009 Assessment (year ended 30 June 2009) (12 months) = £4,000

* Accounts to 30 June 2007 = £2,000 x ½ = £1,000

** Accounts to 30 June 2007 = £2,000 x ½ = £1,000
Accounts to 30 June 2008 = £1,000 x ½ = £500
£1,500

*** Deduct £500 from 2008 assessment as assessed twice ie in 2007.
2008 Assessment (year ended 30 June 2008) (12 months) = £1,000
Less profits or gains which have been charged to tax in 2007 = £500
£500

**Example 2**
Trade commences 1 January 2006.

**Results.**

Accounts to 31 December 2006 = £2,000
Accounts to 31 December 2007 = £1,000
Accounts to 31 December 2008 = £4,000
Accounts to 31 December 2009 = £6,000

2006 Assessment (year ended 31 December 2006) (actual) = £2,000
2007 Assessment (year ended 31 December 2006) (first 12 months) = £2,000
2008 Assessment (period ended 31 December 2008) (24 months) = £5,000*
2009 Assessment (year ended 31 December 2009) (12 months) = £6,000

* Accounts to 31 December 2007 = £1,000
Accounts to 31 December 2008 = £4,000
£5,000

[See Article 2(2)(a) above.... there shall be included any profits or gains which have not been charged to tax in 2006 or 2007]

However, it would be beneficial if the business gave notice for the 2007 assessment to be based upon profits and gains for year ended 31 December 2007 under the provisions of Article 67 (see Schedule 5 Income Tax (Amendment No. 28) (Jersey) Law 200-; transitional provision for Article 67).

2006 Assessment (year ended 31 December 2006) (actual) = £2,000
2007 Assessment (year ended 31 December 2007) (12 months) = £1,000
2008 Assessment (year ended 31 December 2008) (12 months) = £4,000
2009 Assessment (year ended 31 December 2009) (12 months) = £6,000
3  Basis of computation for trade, profession or vocation discontinued in 2008

Notwithstanding its repeal, Article 68 shall continue to apply, for the year of assessment 2008, in the case of a trade, profession or vocation that is permanently discontinued in 2008, apart from a trade, profession or vocation that is set up and commenced in that year.

Example 1

Results
Cessation of trade on 31 December 2008
Accounts to 31 December 2006 = £2,000
Accounts to 31 December 2007 = £1,000
Accounts to 31 December 2008 = £4,000

2007 Assessment (year ended 31 December 2006) (12 months) = £2,000 *
2008 Assessment (year ended 31 December 2008) (12 months) = £4,000
* Accounts to 31 December 2007 = £1,000

No penultimate year adjustment.

Example 2

Results
Cessation of trade on 31 December 2008
Accounts to 31 December 2006 = £2,000
Accounts to 31 December 2007 = £3,000
Accounts to 31 December 2008 = £4,000

2007 Assessment (year ended 31 December 2007) (12 months) = £3,000 *
2008 Assessment (year ended 31 December 2008) (12 months) = £4,000
* Accounts to 31 December 2006 = £2,000

Therefore penultimate year based on Accounts year ended 31 December 2007.

Example 3 (Commencement and cessation in year)
Trade commenced 1 January 2008
Trade ceased 30 September 2008

Results
Accounts for period 1 January 2008 to 30 September 2008 = £8,000
2008 Assessment (period 1 January 2008 to 30 September 2008) (9 months) = £8,000
4 Power of Comptroller to make adjustments and apportionments

(1) Where, in relation to the taxation of the profits or gains of a trade, profession or vocation, the effect of a transaction or of a series of transactions is the avoidance, reduction or deferral of liability of any person to the charge to tax for the year of assessment 2008, the Comptroller may, in his or her discretion, make such adjustments and apportionments as respects the liability of that person to tax as may in the opinion of the Comptroller be appropriate to counteract the avoidance, reduction or deferral of liability which would otherwise be effected by or as a result of that transaction or series of transactions.

(2) Without prejudice to the generality of sub-paragraph (1), where –

(a) the amount of the profits or gains of a trade, profession or vocation is calculated in accordance with paragraph 1; and

(b) the income so calculated is either at least 10% more, or at least 10% less, than the amount of the profits or gains of the trade, profession or vocation charged to tax in the year of assessment 2007,

it shall be presumed that there has been a transaction which has resulted in the avoidance, reduction or deferral of the liability of a person to the charge for tax for the year of assessment 2008 and, subject to sub-paragraph (3), the Comptroller may exercise his or her powers under sub-paragraph (1) accordingly.

(3) The presumption in sub-paragraph (2) shall be rebutted if the person shows, to the satisfaction of the Comptroller –

(a) that no such transaction has occurred; or

(b) that the profits or gains of the trade, profession or vocation for the financial periods ending in 2007 and 2008 were computed in accordance with the ordinary commercial principles applicable to the computation of such profits or gains.

(4) This paragraph is without prejudice to the generality of Article 134A.

This paragraph empowers the Comptroller to make adjustments and apportionments where a transaction or series of transactions is entered into for the avoidance, reduction or deferral of liability of tax in 2008 relating to the profits or gains of a trade, profession or vocation. In addition, there is a presumption that, if the profits or gains brought into charge in 2008 by virtue of paragraph 1 are more than 10% greater or less than the profits or gains brought into charge in 2007, there is a presumption that there has been a transaction to which the Comptroller’s powers of adjustment apply. However the presumption can be rebutted by showing that there has been no such transaction or that the profits or gains for the financial periods ending in 2007 and 2008 have been computed in accordance with ordinary commercial principles.
**Example 1**

Results

Accounts to 31 December 2006 = £5,000  
Accounts to 31 December 2007 = £10,000  
Accounts to 31 December 2008 = £12,000  
Accounts to 31 December 2009 = £6,000

2007 Assessment (year ended 31 December 2006) (12 months) = £5,000  
2008 Assessment (average of 24 months ended 31 December 2008) = £11,000 *  
2009 Assessment (year ended 31 December 2009) (12 months) = £6,000  
* Accounts to 31 December 2007 = £10,000  
  Accounts to 31 December 2008 = £12,000  
  £22,000 ÷ 2 = £11,000

2007 Assessment = £5,000  
2008 Assessment = £11,000 [46% more than 2007 assessment]

Comptroller may make adjustments and apportionments to counteract any avoidance, reduction or deferral of tax for the year of assessment 2008.

**Example 2**

Results

Accounts to 31 December 2006 = £10,000  
Accounts to 31 December 2007 = £5,000  
Accounts to 31 December 2008 = £6,000  
Accounts to 31 December 2009 = £12,000

2007 Assessment (year ended 31 December 2006) (12 months) = £10,000  
2008 Assessment (average of 24 months ended 31 December 2008) = £5,500 *  
2009 Assessment (year ended 31 December 2009) (12 months) = £12,000  
* Accounts to 31 December 2007 = £5,000  
  Accounts to 31 December 2008 = £6,000  
  £11,000 ÷ 2 = £5,500

2007 Assessment = £10,000  
2008 Assessment = £5,500 [45% less than 2007 assessment]

Comptroller may make adjustments and apportionments to counteract any avoidance, reduction or deferral of tax for the year of assessment 2008.
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<td>Article 64G shall apply to the charge to income tax under paragraphs 1 and 2 as it applies to the charge to income tax under Articles 64A to 64E.”.</td>
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<th>Years of assessment for which Part 2 has effect</th>
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<td>This Part shall have effect for the year of assessment 2008 and ensuing years.</td>
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