

## Amendments 12 to 16 to Clause 16 Schedule 2: Calculation of profits of trades and property businesses

### Summary

1. These amendments ensure that the definition of relevant property business does not prevent those who stop using a property for their business, but hold the same interest in it at end of the tax year or day the property business ceases, from using this property in their considerations of whether they meet the conditions of New Section 307C of Income Tax and Other Income Act (ITTOIA) 2005 Cash Basis: deduction for cost of loans.

### Details of the amendments

2. Amendments 12, 13, and 14 remove the references to the last day of the tax year and on that day in New Section 307C(4) and (7) of ITTOIA 2005 and replaces them with the end time. This ensures that when the property business ceases during the tax year the amount of the principal outstanding on a relevant loans is considered at the time of cessation and not at a later time.
3. Amendment 15 extends the definition of a “relevant property” in New Section 307C(8) ITTOIA 2005 to include properties that have been used in the property business during the tax year, are not used in the property business at the end time, but are still held by the person carrying on the property business. This will occur where a person ceases to rent a property out and uses that property personally instead. As property for the purpose of this section means an estate, interest or right over land, it must be the same estate, interest or right over land that has been used in the property business and is held by the person carrying on the property business at the end time in order to be considered a relevant property for purpose of this section.
4. Amendment 16 provides a definition for the end time within New Section 307C ITTOIA 2005. It includes the time immediately before the end of the tax year where a property business continues and the time immediately before the person ceases to carry on the property business where a property business ceases.

### Background note

5. These amendments correct a technical defect in Clause 16, to ensure it delivers the intended policy outcome.
6. Clause 16 extends the optional use of the cash basis to those with property

businesses.

7. The cash basis is a simpler method of calculating taxable profits and having been introduced for small businesses in 2013, is now being extended to include most unincorporated property businesses.
8. New Section 307C provides for the calculation of deductions for the cost of loans for those with a property business who choose to remain in the cash basis.
9. The intended policy outcome of this new section is to limit the amount of interest that can be deducted by those with a property business, where the value of the loans on which they have claimed interest is greater than the value of the properties that they have used in their property business. This broadly replicates the effect of a review of the capital account currently required when using General Accepted Accounting Practice (GAAP).
10. The early draft provided this intended result where:
  - a. no properties were removed from the property business during the tax year, or,
  - b. any property was removed from the property business in the tax year but was not held by the person carrying on the property business at the end of the tax year, because it was sold or otherwise disposed of.
11. The early draft did not provide the intended result where:
  - a. any property was removed from the property business in the tax year but continued to be held by the person carrying on the property business at the end of the tax year, or,
  - b. the property business ceased, but any property that had been used in the business was still held by the person carrying on the property business after the property business ceased and specifically at the end of the tax year.
12. As a result, in some circumstances, all interest paid could have been restricted even if the value of the loans on which interest had been deducted was not greater than the value of the properties used in the property business. This set of amendments corrects this.