



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 5 U.K.

MISCELLANEOUS INCOME

CHAPTER 1 U.K.

INTRODUCTION

574 Overview of Part 5 U.K.

- (1) This Part imposes charges to income tax under—
 - (a) Chapter 2 (receipts from intellectual property),
 - (b) Chapter 3 (films and sound recordings: non-trade businesses),
 - (c) Chapter 4 (certain telecommunication rights: non-trading income),
 - (d) Chapter 5 (settlements: amounts treated as income of settlor),
 - (e) Chapter 6 (beneficiaries' income from estates in administration),
 - (f) Chapter 7 (annual payments not otherwise charged), and
 - (g) Chapter 8 (income not otherwise charged).
- (2) Part 6 deals with exemptions from the charges under this Part.
- (3) See, in particular, any exemptions mentioned in the Chapters of this Part.
- (4) The charges under this Part apply to non-UK residents as well as UK residents but this is subject to section 577(2) (charges on non-UK residents only on UK source income).
- (5) This section needs to be read with the relevant priority rules (see sections 2, 575 and 576).

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

575 Provisions which must be given priority over Part 5 U.K.

- (1) Any income, so far as it falls within—
 - (a) any Chapter of this Part, and
 - (b) Chapter 2 of Part 2 (receipts of a trade, profession or vocation),
 is dealt with under Part 2.
- (2) Any income, so far as it falls within—
 - (a) any Chapter of this Part, and
 - (b) Chapter 3 of Part 3 so far as the Chapter relates to a UK property business,
 is dealt with under Part 3.
- (3) Any income, so far as it falls within—
 - (a) any Chapter of this Part, and
 - (b) Chapter 2 or 3 of Part 4 (interest and dividends etc. from UK resident companies etc.),
 is dealt with under the relevant Chapter of Part 4.
- (4) Any income, so far as it falls within—
 - (a) any Chapter of this Part, and
 - (b) Part 2, 9 or 10 of ITEPA 2003 (employment income, pension income or social security income),
 is dealt with under the relevant Part of ITEPA 2003.

576 Priority between Chapters within Part 5 U.K.

Any income, so far as it falls within Chapter 2 (receipts from intellectual property) and Chapter 3 (films and sound recordings: non-trade businesses), is dealt with under Chapter 3.

577 Territorial scope of Part 5 charges U.K.

- (1) Income arising to a UK resident is chargeable to tax under this Part whether or not it is from a source in the United Kingdom.
- (2) Income arising to a non-UK resident is chargeable to tax under this Part only if it is from a source in the United Kingdom.
- (3) References in this section to income which is from a source in the United Kingdom include, in the case of any income which does not have a source, references to income which has a comparable connection to the United Kingdom.
- (4) This section is subject to any express or implied provision to the contrary in this Part (or elsewhere in the Income Tax Acts).

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CHAPTER 2 U.K.

RECEIPTS FROM INTELLECTUAL PROPERTY

Introduction

578 Contents of Chapter U.K.

- (1) This Chapter imposes charges to income tax under—
 - (a) section 579 (royalties and other income from intellectual property),
 - (b) section 583 (income from disposals of know-how), and
 - (c) section 587 (income from sales of patent rights).
- (2) For exemptions from the charge under section 579, see, in particular, sections 727 (certain annual payments by individuals) and 758 (certain interest and royalty payments).
- (3) This Chapter also provides for relief from income tax on patent income (see section 600).

Charge to tax on non-trading income from intellectual property

579 Charge to tax on royalties and other income from intellectual property U.K.

- (1) Income tax is charged on royalties and other income from intellectual property.
- (2) In this section “intellectual property” means—
 - (a) any patent, trade mark, registered design, copyright, design right, performer's right or plant breeder's right,
 - (b) any rights under the law of any part of the United Kingdom which are similar to rights within paragraph (a),
 - (c) any rights under the law of any territory outside the United Kingdom which correspond or are similar to rights within paragraph (a), and
 - (d) any idea, information or technique not protected by a right within paragraph (a), (b) or (c).

580 Income charged under section 579 U.K.

- (1) Tax is charged under section 579 on the full amount of the income arising in the tax year.
- (2) Subsection (1) is subject to Part 8 (foreign income: special rules).
- (3) See section 582 for provision about the calculation of the amount of income charged under section 579.
- (4) This section needs to be read with section 527 of ICTA (spreading of patent royalties etc. over several years).

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581 Person liable for tax under section 579 U.K.

The person liable for any tax charged under section 579 is the person receiving or entitled to the income.

582 Deductions in calculating certain income charged under section 579 U.K.

- (1) This section applies for calculating the amount of income charged under section 579 other than annual payments.
- (2) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.
- (3) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.
- (4) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.
- (5) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.
- (6) The relief given under section 600 (relief for expenses: patent income) is additional to the relief under this section.
- (7) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of subsection (1).

Disposals of know-how

583 Charge to tax on income from disposals of know-how U.K.

- (1) Income tax is charged on profits arising where consideration is received by a person—
 - (a) for the disposal of know-how, or
 - (b) for giving, or wholly or partly fulfilling, an undertaking which—
 - (i) is given in connection with a disposal of know-how, and
 - (ii) restricts or is designed to restrict any person's activities in any way.
- (2) For the purposes of subsection (1)(b), it does not matter whether or not the undertaking is legally enforceable.
- (3) Subsection (1) is subject to the exceptions in section 584.
- (4) In this Chapter “know-how” means any industrial information or techniques likely to assist in—
 - (a) manufacturing or processing goods or materials,
 - (b) working a source of mineral deposits (including searching for, discovering or testing mineral deposits or obtaining access to them), or
 - (c) carrying out any agricultural, forestry or fishing operations.
- (5) In subsection (4)—

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- (a) “mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth and for this purpose geothermal energy is treated as a natural deposit, and
- (b) “source of mineral deposits” includes a mine, an oil well and a source of geothermal energy.

584 Exceptions to charge under section 583 U.K.

- (1) Section 583 does not apply in the following cases.
- (2) Case A is if the consideration is brought into account under—
 - (a) section 579 (charge to tax on royalties etc.), or
 - (b) section 462 of CAA 2001 (disposal values).
- (3) Case B is if the consideration is dealt with in relation to the person receiving it as a capital receipt for goodwill under section 194(2) (disposal of know-how as part of disposal of all or part of a trade).
- (4) Case C is if the disposal of the know-how is by way of a sale and—
 - (a) the buyer is a body of persons over which the seller has control,
 - (b) the seller is a body of persons over which the buyer has control, or
 - (c) the buyer and the seller are both bodies of persons and another person has control over both of them.
- (5) In subsection (4) “body of persons” includes a firm.
- (6) See also Chapter 14 of Part 2 and section 575 (disposals of know-how used in a trade dealt with by Part 2).

585 Income charged under section 583 U.K.

- (1) Tax is charged under section 583 on the full amount of the profits arising in the tax year.
- (2) The profits charged under section 583 are—
 - (a) the amount of the consideration, less
 - (b) any expenditure incurred by the recipient wholly and exclusively in the acquisition or disposal of the know-how.
- (3) Such expenditure may not be taken into account more than once, whether under this section or otherwise.
- (4) This section needs to be read with section 603 (contributions to expenditure).

586 Person liable for tax under section 583 U.K.

The person liable for any tax charged under section 583 is the person receiving the consideration.

Sales of patent rights

587 Charge to tax on income from sales of patent rights U.K.

- (1) Income tax is charged on profits from sales of the whole or part of any patent rights.

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- (2) The tax is charged if—
 - (a) the seller is a UK resident, or
 - (b) the seller is a non-UK resident and the patent is granted under the laws of the United Kingdom.
- (3) Where the seller is a non-UK resident company, tax is not charged if the seller is chargeable to corporation tax in respect of the proceeds of the sale.
- (4) In this Chapter “patent rights” means the right to do or authorise the doing of anything which, but for the right, would be an infringement of a patent.

588 Income charged under section 587 U.K.

- (1) A seller's profits from the sale of the whole or part of patent rights are—
 - (a) any capital sum comprised in the proceeds of the sale, less
 - (b) the deductible costs.
- (2) The deductible costs are—
 - (a) the capital cost (if any) of the rights sold, and
 - (b) any incidental expenses incurred by the seller in connection with the sale.
- (3) If—
 - (a) the seller acquired the rights sold, or the rights out of which they were granted, by purchase,
 - (b) the seller has previously sold part of the purchased rights, and
 - (c) the proceeds of that sale, after deducting any incidental expenses, consisted wholly or partly of a capital sum,
 the capital cost is reduced by that capital sum.
- (4) References in this Chapter to the capital cost of patent rights are to any capital sum included in any price paid by the seller to purchase—
 - (a) the rights, or
 - (b) the rights out of which they were granted.
- (5) This section needs to be read with sections 600 (relief for expenses: patent income) and 603 (contributions to expenditure).

589 Person liable for tax under section 587 U.K.

The person liable for any tax charged under section 587 is the seller of the patent rights.

590 UK resident sellers: spreading rules U.K.

- (1) This section applies if the person liable under section 587 is a UK resident.
- (2) If the person does not receive the proceeds of sale in instalments, one-sixth of the amount chargeable is taxed in the tax year in which the person receives the proceeds of the sale and in each of the next 5 tax years.
- (3) The person may elect to be taxed instead on the whole of the amount chargeable under section 587 in the tax year in which the person receives the proceeds of sale.

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- (4) If the person receives the proceeds of sale in instalments, one-sixth of the amount chargeable in respect of each instalment is taxed in the tax year in which the person receives the instalment and in each of the next 5 tax years.
- (5) The person may elect to be taxed instead on the whole of any instalment in the tax year in which the person receives it.
- (6) An election under subsection (3) or (5) must be made on or before the first anniversary of the normal self-assessment filing date for that tax year.

591 Non-UK resident sellers: election for spreading **U.K.**

- (1) If the person liable under section 587—
 - (a) is a non-UK resident, and
 - (b) does not receive the proceeds of sale in instalments,the whole amount chargeable is taxed in the tax year in which the person receives the proceeds.
- (2) The person may elect to be taxed instead on one-sixth of the amount chargeable in the tax year in which the person receives the proceeds of sale and in each of the next 5 tax years.
- (3) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the proceeds of sale are received.
- (4) Such repayments and assessments are to be made for each of the tax years affected as are necessary to give effect to the election.
- (5) Subsection (4) is subject to the qualifications in section 596 (adjustments where tax has been deducted).

592 Further provision about elections for spreading: instalments **U.K.**

- (1) If the person liable under section 587—
 - (a) is a non-UK resident, and
 - (b) receives the proceeds of sale in instalments,the amount chargeable in respect of each instalment is taxed in the tax year in which the person receives the instalment.
- (2) The person may, for any instalment, elect to be taxed instead on one-sixth of the amount chargeable in respect of the instalment in the tax year in which the person receives it and in each of the next 5 tax years.
- (3) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the instalment is received.
- (4) Such repayments and assessments are to be made for each of the tax years affected as are necessary to give effect to the election.
- (5) Subsection (4) is subject to the qualifications in section 596 (adjustments where tax has been deducted).

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593 Death of seller **U.K.**

- (1) If a seller who is liable to income tax under section 587 dies, any amounts which would have been chargeable in later tax years under—
 - (a) section 590(2) or (4) (UK resident sellers: spreading rules), or
 - (b) section 591(2) or 592(2) (non-UK resident sellers: elections for spreading),
 are taxed in the tax year in which the seller dies.
- (2) The personal representatives may elect that the tax payable by reason of subsection (1) be reduced to the total amount of income tax that the seller and the estate would have been liable to pay if the amounts chargeable by reason of that subsection had been taxed in equal parts in each of the lifetime tax years.
- (3) In subsection (2) “the lifetime tax years” means—
 - (a) the tax year in which the seller received the proceeds or, as the case may be, the instalment, and
 - (b) each of the next tax years up to and including that in which the seller died.
- (4) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the death occurs.

594 Winding up of a body corporate **U.K.**

- (1) If a body corporate which is liable to income tax under section 587 commences to be wound up, any amounts falling within subsection (2) are taxed in the year in which the winding up commences.
- (2) The amounts are—
 - (a) any amounts which would have been chargeable in later tax years under section 591(2) or 592(2), and
 - (b) any amounts (arising to the body in a fiduciary or representative capacity) which would have been chargeable in later tax years under section 590(2) or (4).

595 Deduction of tax from payments to non-UK residents **U.K.**

- (1) This section applies if a person who is a non-UK resident is liable to tax under section 587 on profits from the sale of the whole or part of any patent rights.
- (2) The rules in section 588 allowing the capital cost (if any) of the rights sold to be deducted in calculating the profits from the sale do not affect the amount of income tax which (by virtue of section 349ZA of ICTA: application of rules for deduction of income tax by the payer) is to be—
 - (a) deducted under section 349(1) of ICTA, and
 - (b) assessed under section 350 of that Act (assessment on the payer).
- (3) No election made by the seller under section 591(2) or 592(2) (election for spreading) in relation to the proceeds of sale or any instalment affects the amount of income tax which (by virtue of section 349ZA of ICTA: application of rules for deduction of income tax by the payer) is to be—
 - (a) deducted from the proceeds of sale or instalment under section 349(1) of ICTA, and
 - (b) assessed under section 350 of that Act.

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596 Adjustments where tax has been deducted **U.K.**

- (1) Where any sum has been deducted from a payment by virtue of section 595(2), any adjustment necessary—
 - (a) because of section 595(2), or
 - (b) because of an election under section 591(2) or 592(2),must be made by way of repayment of tax.
- (2) Adjustments necessary to give effect to an election under section 591(2) or 592(2) must be made year by year, treating one-sixth of the sum deducted from the proceeds of sale or instalment as income tax paid for each of the 6 years.
- (3) No repayment is to be made of any tax treated under subsection (2) as income tax paid for a particular year unless and until it is ascertained that the income tax ultimately falling to be paid for that year is less than the amount which was paid for that year.

597 Licences connected with patents **U.K.**

- (1) The acquisition of a licence in respect of a patent is treated for the purposes of sections 587 to 596 as a purchase of patent rights.
- (2) The grant of a licence in respect of a patent is treated for the purposes of sections 587 to 596 as a sale of part of patent rights.
- (3) But the grant by a person entitled to patent rights of an exclusive licence is treated for the purposes of sections 587 to 596 as a sale of the whole of those rights.
- (4) In subsection (3) “exclusive licence” means a licence to exercise the rights to the exclusion of the grantor and all other persons for the period remaining until the rights come to an end.

Modifications etc. (not altering text)

- C1** Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883(1), [Sch. 1 para. 149](#) (with [Sch. 2](#)))
Ss. 597-599 applied (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 910\(4\)](#), 1034 (with transitional provisions and savings in [Sch. 2](#))

598 Rights to acquire future patent rights **U.K.**

- (1) If a sum is paid to obtain a right to acquire future patent rights, then for the purposes of sections 587 to 596—
 - (a) the payer is treated as purchasing patent rights for that sum, and
 - (b) the recipient is treated as selling patent rights for that sum.
- (2) If a person—
 - (a) pays a sum to obtain a right to acquire future patent rights, and
 - (b) subsequently acquires those rights,the expenditure is to be treated for the purposes of sections 587 to 596 as having been expenditure on the purchase of those rights.

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- (3) In this section “a right to acquire future patent rights” means a right to acquire in the future patent rights relating to an invention in respect of which the patent has not yet been granted.

Modifications etc. (not altering text)

- C2** Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883(1), [Sch. 1 para. 149](#) (with [Sch. 2](#)))
Ss. 597-599 applied (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. [910\(4\)](#), 1034 (with transitional provisions and savings in [Sch. 2](#))

599 Sums paid for Crown use etc. treated as paid under licence U.K.

- (1) This section applies if an invention which is the subject of a patent is used by or for the service of—
- (a) the Crown under sections 55 to 59 of the Patents Act 1977 (c. 37), or
 - (b) the government of a country outside the United Kingdom under corresponding provisions of the law of that country.
- (2) The use is treated for the purposes of sections 587 to 596 as having taken place under a licence.
- (3) Sums paid in respect of the use are treated for the purposes of sections 587 to 596 as having been paid under a licence.

Modifications etc. (not altering text)

- C3** Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883(1), [Sch. 1 para. 149](#) (with [Sch. 2](#)))
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Relief from income tax on patent income

600 Relief for expenses: patent income U.K.

- (1) Relief may be claimed under this section for—
- (a) inventor's expenses, and
 - (b) patent application and maintenance expenses.
- (2) In this section “inventor's expenses” means expenses which—
- (a) have been incurred by an individual who, alone or jointly, devised an invention for which a patent has been granted, and
 - (b) are attributable to devising it.
- (3) In this section “patent application and maintenance expenses” means expenses incurred by a person in connection with—
- (a) the grant or maintenance of a patent,
 - (b) the extension of the term of a patent, or

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- (c) a rejected or abandoned application for a patent, but not incurred for the purposes of any trade carried on by the person.
- (4) Relief may not be claimed under this section for patent application and maintenance expenses unless they are expenses which would, if incurred for the purposes of a trade, have been allowable as a deduction in calculating the profits of the trade.
- (5) Relief may not be claimed under this section for any expenses if relief for them is given under—
 - (a) section 582 (calculation of income for the purposes of the charge to tax on royalties etc.), or
 - (b) any other provision of the Tax Acts.
- (6) This section needs to be read with section 603 (contributions to expenditure).

601 How relief is given under section 600 **U.K.**

- (1) This section sets out how relief for expenses is given where a person makes a claim under section 600.
- (2) The amount of the expenses must be deducted from or set off against the person's income from patents for the tax year in which the expenses were incurred.
- (3) If the amount to be allowed is greater than the amount of the person's income from patents for that tax year, the excess must be deducted from or set off against the person's income from patents for the next tax year, and so on for subsequent tax years, without the need for a further claim.
- (4) In this section “income from patents” means—
 - (a) royalties or other sums paid in respect of the use of a patent (whether chargeable under this Chapter or otherwise),
 - (b) amounts on which tax is payable under section 587, 593 or 594, and
 - (c) amounts on which tax is payable under—
 - (i) section 472(5) of CAA 2001 (patent allowances: balancing charges), or
 - (ii) paragraph 100 of Schedule 3 to that Act (balancing charges in respect of pre-1st April 1986 expenditure on the purchase of patent rights).
- (5) In this section references to a person's income from patents are to the income after any allowance has been deducted from or set off against it under section 479 of CAA 2001 (certain allowances against income from patents).

Payments received after deduction of tax

602 Payments received after deduction of tax **U.K.**

Income tax deducted under either of the following sections from a payment of royalties or other income within this Chapter is treated as income tax paid by the recipient—

- section 348(1) of ICTA (under which income tax may be deducted from some payments by the payer), and
- section 349(1) of ICTA (under which income tax must be deducted from some payments by the payer).

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Supplementary

603 Contributions to expenditure **U.K.**

- (1) For the purposes of sections 585, 588 and 600, the general rule is that a person (“A”) is to be regarded as not having incurred expenditure so far as it has been, or is to be, met (directly or indirectly) by—
 - (a) a public body, or
 - (b) a person other than A.
- (2) In this Chapter “public body” means the Crown or any government, local authority or other public authority (whether in the United Kingdom or elsewhere).
- (3) The general rule does not apply to the expenses mentioned in section 588(2)(b) (incidental expenses incurred by a seller of patent rights).
- (4) The general rule is subject to the exception in section 604.

604 Contributions not made by public bodies nor eligible for tax relief **U.K.**

- (1) A person (“A”) is to be regarded as having incurred expenditure (despite section 603(1)) so far as the requirements in subsections (2) and (3) are met in relation to the expenditure.
- (2) The first requirement is that the person meeting A's expenditure (“B”) is not a public body.
- (3) The second requirement is that—
 - (a) no allowance can be made under Chapter 2 of Part 11 of CAA 2001 (contribution allowances) in respect of B's expenditure, and
 - (b) the expenditure is not allowed to be deducted in calculating the profits of a trade, profession or vocation carried on by B.
- (4) When determining for the purposes of subsection (3)(a) whether such an allowance can be made, assume that B is within the charge to tax.

605 Exchanges **U.K.**

- (1) In this Chapter references to the sale of property include the exchange of property.
- (2) In this section—
 - references to property include know-how, and
 - references to the sale of property include the disposal of know-how.
- (3) For the purposes of subsection (1), any provision of this Chapter referring to a sale has effect with the necessary modifications, including, in particular, those in subsections (4) and (5).
- (4) References to the proceeds of sale and to the price include the consideration for the exchange.
- (5) References to capital sums included in the proceeds of sale include references to so much of the consideration for the exchange as would have been a capital sum if it had been a money payment.

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606 Apportionment where property sold together U.K.

- (1) Any reference in this Chapter to the sale of property includes the sale of that property together with other property.
- (2) In this section—
 - references to property include know-how, and
 - references to the sale of property include the disposal of know-how.
- (3) For the purposes of subsection (1), all property sold as a result of one bargain is to be treated as sold together even though—
 - (a) separate prices are, or purport to be, agreed for separate items of that property, or
 - (b) there are, or purport to be, separate sales of separate items of that property.
- (4) If an item of property is sold together with other property, then, for the purposes of the charges under sections 583 and 587—
 - (a) the net proceeds of the sale of that item are treated as being so much of the net proceeds of the sale of all the property as, on a just and reasonable apportionment, is attributable to that item, and
 - (b) the expenditure incurred on the provision or purchase of that item is treated as being so much of the consideration given for all the property as, on a just and reasonable apportionment, is attributable to that item.

607 Questions about apportionments affecting two or more persons U.K.

- (1) Any question about the way in which a sum is to be apportioned under section 606 must be determined in accordance with section 563(2) to (6) of CAA 2001 (procedure for determining certain questions affecting two or more persons) if it materially affects two or more taxpayers.
- (2) For the purposes of subsection (1) a question materially affects two or more taxpayers if at the time when the question falls to be determined it appears that the determination is material to the liability to tax (for whatever period) of two or more persons.

608 Meaning of “capital sums” etc. U.K.

Section 4 of CAA 2001 (meaning of “capital sums” etc.) applies in relation to this Chapter as it applies in relation to that Act.

CHAPTER 3 U.K.

FILMS AND SOUND RECORDINGS: NON-TRADE BUSINESSES

609 Charge to tax on films and sound recordings businesses U.K.

- (1) Income tax is charged on income from a business involving the exploitation of films or sound recordings where the activities carried on do not amount to a trade.
Such a business is referred to in this Chapter as a “non-trade business”.

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

- (2) Expressions which are used in this Chapter and in Chapter 9 of Part 2 (trade profits: films and sound recordings) have the same meaning in this Chapter as they do in that Chapter.

610 Income charged U.K.

- (1) Tax is charged under this Chapter on the full amount of the income arising in the tax year.
- (2) See sections 612 and 613 for provision about the calculation of the amount of income charged under this Chapter.
- (3) This section is subject to Part 8 (foreign income: special rules).

611 Person liable U.K.

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

612 Calculation of income U.K.

- (1) This section applies for calculating the amount of income charged under this Chapter.
- (2) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.
- (3) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.
- (4) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.
- (5) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.
- (6) Any relief given as a result of section 613 is additional to the relief under this section.

613 Application of trading income rules to non-trade businesses U.K.

The provisions of Chapter 9 of Part 2 apply in relation to non-trade businesses as they apply in relation to trades but as if—

- (a) references to a basis period were to a tax year, and
- (b) references to anything not constituting trading stock of a trade were omitted.

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.
Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

CHAPTER 4 U.K.

CERTAIN TELECOMMUNICATION RIGHTS: NON-TRADING INCOME

614 Charge to tax on certain telecommunication rights of a non-trader U.K.

- (1) Income tax is charged on income derived from a relevant telecommunication right that is not used or held for the purposes of a trade, profession or vocation.
- (2) “Relevant telecommunication right” has the same meaning as in Chapter 10 of Part 2 (see section 146).

615 Income charged U.K.

- (1) Tax is charged under this Chapter on the full amount of the income arising in the tax year.
- (2) See section 617 for provision about the calculation of the amount of certain income charged under this Chapter.
- (3) This section is subject to Part 8 (foreign income: special rules).

616 Person liable U.K.

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

617 Deductions in calculating certain income charged U.K.

- (1) This section applies for calculating the amount of income charged under this Chapter other than annual payments.
- (2) The following sections apply as they apply for the purpose of calculating the profits of a trade, profession or vocation—
 - (a) section 147 (expenditure and receipts in respect of relevant telecommunication rights treated as revenue in nature), and
 - (b) section 148 (credits or debits arising from revaluation in respect of relevant telecommunication rights).
- (3) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.
- (4) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.
- (5) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.
- (6) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.
- (7) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of this Chapter.

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

618 **Payments received after deduction of tax** **U.K.**

Income tax deducted under either of the following sections from an annual payment within this Chapter is treated as income tax paid by the recipient—

- section 348(1)(b) of ICTA (under which income tax may be deducted from some payments by the payer), and
- section 349(1)(a) of ICTA (under which income tax must be deducted from some payments by the payer).

CHAPTER 5 **U.K.**

SETTLEMENTS: AMOUNTS TREATED AS INCOME OF SETTLOR

Charge to tax under Chapter 5

619 **Charge to tax under Chapter 5** **U.K.**

- (1) Income tax is charged on—
 - (a) income which is treated as income of a settlor as a result of section 624 (income where settlor retains an interest),
 - (b) income which is treated as income of a settlor as a result of section 629 (income paid to unmarried minor children of settlor),
 - (c) capital sums which are treated as income of a settlor as a result of section 633 (capital sums paid to settlor by trustees of settlement), and
 - (d) capital sums which are treated as income of a settlor as a result of section 641 (capital sums paid to settlor by body connected with settlement).
- (2) The charge on the settlor under subsection (1)(a) or (b) above operates on distribution income by treating the income as if it were income to which section 1A of ICTA (application of lower rate to income from savings and distributions) applies as a result of subsection (2)(b) of that section (income chargeable under Chapter 3, 5 or 6 of Part 4: dividends etc. from UK resident companies etc. and release of loan to participator in close company).
- (3) In subsection (2) “distribution income” means income which represents income received by the trustees of the settlement, or any other person to whom it is payable, which is—
 - (a) income chargeable under Chapter 3 of Part 4 (dividends etc. from UK resident companies etc.),
 - (b) income chargeable under Chapter 4 of Part 4 (dividends from non-UK resident companies),
 - (c) income chargeable under Chapter 5 of Part 4 (stock dividends from UK resident companies),
 - (d) income chargeable under Chapter 6 of Part 4 (release of loan to participator in close company), or
 - (e) a relevant foreign distribution chargeable under Chapter 8 of this Part (income not otherwise charged).
- (4) In subsection (3) “relevant foreign distribution” means any distribution of a non-UK resident company which—

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

- (a) is not chargeable under Chapter 4 of Part 4, but
- (b) would be chargeable under Chapter 3 of that Part if the company were UK resident.

VALID FROM 06/04/2007

[^{F1}619A Income treated as highest part of settlor's total income U.K.]

- (1) This section applies to income which is treated as income of a settlor as a result of section 624 (income where settlor retains an interest) or 629 (income paid to unmarried minor children of settlor).
- (2) The income is treated as the highest part of the settlor's total income for the purposes of section 619 (so far as it relates to the income).
- (3) See section 1012 of ITA 2007 (relationship between highest part rules) for the relationship between—
 - (a) the rule in subsection (2), and
 - (b) other rules requiring particular income to be treated as the highest part of a person's total income.]

Textual Amendments

- F1** S. 619A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by *Income Tax Act 2007* (c. 3), ss. 1027, 1034, **Sch. 1 para. 551** (with transitional provisions and savings in **Sch. 2**)

620 Meaning of “settlement” and “settlor” U.K.

- (1) In this Chapter—

“settlement” includes any disposition, trust, covenant, agreement, arrangement or transfer of assets (except that it does not include a charitable loan arrangement), and

“settlor”, in relation to a settlement, means any person by whom the settlement was made.
- (2) A person is treated for the purposes of this Chapter as having made a settlement if the person has made or entered into the settlement directly or indirectly.
- (3) A person is, in particular, treated as having made a settlement if the person—
 - (a) has provided funds directly or indirectly for the purpose of the settlement,
 - (b) has undertaken to provide funds directly or indirectly for the purpose of the settlement, or
 - (c) has made a reciprocal arrangement with another person for the other person to make or enter into the settlement.
- (4) This Chapter applies to settlements wherever made.
- (5) In this section—

“charitable loan arrangement” means any arrangement so far as it consists of a loan of money made by an individual to a charity either—

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Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

- (a) for no consideration, or
- (b) for a consideration which consists only of interest, and
 “charity” includes each of the bodies mentioned in section 507 of ICTA (the National Heritage Memorial Fund, the British Museum etc.).

Income charged and person liable

621 Income charged **U.K.**

Tax is charged under this Chapter on all income and capital sums to which section 619(1) applies.

622 Person liable **U.K.**

The person liable for any tax charged under this Chapter is the settlor.

Rules for calculating income

623 Calculation of income **U.K.**

- (1) This section applies for the purpose of calculating the liability to tax of a settlor charged under this Chapter.
- (2) The same deductions and reliefs are allowed as would have been allowed if the amount treated as the settlor's income as a result of this Chapter had been received by the settlor as income.

Income treated as income of settlor: retained interests

624 Income where settlor retains an interest **U.K.**

- (1) Income which arises under a settlement is treated for income tax purposes as the income of the settlor and of the settlor alone if it arises—
 - (a) during the life of the settlor, and
 - (b) from property in which the settlor has an interest.
- (2) For more on a settlor having an interest in property, see section 625.
- (3) For exceptions to the rule in subsection (1), see—
 - section 626 (exception for outright gifts between spouses),
 - section 627 (exceptions for certain types of income), and
 - section 628 (exception for gifts to charities).

625 Settlor's retained interest **U.K.**

- (1) A settlor is treated for the purposes of section 624 as having an interest in property if there are any circumstances in which the property or any related property—
 - (a) is payable to the settlor or the settlor's spouse,
 - (b) is applicable for the benefit of the settlor or the settlor's spouse, or
 - (c) will, or may, become so payable or applicable.

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

- (2) Subsection (1) does not apply if the only circumstances are one or more of—
 - (a) the bankruptcy of a person who is, or may become, beneficially entitled to the property or any related property,
 - (b) the assignment of the property or any related property by such a person,
 - (c) the charging of (or, in Scotland, the granting of a right in security over) the property or any related property by such a person,
 - (d) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, and
 - (e) the death of a child of the settlor who had become beneficially entitled to the property or any related property at not more than 25 years old.
- (3) Subsection (1) does not apply if—
 - (a) there are no circumstances in which the property or any related property can become payable or applicable as mentioned in that subsection during the life of a person other than—
 - (i) the bankruptcy of the person, or
 - (ii) the assignment or charging of the person's interest in the property or any related property, and
 - (b) the person is alive and under 25 years old.
- (4) In subsection (1) “the settlor's spouse” does not include—
 - (a) a spouse from whom the settlor is separated under an order of a court or a separation agreement,
 - (b) a spouse from whom the settlor is separated where the separation is likely to be permanent,
 - (c) the widow or widower of the settlor, or
 - (d) a person to whom the settlor is not married but may later marry.
- (5) In this section “related property”, in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or of income from, that property or income from it.

626 Exception for outright gifts between spouses U.K.

- (1) The rule in section 624(1) does not apply in respect of an outright gift—
 - (a) of property from which income arises,
 - (b) made by one spouse to the other, and
 - (c) meeting conditions A and B.
- (2) Condition A is that the gift carries a right to the whole of the income.
- (3) Condition B is that the property is not wholly or substantially a right to income.
- (4) A gift is not an outright gift for the purposes of this section if—
 - (a) it is subject to conditions, or
 - (b) there are any circumstances in which the property, or any related property—
 - (i) is payable to the giver,
 - (ii) is applicable for the benefit of the giver, or
 - (iii) will, or may become, so payable or applicable.
- (5) “Related property” has the same meaning in this section as in section 625.

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

627 Exceptions for certain types of income **U.K.**

- (1) The rule in section 624(1) does not apply to income which—
 - (a) arises under a settlement made by one party to a marriage by way of provision for the other—
 - (i) after the dissolution or annulment of the marriage, or
 - (ii) while they are separated under an order of a court, or under a separation agreement, or where the separation is likely to be permanent, and
 - (b) is payable to, or applicable for the benefit of, the other party.
- (2) The rule in section 624(1) does not apply to income which consists of—
 - (a) annual payments made by an individual for commercial reasons in connection with the individual's trade, profession or vocation,
 - (b) qualifying donations for the purposes of section 25 of FA 1990 (donations to charity by individuals), or
 - (c) a benefit under a relevant pension scheme.
- (3) In subsection (2)(c) “relevant pension scheme” means—
 - (a) a registered pension scheme,
 - (b) a pension scheme established by a government outside the United Kingdom for the benefit, or primarily for the benefit, of its employees (or an annuity acquired using funds held for the purposes of such a pension scheme), or
 - (c) any pension arrangements of any description prescribed by regulations made under section 11(2)(h) of the Welfare Reform and Pensions Act 1999 (c. 30) or Article 12(2)(h) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).

628 Exception for gifts to charities **U.K.**

- (1) The rule in section 624(1) does not apply to any qualifying income which arises under a UK trust if—
 - (a) it is given by the trustees to a charity in the tax year in which it arises, or
 - (b) it is income to which a charity is entitled under the terms of the trust.
- (2) In this section “qualifying income” means—
 - (a) income which is to be accumulated,
 - (b) income which is payable at the discretion of the trustees or any other person (whether or not the trustees have power to accumulate it), or
 - (c) income which (before being distributed) is income of any person other than the trustees.
- (3) Subsection (4) applies if in any tax year qualifying income which arises under a UK trust from different sources exceeds the total of—
 - (a) the amount of that income which falls within subsection (1), and
 - (b) the amount of that income which falls within section 630(1) (comparable exception for income of unmarried minor children of settlor).
- (4) The amount of the qualifying income from different sources which falls within subsection (1) above is rateably apportioned between those sources.

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Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

(5) This does not affect the operation of any requirement that the whole, or any specified part, of the income from a particular source is to be given to a charity.

(6) In this section—

“charity” includes each of the bodies mentioned in section 507 of ICTA (the National Heritage Memorial Fund, the British Museum etc.),

“resident”, in relation to the trustees of a trust, is to be read in accordance with section 110 of FA 1989 (residence of trustees), and

“UK trust” means a trust whose trustees are UK resident.

Income treated as income of settlor: unmarried children

629 Income paid to unmarried minor children of settlor **U.K.**

(1) Income which arises under a settlement is treated for income tax purposes as the income of the settlor and of the settlor alone for a tax year if, in that year and during the life of the settlor, it—

(a) is paid to, or for the benefit of, an unmarried minor child of the settlor, or

(b) would otherwise be treated (apart from this section) as income of an unmarried minor child of the settlor.

(2) Subsection (1) does not apply to income which is treated as income of the settlor under section 624.

(3) Subsection (1) does not apply in relation to a child's relevant settlement income in any tax year if, in that year, the total amount of that income does not exceed £100.

(4) In subsection (3) a child's “relevant settlement income” means income—

(a) which is paid to or for the benefit of, or otherwise treated as income of, the child, and

(b) which (apart from subsection (3)) would be treated as income of the settlor under subsection (1).

(5) Subsection (1) does not apply so far as provided by section 630 (exception for gifts to charities).

(6) See—

section 631 for the treatment for the purposes of subsection (1) of retained or accumulated income, and

section 632 for the treatment for the purposes of this section and section 631 of certain deemed income connected to offshore income gains.

(7) In this section and sections 631 and 632—

(a) “child” includes a stepchild,

(b) “minor” means a person under the age of 18 years, and “minor child” is to be read accordingly, and

(c) references to payments include payments in money's worth.

630 Exception for gifts to charities **U.K.**

(1) The rule in section 629(1) does not apply to any qualifying income which arises under a UK trust if—

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

- (a) it is given by the trustees to a charity in the tax year in which it arises, or
 - (b) it is income to which a charity is entitled under the terms of the trust.
- (2) Subsection (3) applies if in any tax year qualifying income which arises under a UK trust from different sources exceeds the total of—
- (a) the amount of that income which falls within subsection (1), and
 - (b) the amount of that income which falls within section 628(1) (comparable exception for income where settlor retains an interest).
- (3) The amount of the qualifying income from different sources which falls within subsection (1) above is rateably apportioned between those sources.
- (4) This does not affect the operation of any requirement that the whole, or any specified part, of the income from a particular source is to be given to a charity.
- (5) In this section “charity”, “qualifying income” and “UK trust” have the same meaning as in section 628.

631 Retained and accumulated income U.K.

- (1) This section applies if—
- (a) the trustees of a settlement retain or accumulate income arising under the settlement, and
 - (b) a payment is subsequently made in connection with the settlement to, or for the benefit of, an unmarried child of the settlor.
- (2) The payment is treated for the purposes of section 629(1) as a payment of income, but only so far as there is retained or accumulated income available.
- (3) For the purposes of subsection (1) a payment is made in connection with a settlement if it is made by virtue of or in consequence of—
- (a) the settlement, or
 - (b) any enactment relating to the settlement.
- (4) For the purposes of subsection (2) retained or accumulated income is available at any time when—

$$A > B$$

where—

A is the total amount of the income which has arisen under the settlement since it was made, and

B is the total amount of disregarded income.

- (5) In subsection (4) “disregarded income” means any income arising under the settlement since it was made which has been—
- (a) treated as income of the settlor,
 - (b) paid (whether as income or capital) to, or for the benefit of, a beneficiary other than an unmarried minor child of the settlor,
 - (c) otherwise treated as the income of such a beneficiary,

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Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

- (d) treated as income of an unmarried minor child of the settlor, and subject to income tax, in any of the tax years 1995-96, 1996-97 and 1997-98, or
 - (e) applied in meeting expenses of the trustees which—
 - (i) were properly chargeable to income, or
 - (ii) would have been so chargeable but for any express provisions of the trust.
- (6) For the purposes of subsection (5)(d), income arising under the settlement that is treated as income of the child is subject to income tax so far as it does not exceed the taxable amount.
- (7) In subsection (6) “the taxable amount”, in relation to a tax year, means the amount by which—

$$TI > TAD$$

where—

TI is the child's total income for income tax purposes, and

TAD is the total amount of allowances and deductions that may be set against the total income.

632 Offshore income gains **U.K.**

- (1) This section applies if—
- (a) an offshore income gain accrues in respect of a disposal by a trustee of assets held by the trustee for a minor, and
 - (b) the minor would be absolutely entitled as against the trustee but for being a minor.
- (2) The income which, under section 761(1) of ICTA (charge to income tax of offshore income gain), is treated as arising by reference to that gain is treated for the purposes of sections 629 and 631 as paid to the minor.
- (3) In this section “offshore income gain” has the same meaning as in Chapter 5 of Part 17 of ICTA (charge to tax of offshore income gains).

Capital sums treated as income of settlor: trustees' payments

633 Capital sums paid to settlor by trustees of settlement **U.K.**

- (1) Any capital sum paid directly or indirectly in any tax year by the trustees of a settlement to the settlor is treated for income tax purposes as follows.
- (2) The sum is treated as the income of the settlor for the tax year so far as the amount of the sum falls within the amount of income available up to the end of the year.
- (3) The sum is treated as the income of the settlor for the following year so far as the amount of the sum—
- (a) is not treated under subsection (2) as the settlor's income for the tax year in which it is paid, and

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Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)*

- (b) falls within the amount of the income available up to the end of the following year.
- (4) Subsection (3) also applies for each subsequent year up to a maximum of 10 years subsequent to the tax year in which the sum is paid.
- (5) For this purpose the reference in subsection (3)(a) to being treated under subsection (2) as the settlor's income for the tax year in which the capital sum is paid is a reference to being treated under subsection (2) or (3) as the settlor's income for that year and any other year before the subsequent year in question.
- (6) For the meaning of certain expressions used in this section, see—
 - section 634 (meaning of “capital sum” and “sums paid to settlor”),
 - section 635 (amount of available income),
 - section 636 (calculation of undistributed income), and
 - section 637 (qualifications to section 636).
- (7) For other provisions, see—
 - section 638 (capital sums paid by way of loan or repayment of loan),
 - section 639 (loans to participators in close companies), and
 - section 640 (grossing-up of deemed income).

634 Meaning of “capital sum” and “sums paid to settlor” U.K.

- (1) In this Chapter “capital sum” means—
 - (a) any sum paid by way of loan or repayment of a loan, and
 - (b) any other sum which—
 - (i) is paid otherwise than as income, and
 - (ii) is not paid for full consideration in money or money's worth.
- (2) But this is subject to subsections (3) to (6).
- (3) It does not include any sum which could not have become payable to the settlor except—
 - (a) in one of the circumstances mentioned in subsection (2) of section 625, or
 - (b) on the death under the age of 25 of any person of the kind mentioned in subsection (3) of that section.
- (4) It does include a sum treated as a capital sum by subsection (5) below.
- (5) Any sum which—
 - (a) is paid by the trustees of a settlement to a third party—
 - (i) at the settlor's direction, or
 - (ii) as a result of the assignment by the settlor of the settlor's right to receive the sum, or
 - (b) is otherwise paid, or applied by, the trustees for the benefit of the settlor, is treated as a capital sum paid to the settlor by the trustees.
- (6) Subsection (5) does not apply to any sum which would, apart from that subsection, be treated as a capital sum paid to the settlor.
- (7) References in sections 633 to 638 to sums paid to the settlor include references to sums paid to—

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- (a) the spouse of the settlor, or
- (b) the settlor (or the spouse of the settlor) jointly with another person.

635 Amount of available income **U.K.**

- (1) For the purposes of section 633 the amount of income available up to the end of any tax year is, in relation to any capital sum paid as mentioned in subsection (1) of that section by the trustees of a settlement, calculated as follows.
- (2) Add together the amount of income arising under the settlement in that year and any previous year which has not been distributed.
- (3) Deduct from that figure—
 - (a) the amount of that income taken into account under section 633 in relation to that sum in any previous year or years,
 - (b) the amount of that income taken into account under section 633 in relation to any other capital sums paid to the settlor in any year before that sum was paid,
 - (c) any income arising under the settlement in that year or any previous year which has been treated as income of the settlor under section 624 or 629, and
 - (d) an amount equal to the sum of tax at the rate applicable to trusts on—
 - (i) the total amount of income arising under the settlement in that year and any previous year which has not been distributed, less
 - (ii) any income of the kind mentioned in paragraph (c).
- (4) See sections 636 and 637 for how to calculate amounts of undistributed income.

636 Calculation of undistributed income **U.K.**

- (1) For the purposes of section 635, income arising under a settlement in any tax year is treated as income which has not been distributed so far as it exceeds the total amount of—
 - (a) the sums to which subsection (2) applies,
 - (b) the expenses to which subsection (4) applies, and
 - (c) if the trustees of the settlement are trustees for charitable purposes, the amount to which subsection (6) applies.
- (2) This subsection applies to such sums paid in the tax year to any persons by the trustees of the settlement as—
 - (a) are treated in that year (otherwise than under section 633) as the income of those persons for income tax purposes, or
 - (b) would be so treated if those persons were domiciled, resident and ordinarily resident in the United Kingdom and the sums had been paid to them there.
- (3) Subsection (2) is subject to section 637(1).
- (4) This subsection applies to any expenses of the trustees of the settlement paid in the tax year which, in the absence of any express provision of the settlement, would be properly chargeable to income.
- (5) Subsection (4)—
 - (a) does not apply to expenses so far as they are included in the sums mentioned in subsection (2), and

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Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

(b) is subject to section 637(2) to (7).

(6) This subsection applies to the amount by which—

$$A > B$$

where—

A is any income arising under the settlement in the tax year in respect of which exemption from tax may be granted under section 505 of ICTA (charities: general), and

B is the total amount of any such sums or expenses as are mentioned in subsections (2) and (4) paid in that year which are properly chargeable to the income.

637 Qualifications to section 636 U.K.

(1) Section 636(2) does not apply—

- (a) to any interest paid by the trustees of the settlement, or
- (b) to any sums paid to—

- (i) a body corporate connected with the settlement, or
- (ii) the trustees of another settlement made by the settlor or by the trustees of the settlement.

(2) Section 636(4) applies to any interest paid by the trustees of the settlement subject to subsections (3) to (7).

(3) The whole of any interest paid by the trustees of the settlement is excluded from subsection (4) of section 636 if no sums within subsection (2) of that section were paid to any person other than the settlor or the spouse of the settlor.

(4) If any sum within section 636(2) was so paid, the relevant fraction of any interest paid by the trustees of the settlement is excluded from section 636(4).

(5) The relevant fraction is—

$$\frac{A - B}{A}$$

where—

A is the whole of the income arising under the settlement in the tax year, less the sums referred to in subsection (4) of section 636 apart from subsections (2), (3) and (6) of this section, and

B is so much of the sums within subsection (2) of that section as is paid to persons other than the settlor or the spouse of the settlor.

(6) Subsections (2) to (5) do not apply to—

- (a) interest in respect of which relief from tax is allowable under any provision of the Income Tax Acts, or
- (b) interest payable to the settlor or the spouse of the settlor if living with the settlor.

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- (7) Nothing in subsections (2) to (6) affects the liability to tax of the person receiving or entitled to the interest.
- (8) For the purposes of this Chapter, a body corporate is treated as connected with a settlement in any tax year if at any time in that year—
 - (a) it is a close company (or only is not a close company because it is non-UK resident) and the participators then include the trustees of the settlement, or
 - (b) it is controlled by a company falling within paragraph (a).

Trustees' payments: further provisions

638 Capital sums paid by way of loan or repayment of loan U.K.

- (1) No part of a capital sum which is paid to a settlor by way of loan is treated under section 633 as the settlor's income for any tax year after the tax year in which the whole of the sum is repaid.
- (2) Subsection (3) applies if—
 - (a) a capital sum is paid to the settlor by way of loan, and
 - (b) one or more capital sums have previously been paid to the settlor by way of loan and wholly repaid.
- (3) The amount of the capital sum mentioned in subsection (2)(a) is treated for the purposes of section 633 as equal to the amount (if any) by which it exceeds so much of the capital sum or sums previously paid as has already been treated as the settlor's income under that section.
- (4) Subsection (5) applies if—
 - (a) a capital sum is paid to the settlor by way of complete repayment of a loan, and
 - (b) an amount not less than the capital sum is subsequently lent by the settlor to the trustees of the settlement.
- (5) No part of the capital sum is treated under section 633 as the settlor's income for any tax year after that in which the further loan is made.

639 Loans to participators in close companies U.K.

- (1) This section applies if any amount has been included in a person's income under Chapter 6 of Part 4 (release of loan to participator in close company) in respect of any loan or advance.
- (2) There is a corresponding reduction in the amount (if any) afterwards falling to be so included under section 633 in respect of the loan or advance.

640 Grossing-up of deemed income U.K.

- (1) The whole or any part of a capital sum which is treated under section 633 as income of the settlor for any tax year is treated as income of an amount equal to the sum or the part of the sum, grossed up by reference to the rate applicable to trusts for that year.
- (2) The deductible amount is to be set off against the amount of tax charged on any amount treated under section 633 as income of the settlor for any year.

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- (3) In subsection (2) the “deductible amount” is an amount equal to—
- (a) tax at the rate applicable to trusts for the year on the amount treated under section 633 as the settlor's income,
 - (b) so much of the amount of tax at that rate as is equal to the tax charged, or
 - (c) the amount of tax paid by the trustees on the grossed-up amount of so much of the amount of income available up to the end of the year, in relation to the capital sum, as is taken into account under section 633 in relation to that sum in that year (see subsections (4) to (7) below),
- whichever is the least.
- (4) For the purposes of subsection (3)(c)—
- (a) any reduction falling to be made under section 635(3)(d) is treated as made against income arising under the settlement in an earlier tax year before income arising under the settlement in a later tax year, and
 - (b) income arising under the settlement in an earlier tax year is treated as taken into account under section 633 before income arising under the settlement in a later tax year.
- (5) For the purposes of subsection (3)(c)—
- (a) the grossed-up amount of any sum is an amount equal to the sum, grossed up by reference to the appropriate rate for each part of the sum, and
 - (b) the amount of tax paid by the trustees on that grossed-up amount is the difference between the grossed-up amount and the sum in question.
- (6) For the purposes of subsection (5)—
- (a) the appropriate rate for any part of a sum is 0% if—
 - (i) the income that falls to be treated in accordance with subsection (4) as representing that part of the sum is income from a source outside the United Kingdom, and
 - (ii) the trustees were non-UK resident for the relevant tax year, and
 - (b) the appropriate rate for any part of a sum in relation to which paragraph (a) does not apply is—
 - (i) 34%, if the relevant tax year is the year 2003-04 or any earlier tax year, and
 - (ii) 40%, if the relevant tax year is the year 2004-05 or any subsequent tax year.
- (7) In subsection (6) “the relevant tax year”, in relation to any part of a sum, means the tax year in which the income treated in accordance with subsection (4) as representing that part of the sum arose under the settlement.

Capital sums treated as income of settlor: connected bodies

641 Capital sums paid to settlor by body connected with settlement U.K.

- (1) This section applies if—
- (a) a capital sum is paid to the settlor in a tax year by any body corporate connected with the settlement in that year, and
 - (b) an associated payment has been, or is, made directly or indirectly to the body by the trustees of the settlement.

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- (2) The capital sum is, in accordance with this section, treated for the purposes of section 633 as having been paid to the settlor by the trustees of the settlement.
- (3) A capital sum to which subsection (2) applies is treated as having been paid to the settlor in the tax year in which it is paid so far as the amount of the sum falls within the total of the associated payment or payments made up to the end of the year.
- (4) A capital sum to which subsection (2) applies is treated as having been paid to the settlor in the following year so far as the amount of the sum—
 - (a) is not treated as paid to the settlor in the year mentioned in subsection (3), and
 - (b) falls within the total of the associated payment or payments made up to the end of the following year (less what was taken into account under subsection (3) in relation to the sum in the previous year).
- (5) Subsection (4) also applies for each subsequent year.
- (6) In its application to a subsequent year—
 - (a) the references to the following year are to the subsequent year,
 - (b) the reference to the year mentioned in subsection (3) is to that year and any other year before the subsequent year, and
 - (c) the reference to what was taken into account under subsection (3) in relation to the sum in the previous year is to what was taken into account under this section in relation to the sum in the previous years.
- (7) See also—
section 642 (exception for certain loans or repayments of loans), and
section 643 (interpretation of sections 641 and 642).

642 Exception for certain loans or repayments of loans **U.K.**

- (1) Section 641 does not apply to any sum paid to the settlor by way of loan or repayment of a loan if conditions A and B are met.
- (2) Condition A is that the whole of the loan is repaid within 12 months of the date on which it was made.
- (3) Condition B is that the period for which amounts are outstanding in respect of relevant loans in any period of 5 years is not more than 12 months.
- (4) In subsection (3) “relevant loans” means loans made—
 - (a) to the settlor by the body corporate connected with the settlement or by any other body corporate so connected, or
 - (b) by the settlor to the body corporate connected with the settlement or to any other body corporate so connected.

643 Interpretation of sections 641 and 642 **U.K.**

- (1) Any question in section 641 or 642 whether a capital sum has been paid—
 - (a) to the settlor by a body corporate, or
 - (b) to a body corporate by the trustees,is determined in the same way as any question under section 633 whether a capital sum has been paid to the settlor by the trustees.

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- (2) For the circumstances in which a body corporate is treated for the purposes of this Chapter as connected with a settlement, see section 637(8).
- (3) In section 641 and this section “associated payment”, in relation to any capital sum paid to the settlor by a body corporate, means—
 - (a) any capital sum paid to the body by the trustees of the settlement, and
 - (b) any other sum paid, or asset transferred, to the body by the trustees which is not paid or transferred for full consideration in money or money's worth, being any sum paid, or asset transferred, in the 5 years ending or beginning with the date on which the capital sum is paid to the settlor.
- (4) For the purposes of sections 641 and 642 and this section any capital sum paid by a body corporate, and any associated payment made to a body corporate, at a time when it is (within the meaning of section 416 of ICTA) associated with another body corporate may be treated as paid by, or made to, the other body corporate.

Settlements by two or more settlors

644 Application to settlements by two or more settlors U.K.

- (1) In the case of a settlement where there is more than one settlor, this Chapter has effect in relation to each settlor as if that settlor were the only settlor.
- (2) This works as follows.
- (3) In this Chapter, in relation to a settlor—
 - (a) references to the property comprised in a settlement include only property originating from the settlor, and
 - (b) references to income arising under the settlement include only income originating from the settlor.
- (4) For the purposes of sections 629, 631 and 632 only the following are taken into account in relation to a child of the settlor—
 - (a) income originating from the settlor, and
 - (b) in a case in which section 631 applies, payments which under that section (as adapted by subsection (5) below) are treated as payments of income.
- (5) In applying section 631 to a settlor—
 - (a) the reference to income arising under the settlement includes only income originating from the settlor, and
 - (b) the reference to any payment made in connection with the settlement includes only a payment made out of property originating from the settlor or income originating from the settlor.
- (6) See section 645 for the meaning of references in this section to property or income originating from a settlor.

645 Property or income originating from settlor U.K.

- (1) References in section 644 to property originating from a settlor are references to—
 - (a) property which the settlor has provided directly or indirectly for the purposes of the settlement,

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- (b) property representing property so provided, and
 - (c) so much of any property which represents both property so provided and other property as, on a just and reasonable apportionment, represents the property so provided.
- (2) References in section 644 to income originating from a settlor are references to—
- (a) income from property originating from the settlor, and
 - (b) income provided directly or indirectly by the settlor.
- (3) In this section references to property or income which a settlor has provided directly or indirectly—
- (a) include references to property or income which has been provided directly or indirectly by another person under reciprocal arrangements with the settlor, but
 - (b) do not include references to property or income which the settlor has provided directly or indirectly under reciprocal arrangements with another person.
- (4) In this section references to property which represents other property include references to property which represents accumulated income from the other property.

Other supplementary provisions

646 Adjustments between settlor and trustees etc. U.K.

- (1) A settlor is entitled to recover from—
- (a) any trustee, or
 - (b) any other person to whom the income is payable in connection with the settlement,
- the amount of any tax paid by the settlor which became chargeable on the settlor under section 624 or 629.
- (2) For this purpose, the settlor may require the Inland Revenue to provide the settlor with a certificate specifying—
- (a) the amount of income in respect of which the settlor has so paid tax, and
 - (b) the amount of tax so paid.
- (3) A certificate provided under subsection (2) is conclusive evidence of the facts stated in it.
- (4) Subsection (5) applies if—
- (a) a settlor obtains a repayment of tax in respect of an allowance or relief, and
 - (b) the repayment is in excess of the amount of the repayment to which the settlor would have been entitled but for sections 624 to 632.
- (5) The settlor must pay an amount equal to the excess to—
- (a) the trustee, or
 - (b) the other person to whom the income is payable by virtue of or as a result of the settlement.
- (6) If there are two or more such persons, the amount must be apportioned among them as the case may require.
- (7) Any question as to—

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- (a) the amount of a payment under subsection (5), or
 - (b) an apportionment to be made under subsection (6),
- is to be decided by the General Commissioners whose decision is final.

- (8) Nothing in sections 624 to 632 is to be read as excluding a charge to tax on the trustees as persons by whom any income is received.

VALID FROM 06/04/2007

[^{F2}646A Trustees' expenses to be rateably apportioned U.K.]

- (1) This section applies if—
- (a) in a tax year qualifying income arises under a UK settlement, and
 - (b) the qualifying income consists of charitable income and non-charitable income.
- (2) If expenses of the trustees are to be set against the charitable income by virtue of section 484 of ITA 2007, the amount of those expenses which can be used for that purpose is limited to the amount allocated to the charitable income.
- (3) If—
- (a) Chapter 8 of Part 9 of ITA 2007 applies in relation to the charitable income, and
 - (b) expenses of the trustees are to be used to reduce the charitable income for income tax purposes,
- the amount of those expenses which can be used for that purpose is limited to the amount allocated to the charitable income.
- (4) For the purposes of subsections (2) and (3) the amount of the expenses allocated to the charitable income is determined by apportioning them rateably between the charitable income and the non-charitable income.
- (5) In this section—
- “charitable income” means income within section 628(1) or 630(1),
 - “non-charitable income” means income which is not charitable income, and
 - “qualifying income” and “UK settlement” have the same meaning as in section 628.]

Textual Amendments

- F2** S. 646A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 560](#) (with transitional provisions and savings in [Sch. 2](#))

647 Power to obtain information U.K.

- (1) The Inland Revenue may by notice require any party to a settlement to provide them, within such period as they may direct, with such particulars as they consider necessary for the purposes of this Chapter.

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- (2) The period concerned must be not less than 28 days.

648 Income arising under a settlement U.K.

- (1) References in this Chapter to income arising under a settlement include—
- (a) any income chargeable to income tax by deduction or otherwise, and
 - (b) any income which would have been so chargeable if it had been received in the United Kingdom by a person domiciled, resident and ordinarily resident there.
- (2) But this is subject to the rule in subsection (3) which applies if, in a tax year, the settlor is—
- (a) not domiciled in the United Kingdom,
 - (b) not UK resident, or
 - (c) not ordinarily UK resident.
- (3) The rule is that references in this Chapter to income arising under a settlement do not include income arising under the settlement in that tax year in respect of which the settlor, if the settlor were actually entitled to it, would not be chargeable to income tax by deduction or otherwise because of the settlor not being domiciled in the United Kingdom, UK resident or ordinarily UK resident.
- (4) Subsection (5) qualifies the rule in subsection (3) if such income is remitted to the United Kingdom in circumstances such that, if the settlor were actually entitled to the income when remitted, the settlor would be chargeable to income tax because of being UK resident.
- (5) The income is treated for the purposes of this Chapter as arising under the settlement in the year in which it is remitted.

CHAPTER 6 U.K.

BENEFICIARIES' INCOME FROM ESTATES IN ADMINISTRATION

Charge to tax on estate income

649 Charge to tax on estate income U.K.

- (1) Income tax is charged on estate income.
- (2) In this Chapter—
- “estate income” means the income treated under this Chapter as arising from an absolute, limited or discretionary interest in the whole or part of the residue of an estate, and
 - “estate” means the estate of a deceased person (whether a UK estate or a foreign estate).
- (3) Estate income is treated as income for income tax purposes.
- (4) If different parts of an estate are subject to different residuary dispositions, those parts are treated for the purposes of this Chapter as if they were separate estates.

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650 Absolute, limited and discretionary interests U.K.

- (1) A person has an absolute interest in the whole or part of the residue of an estate for the purposes of this Chapter if—
 - (a) the capital of the residue or that part is properly payable to the person, or
 - (b) it would be so payable, if the residue had been ascertained.
- (2) A person has a limited interest in the whole or part of the residue of an estate during any period for the purposes of this Chapter if—
 - (a) the person does not have an absolute interest in it, and
 - (b) the income from it would be properly payable to the person if the residue had been ascertained at the beginning of that period.
- (3) A person has a discretionary interest in the whole or part of the residue of an estate for the purposes of this Chapter if—
 - (a) a discretion may be exercised in the person's favour, and
 - (b) on its exercise in the person's favour any of the income of the residue during the whole or part of the administration period (see section 653) would be properly payable to the person if the residue had been ascertained at the beginning of that period.
- (4) For the purposes of this section, an amount is only treated as properly payable to a person if it is properly payable to the person, or to another in the person's right, for the person's benefit, except where subsection (5) applies.
- (5) The personal representatives of a deceased person (“A”) are to be treated as having an absolute or limited interest in the whole or part of the residue of the estate of another deceased person (“B”) if—
 - (a) they have a right in their capacity as A's personal representatives, and
 - (b) were the right vested in them for their own benefit, they would have that interest in B's estate.
- (6) For the purposes of subsection (4), it does not matter whether the amount is payable directly by the personal representatives or through a trustee or other person.

651 Meaning of “UK estate” and “foreign estate” U.K.

- (1) In this Chapter—

“UK estate”, in relation to a tax year, means an estate which meets conditions A and B, or condition C, for that year, and

“foreign estate”, in relation to a tax year, means an estate which is not a UK estate in relation to that year.
- (2) Condition A is that all the income of the estate either—
 - (a) has borne United Kingdom income tax by deduction, or
 - (b) is income in respect of which the personal representatives are directly assessable to United Kingdom income tax for the tax year.
- (3) Condition B is that none of the income of the estate is income for which the personal representatives are not liable to United Kingdom income tax for the tax year because they are not UK resident or not ordinarily UK resident.
- (4) For the purposes of conditions A and B sums within section 680(3) or (4) (sums treated as bearing tax) are ignored.

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- (5) Condition C is that the aggregate income of the estate for the tax year consists only of sums within section 680(3) or (4).

Types of estate income

652 Estate income: absolute interests in residue **U.K.**

- (1) Income is treated as arising in a tax year from a person's absolute interest in the whole or part of the residue of an estate if—
- (a) the person has an assumed income entitlement for the tax year in respect of the interest (see sections 665 to 670), and
 - (b) condition A or B is met.
- (2) Condition A is that a payment is made in respect of the interest in the tax year and before the end of the administration period (see section 653).
- (3) Condition B is that the tax year is the final tax year (see section 653).
- (4) Income treated as arising as a result of this section is estate income for the purposes of this Chapter.

653 Meaning of “the administration period” and “the final tax year” **U.K.**

- (1) In this Chapter “the administration period”, in relation to the estate of a deceased person, means the period beginning with the deceased's death and ending with the completion of the administration of the estate.
- (2) In the application of subsection (1) to Scotland, the reference to the completion of the administration is to be taken as a reference to the date at which, after discharge of, or provision for, liabilities falling to be met out of the deceased's estate, the free balance held in trust for the residuary legatees or for the persons with the right to the intestate estate has been ascertained.
- (3) In this Chapter “the final tax year” means the tax year in which the administration period ends.

654 Estate income: limited interests in residue **U.K.**

- (1) Income is treated as arising in a tax year from a person's limited interest in the whole or part of the residue of an estate in cases A, B and C.
- (2) Case A is where—
- (a) the interest has not ceased before the beginning of the tax year, and
 - (b) a sum is paid in respect of the interest in that year and before the end of the administration period.
- (3) Case B is where—
- (a) the tax year is the final tax year,
 - (b) the interest has not ceased before the beginning of that year, and
 - (c) a sum remains payable in respect of the interest at the end of the administration period.
- (4) Case C is where—

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- (a) the tax year is a year before the final tax year,
 - (b) the interest ceases in the tax year, and
 - (c) a sum is paid in respect of the interest in a later tax year but before the end of the administration period, or remains payable in respect of it at the end of that period.
- (5) This section does not apply to limited interests to which section 674 (successive interests: holders of limited interests) applies.
- (6) Income treated as arising as a result of this section or section 674 is estate income for the purposes of this Chapter.

655 Estate income: discretionary interests in residue U.K.

- (1) Income is treated as arising in a tax year from a person's discretionary interest in the whole or part of the residue of an estate if a payment is made in the tax year in exercise of the discretion in that person's favour.
- (2) Income treated as arising as a result of this section is estate income for the purposes of this Chapter.

Income charged and person liable

656 Income charged: UK estates U.K.

- (1) In the case of a UK estate, tax is charged under section 649 on the amount of estate income treated as arising in the tax year.
- (2) That amount is the basic amount of that income for the tax year (see subsection (4)) grossed up by reference to the applicable rate for that year (see section 663).
- (3) The gross amount is treated as having borne income tax at that rate.
- (4) In this Chapter “the basic amount”, in relation to estate income, has the meaning given by—
 - (a) section 660 (basic amount of estate income: absolute interests),
 - (b) section 661 (basic amount of estate income: limited interests),
 - (c) section 662 (basic amount of estate income: discretionary interests), and
 - (d) section 675 (basic amount of estate income: successive limited interests).

657 Income charged: foreign estates U.K.

- (1) In the case of a foreign estate, tax is charged under section 649 on the full amount of estate income treated as arising in the tax year.
- (2) That amount depends on whether the estate income arising in the tax year is paid from sums within section 680(3) or (4) (sums treated as bearing income tax).
- (3) So far as the estate income is paid from such sums, that amount is the basic amount of that income for the tax year grossed up by reference to the applicable rate for that year (see section 663).
- (4) That gross amount is treated as having borne income tax at that rate.

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- (5) So far as the estate income is not paid from sums within section 680(3) or (4), the amount of estate income treated as arising in the tax year is the basic amount of that income for that year.

658 Special rules for foreign income U.K.

- (1) The charge to tax under section 649 on the amount of income arising in a tax year is subject to Part 8 (foreign income: special rules).
- (2) For the purposes of section 830(1) (meaning of “relevant foreign income”) amounts charged to tax under section 649—
- (a) are treated as arising from a source outside the United Kingdom if the estate is a foreign estate, and
 - (b) are treated as not arising from such a source if the estate is a UK estate.

659 Person liable U.K.

- (1) If the estate income is from a person's absolute interest or limited interest, that person is liable for any tax charged under section 649 unless subsection (3) or (4) provides that another person is liable.
- (2) If the estate income is from a discretionary interest, the person in whose favour the discretion is exercised in making the payment in question is liable for any tax charged under section 649.
- (3) If, in a case where the estate income is from an absolute interest—
- (a) section 671 (successive absolute interests) applies, or
 - (b) section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest) applies and the income is treated as arising because of that section,
- the person by reference to whose assumed income entitlement the estate income is determined is liable for any tax charged under section 649.
- (4) If, in a case where the estate income is from a limited interest—
- (a) section 673(1) applies and the income is treated as arising because of section 673(2) (payment in respect of a previous limited interest), or
 - (b) section 674 (successive interests: holders of limited interests) applies,
- the person entitled to receive the payment in question is liable for any tax charged under section 649.

Basic amount of estate income: general calculation rules

660 Basic amount of estate income: absolute interests U.K.

- (1) The basic amount of estate income relating to a person's absolute interest in the whole or part of the residue of an estate for a tax year before the final tax year is the lower of—
- (a) the total of all sums paid in the tax year in respect of that interest, and
 - (b) the amount of the person's assumed income entitlement for the tax year in respect of it.

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Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

- (2) The basic amount for the final tax year is equal to the amount of the person's assumed income entitlement for that year in respect of that interest.
- (3) But if the residuary income of the estate for the final tax year is nil because the allowable estate deductions exceed the aggregate income of the estate, the basic amount for that year is reduced—
 - (a) where the person has an absolute interest in the whole of the residue of the estate, by an amount equal to the excess, and
 - (b) in any other case, by an amount equal to such part of the excess as is just and reasonable.
- (4) See sections 665 to 670 for the meaning of references to assumed income entitlement and residuary income of an estate.
- (5) See sections 664 and 666(2) for the meaning of aggregate income of an estate and allowable estate deductions respectively.
- (6) This section is subject to sections 671 to 673 (successive interests).

661 Basic amount of estate income: limited interests U.K.

- (1) The basic amount of estate income relating to a person's limited interest in the whole or part of the residue of an estate for a tax year is the total of the sums within section 654(2)(b), (3)(c) and (4)(c) for that year.
- (2) This does not apply, and section 675 applies instead, if the limited interest is one to which section 674 (successive interests: holders of limited interests) applies.

662 Basic amount of estate income: discretionary interests U.K.

The basic amount of estate income relating to a person's discretionary interest in the whole or part of the residue of an estate for a tax year is the total of the payments made in the tax year in exercise of the discretion in favour of the person.

663 The applicable rate for grossing up basic amounts of estate income U.K.

- (1) The applicable rate by reference to which a basic amount of estate income is grossed up for the purposes of sections 656 and 657 depends on the rate at which income tax is borne for the tax year by the aggregate income of the estate.
- (2) If the aggregate income of the estate all bears income tax at the same rate, the applicable rate is that rate.
- (3) If—
 - (a) different parts of the aggregate income of the estate bear income tax at different rates, and
 - (b) the same rate applies to all the income from which section 679 treats the basic amount as having been paid,
 the applicable rate is that rate.
- (4) If—
 - (a) different parts of the aggregate income of the estate bear income tax at different rates, and

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- (b) different rates apply to different parts of the income from which section 679 treats the basic amount as having been paid,
each of those rates is the applicable rate by reference to which the corresponding part of the basic amount is grossed up.

664 The aggregate income of the estate **U.K.**

- (1) For the purposes of this Chapter the aggregate income of the estate for a tax year is the total of the income and amounts specified in subsection (2), but excluding the income specified in subsection (5).
- (2) The income and amounts are—
 - (a) the income of the deceased's personal representatives in that capacity which is charged to United Kingdom income tax for the tax year,
 - (b) the income of the deceased's personal representatives in that capacity on which such tax would have been charged for the tax year if—
 - (i) it was income of a UK resident who was ordinarily UK resident, and
 - (ii) it was income from a source in the United Kingdom,
 - (c) any amount of income treated as arising to the personal representatives under section 410(4) (stock dividends) that would be charged to income tax under Chapter 5 of Part 4 if income arising to personal representatives were so charged (see section 411),
 - (d) in a case where section 419(2) applies (release of loans to participator in close company: loans and advances to persons who die), the amount that would be charged to income tax under Chapter 6 of Part 4 apart from that section, and
 - (e) any amount that would have been treated as income of the personal representatives in that capacity under section 466 if the condition in section 466(2) had been met (gains from contracts for life insurance).
- (3) In calculating the amount of the income within subsection (2)(a), any allowable deductions are to be taken into account.
- (4) In calculating the amount of the income within subsection (2)(b), any deductions which would be allowable if the income had been charged to United Kingdom income tax are to be deducted from the full amount of the income actually arising in the tax year.
- (5) The excluded income is—
 - (a) income to which any person is or may become entitled under a specific disposition, and
 - (b) income from property devolving on the personal representatives otherwise than as assets for payment of the deceased's debts.
- (6) In subsection (5)(a) “specific disposition” means a gift of specific property under a will, including—
 - (a) the disposition of personal chattels by section 46 of the Administration of Estates Act 1925 (c. 23) (succession on intestacy), and
 - (b) any disposition which under the law of another country has a similar effect to a gift of specific property by will under the law of England and Wales,
but excluding real property included in a residuary gift made by will by a specific or general description of it or, in Scotland, heritable estate included in such a gift.

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Further provisions for calculating estate income relating to absolute interests

665 Assumed income entitlement U.K.

- (1) Whether a person has an assumed income entitlement for a tax year in respect of an absolute interest in the whole or part of the residue of an estate depends on the results of the following steps.

Step 1

Find the amount of the person's share of the residuary income of the estate that is attributable to that interest for that tax year and each previous tax year during which the person had that interest (see sections 666 to 669).

Step 2

If the estate is a UK estate in relation to any tax year for which an amount has been found under step 1, deduct from that amount income tax on that amount at the applicable rate for that year (see section 670).

Step 3

Add together the amounts found under step 1 after making any deductions necessary under step 2.

Step 4

Add together the basic amounts relating to the person's absolute interest in respect of which the person was liable for income tax for all previous tax years (or would have been so liable if the person had been a person liable for income tax for those years).

- (2) For the purposes of this Chapter the person has an assumed income entitlement for the tax year if the amount resulting from step 3 exceeds the amount resulting from step 4.
- (3) The assumed income entitlement is equal to the excess.
- (4) This section is subject to—
- section 671 (successive absolute interests), and
 - section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest).

666 The residuary income of the estate U.K.

- (1) For the purposes of this Chapter the residuary income of an estate for a tax year is the aggregate income of the estate for that year, less the allowable estate deductions for that year.

This is subject to section 669 (reduction in residuary income: inheritance tax on accrued income).

- (2) The allowable estate deductions for a tax year are—
- (a) all interest paid in that year by the personal representatives in that capacity (but see section 233 of IHTA 1984: exclusion of interest on unpaid inheritance tax),
 - (b) all annual payments for that year which are properly payable out of residue,

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- (c) all payments made in that year in respect of expenses incurred by the personal representatives in that capacity in the management of the assets of the estate, and
- (d) any excess deductions from the previous tax year.

This is subject to subsections (3) to (5).

- (3) No sum is to be treated as an allowable estate deduction if it is allowable in calculating the aggregate income of the estate.
- (4) No sum is to be counted twice as an allowable estate deduction.
- (5) Payments in respect of expenses are only allowable estate deductions if they are properly chargeable to income (ignoring any specific direction in a will).
- (6) In this section “excess deductions from the previous tax year” means so much of the allowable deductions for the previous tax year as exceeded the aggregate income of the estate for that year.

667 Shares of residuary income of estate U.K.

- (1) In the case of a person who has an absolute interest in the whole of the residue of an estate for a whole tax year, the person's share of the residuary income of the estate in respect of that interest for that year is equal to the whole of that income for that year.
- (2) In the case of a person who—
 - (a) has an absolute interest in the whole of the residue of an estate for part of the tax year, or
 - (b) an absolute interest in part of the residue of an estate for the whole or part of the tax year,the person's share of the residuary income of the estate is a proportionate part of that income for that year.
- (3) This section is subject to section 668 (reduction in share of residuary income of estate).

668 Reduction in share of residuary income of estate U.K.

- (1) This section applies if a person has an absolute interest in the whole or part of the residue of an estate at the end of the administration period and—
 - (a) the total of the person's shares of the residuary income of the estate in respect of that interest for all tax years (apart from this section), exceeds
 - (b) the total of all sums paid during or payable at the end of the administration period in respect of that interest to any person (grossed up where subsection (5) applies).
- (2) In the final tax year the person's share of the residuary income of the estate is to be reduced by that excess.
- (3) If that excess is greater than the person's share of that income for the final tax year, that person's share of that income for the previous tax year is to be reduced, and so on.
- (4) If subsection (3) applies all necessary adjustments and repayments of income tax are to be made.
- (5) For the purposes of calculating the total mentioned in subsection (1)(b)—

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- (a) if the estate is a UK estate in relation to a tax year in which a sum is paid, the sum is to be grossed up by reference to the basic rate for that year, and
 - (b) if the estate is a UK estate in relation to the final tax year, a sum payable at the end of the administration period is to be grossed up by reference to the basic rate for that year.
- (6) For the application of this section where two or more absolute interests in the whole or the same part of the residue are held successively by different persons, see section 671(5) and (6).

669 Reduction in residuary income: inheritance tax on accrued income U.K.

- (1) This section applies if on the death of a person (“D”) income which accrued before D's death (“pre-death income”) is taken into account both—
- (a) in determining the value of D's estate for the purposes of inheritance tax charged on D's death, and
 - (b) in calculating the residuary income of D's estate for a tax year.
- (2) A reduction is made in the residuary income of D's estate for that tax year in ascertaining the extra liability, if any, of a person with an absolute interest in the whole or part of the residue of D's estate or any other estate to which that residuary income is relevant.
- (3) A person's extra liability is the amount by which the person's liability to income tax exceeds the amount it would be if—
- (a) income charged at the higher rate were charged—
 - (i) in the case of income within section 1A(1A)(c) of ICTA (income chargeable at the lower rate instead of the starting rate or the basic rate), at the lower rate, and
 - (ii) in any other case, at the basic rate, and
 - (b) income charged at the dividend upper rate were charged at the dividend ordinary rate.
- (4) The amount of the reduction under subsection (2) is calculated as follows:

Step 1

Calculate the net pre-death income by subtracting from the pre-death income any liabilities which have been taken account both—

- (a) in determining the value of D's estate for the purposes of inheritance tax, and
- (b) in calculating the residuary income of D's estate for the tax year.

Step 2

Calculate the inheritance tax attributable to net pre-death income by multiplying the inheritance tax to be charged by—

$$\frac{\text{NPDI}}{\text{VE}}$$

where—

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NPDI is the net pre-death income, and

VE is the value of D's estate.

Step 3

Gross up the inheritance tax attributable to net pre-death income by reference to the basic rate for the tax year.

- (5) The amount of pre-death income taken into account in determining the value of D's estate is taken to be the actual amount of income accruing before D's death, less income tax at the basic rate for the tax year in which D died.
- (6) Subsection (5) applies even if the income so accruing was not valued separately or its amount was not known at the date of D's death.
- (7) For the purposes of this section, the amounts agreed between the persons liable for inheritance tax and the Inland Revenue, or determined in proceedings between them, as the value of the estate and the amount of inheritance tax to be charged are conclusive.
- (8) Evidence of those amounts and of any facts relevant to their calculation may be given by the production of a document that appears to be a certificate from the Inland Revenue.

670 Applicable rate for determining assumed income entitlement (UK estates) U.K.

- (1) The applicable rate by reference to which income tax on a person's share of the residuary income of the estate for a tax year is calculated for the purposes of step 2 of the calculation in section 665(1) depends on the rate at which income tax is borne by the aggregate income of the estate for the year.
- (2) If the aggregate income of the estate all bears income tax at the same rate, the applicable rate is that rate.
- (3) If different parts of the aggregate income of the estate bear income tax at different rates, the applicable rate is the rate that applies to the income to which the person's share of the residuary income of the estate relates.
- (4) If different rates apply to different parts of that income, each of those rates is the applicable rate that applies to the corresponding part of the income to which the person's share of the residuary income of the estate relates.
- (5) For the purposes of this section, if there is more than one person with an absolute interest in the residue of the estate, such apportionments of parts of the aggregate income of the estate bearing income tax at different rates are to be made as are just and reasonable for their different interests.

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Special rules for successive interests

671 Successive absolute interests U.K.

- (1) This section applies if two or more absolute interests in the whole or the same part of the residue of an estate are held successively during the administration period by different persons.
- (2) In determining whether a person with a later such interest (“the later holder”) has an assumed income entitlement in respect of that interest and, if so, its amount—
 - (a) the later holder's share of the residuary income of the estate in respect of that interest for any tax year is to be treated as including the share of any person with a previous such interest (“a previous holder”), and
 - (b) the basic amounts relating to the later holder's interest are to be treated as including the basic amounts relating to any previous such interest.
- (3) In applying subsection (2), all determinations under that subsection or section 672(2) that fall to be made in relation to a person with an earlier interest are to be made before determinations under those provisions relating to a person with a later interest.
- (4) A person who is a previous holder in the final tax year is to be taxed in that year, in relation to the interest as to which that person is a previous holder, as if that year were not the final tax year, and the later holder's assumed income entitlement in that year is to be calculated accordingly.
- (5) The calculation under section 668(1)(a) and (b) (amount of reduction in the share of the residuary income of the person with an absolute interest at the end of the administration period) is to be made by reference to all the absolute interests taken together.
- (6) If the amount resulting from that calculation is greater than the total amount of the reductions which can be made under section 668(2) and (3), the share of the residuary income of the estate of the last previous holder of the interest for the last tax year in which that last holder had that interest is to be reduced, and so on.
- (7) For the purposes of this section and sections 672 to 676, two interests are held successively even where one is not held immediately before or after the other.
- (8) It is assumed for those purposes that each of the persons holding the interests in question is a person liable to income tax.

672 Successive interests: assumed income entitlement of holder of absolute interest following limited interest U.K.

- (1) This section applies if—
 - (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
 - (b) each later interest arises or is created on the cessation of the previous interest otherwise than by death,
 - (c) at least one of the interests is an absolute interest, and
 - (d) at least one of the interests preceding that interest is a limited interest.
- (2) Rules A and B apply to determine in relation to such an absolute interest—
 - (a) whether the person with the interest has an assumed income entitlement in respect of the interest, and

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- (b) if so, its amount.
- (3) Rule A is that the person's share of the residuary income of the estate in respect of the absolute interest for any tax year is treated as including any amount which would be included in it if—
 - (a) the interest had subsisted throughout the period when any such limited interest subsisted, and
 - (b) no such limited interest had ever subsisted.
- (4) Rule B is that the basic amounts relating to the absolute interest are treated as including the basic amounts relating to any such limited interest.

673 Successive interests: payments in respect of limited interests followed by absolute interests **U.K.**

- (1) This section applies if—
 - (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
 - (b) each later interest arises or is created on the cessation of the previous interest otherwise than by death,
 - (c) at least one of the interests is an absolute interest, and
 - (d) at least one of the interests preceding that interest is a limited interest.
- (2) A sum to which a person (“P”) with such an absolute interest is entitled in respect of any such limited interest which is paid while P has the absolute interest is treated as paid in respect of the absolute interest (and not the limited interest).
- (3) Subsection (4) applies if—
 - (a) P's absolute interest ceases during the administration period, and
 - (b) a sum to which P is entitled in respect of any such limited interest—
 - (i) is paid after the absolute interest ceases but before the end of the administration period, or
 - (ii) remains payable at the end of it.
- (4) This Chapter applies as respects any such sum as if the limited interest had continued to subsist while that absolute interest subsisted and had been held by P.
- (5) Subsection (4) is subject to subsection (6).
- (6) For the purposes only of section 668 (reduction in share of residuary income of estate), any such sum is treated as paid or payable in respect of the absolute interest.

674 Successive interests: holders of limited interests **U.K.**

- (1) This section applies if—
 - (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
 - (b) the earlier or, if there are more than two, the earliest of the interests is a limited interest, and
 - (c) each later interest arises or is created on the cessation of the previous interest otherwise than by death.

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- (2) Income is treated as arising from a limited interest in the whole or part of the residue of the estate in a tax year in cases A, B and C.
- (3) Case A is where—
- (a) one of the successive interests subsists at the beginning of the tax year,
 - (b) a sum is paid in respect of one of the interests in that year and before the end of the administration period, and
 - (c) a person who has or has had one of the interests which is a limited interest (“a limited holder”) is entitled to receive the payment.
- (4) Case B is where—
- (a) the tax year is the final tax year,
 - (b) one of the successive interests subsists at the beginning of that year,
 - (c) a sum remains payable in respect of one of the interests at the end of the administration period, and
 - (d) a limited holder is entitled to receive the payment.
- (5) Case C is where—
- (a) the tax year is a year before the final tax year,
 - (b) the last of the successive interests ceases in the tax year,
 - (c) a sum is either—
 - (i) paid in respect of one of the interests in a later tax year but before the end of the administration period, or
 - (ii) remains payable in respect of it at the end of that period, and
 - (d) a limited holder is entitled to receive the payment.

675 Basic amount of estate income: successive limited interests **U.K.**

The basic amount of estate income relating to a limited interest within section 674 for a tax year is the total of the sums within section 674(3)(b), (4)(c) and (5)(c) for that year.

676 Apportionments **U.K.**

- (1) Such apportionments as are just and reasonable are to be made for the purposes of this Chapter if—
- (a) the part of a residuary estate in which an interest within any of the provisions specified in subsection (2) subsists does not wholly correspond with the part in which another such interest held successively subsists, or
 - (b) one of those interests is in the whole of the residuary estate and the other is only in part of it.
- (2) The provisions are—
- section 671 (successive absolute interests),
 - section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest),
 - section 673 (successive interests: payments in respect of limited interests followed by absolute interests),
 - section 674 (successive interests: holders of limited interest), and
 - section 675 (basic amount of estate income: successive limited interests).

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Relief where foreign estates have borne UK income tax

677 Relief where UK income tax borne by foreign estate: absolute interests **U.K.**

- (1) This section applies if—
- (a) an estate is a foreign estate in relation to a tax year,
 - (b) United Kingdom income tax has been charged on a person for the tax year on estate income treated as arising from the estate under section 652 (estate income: absolute interests in residue), and
 - (c) United Kingdom income tax has already been borne by part of the aggregate income of the estate for the tax year.
- (2) If the person makes a claim under this section, the income tax charged on the person on that estate income is to be reduced by an amount equal to—

$$T \times \frac{A}{B}$$

where—

T is the income tax charged on the person,

A is so much of the aggregate income of the estate as has already borne United Kingdom income tax for the tax year, and

B is the aggregate income of the estate for the tax year.

678 Relief where UK income tax borne by foreign estate: limited and discretionary interests **U.K.**

- (1) This section applies if—
- (a) an estate is a foreign estate in relation to a tax year,
 - (b) United Kingdom income tax has been charged on a person for the tax year on estate income from the estate treated as arising under—
 - (i) section 654 (estate income: limited interests in residue), or
 - (ii) section 655 (estate income: discretionary interests in residue), and
 - (c) United Kingdom income tax has already been borne by part of the aggregate income of the estate for the tax year.
- (2) If the person makes a claim under this section, the income tax charged on the person on that estate income is to be reduced by an amount equal to—

$$T \times \frac{A - C}{B - C}$$

where—

T is the income tax charged on the person,

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A is so much of the aggregate income of the estate as has already borne United Kingdom income tax for the tax year,

B is the aggregate income of the estate for the tax year, and

C is the amount of United Kingdom income tax already borne by the aggregate income of the estate for the tax year.

General

679 Income from which basic amounts are treated as paid U.K.

- (1) The part of the aggregate income of the estate from which a basic amount is treated as paid is determined by applying assumptions A and B in that order.
- (2) Assumption A is that if there are different persons with interests in the residue of the estate, payments in respect of their basic amounts are paid out of the different parts of the aggregate income of the estate in such proportions as are just and reasonable for their different interests.
- (3) Assumption B is that payments are made from those parts in the following order—
 - (a) income bearing income tax at the basic rate,
 - (b) income bearing income tax at the lower rate, and
 - (c) income bearing income tax at the dividend ordinary rate.
- (4) If some, but not all, of the aggregate income of the estate is income treated under section 680 as bearing income tax, assumption C is applied before assumptions A and B.
- (5) Assumption C is that the basic amount is paid from income that is not within section 680 before it is paid from income within that section.
- (6) Assumptions A and B then apply—
 - (a) first to determine the part of the income not within that section from which the basic amount is paid, and
 - (b) then to determine the part of the income within that section from which the basic amount is paid.

680 Income treated as bearing income tax U.K.

- (1) This section has effect for the purposes of—
 - section 663 (the applicable rate for grossing up basic amounts of estate income),
 - section 670 (applicable rate for determining assumed income entitlement (UK estates)), and
 - section 679 (income from which basic amounts are treated as paid).
- (2) If the aggregate income of the estate includes a sum within subsection (3) or (4), the sum is treated as bearing income tax at the rate specified for it in that subsection.
- (3) The following sums are treated as bearing income tax at the dividend ordinary rate—
 - (a) a sum charged under Chapter 3 of Part 4 (dividends etc. from UK resident companies etc.), or

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- (b) a sum that is part of the aggregate income of the estate because of falling within—
 - (i) section 664(2)(c) (stock dividends), or
 - (ii) section 664(2)(d) (release of loan to participator in close company where debt due from personal representatives).
- (4) A sum that is part of the aggregate income of the estate because of falling within section 664(2)(e) (gains from life insurance contracts etc.) is treated as bearing income tax at the lower rate.
- (5) Income tax treated as borne under section 656(3) or 657(4) (gross amount of estate income treated as bearing tax at the applicable rate) is not repayable so far as the basic amount of the estate income in question is paid from sums within this section.

VALID FROM 06/04/2007

[^{F3} 680A Income treated as savings income or dividend income U.K.]

- (1) Subsections (2) and (3) apply to income if it—
 - (a) is treated under section 656(3) or 657(4) (gross amount of estate income treated as bearing tax at the applicable rate) as bearing tax at the savings rate or the dividend ordinary rate, and
 - (b) is not paid through a trustee.
- (2) So far as the income is treated as bearing tax at the savings rate, it is treated as savings income.
- (3) So far as the income is treated as bearing tax at the dividend ordinary rate, it is treated as dividend income.
- (4) Subsections (5) and (6) apply to income if it—
 - (a) is treated by section 662, read with section 656(3) or 657(4), as bearing tax at the savings rate or the dividend ordinary rate, and
 - (b) is paid through a trustee.
- (5) So far as the income is treated as bearing tax at the savings rate, it is treated as savings income of the trustee.
- (6) So far as the income is treated as bearing tax at the dividend ordinary rate, it is treated as dividend income of the trustee.]

Textual Amendments

- F3** S. 680A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 566](#) (with transitional provisions and savings in [Sch. 2](#))

681 Transfers of assets etc. treated as payments U.K.

- (1) For the purposes of this Chapter—
 - (a) a transfer of assets, or
 - (b) the appropriation of assets by personal representatives to themselves,

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

is treated as the payment of an amount equal to the assets' value at the date of transfer or appropriation.

- (2) The set off or release of a debt is treated for the purposes of this Chapter as the payment of an amount equal to it.
- (3) If at the end of the administration period—
 - (a) there is an obligation to transfer assets to any person, or
 - (b) personal representatives are entitled to appropriate assets to themselves,
 an amount equal to the assets' value at that time is treated as payable then for the purposes of this Chapter.
- (4) If at the end of the administration period—
 - (a) there is an obligation to release or set off a debt owed by any person, or
 - (b) personal representatives are entitled to release or set off a debt in their own favour,
 a sum equal to the debt is treated as payable then for the purposes of this Chapter.

682 Assessments, adjustments and claims after the administration period U.K.

- (1) This subsection applies if after the administration period ends it is apparent that a person is liable for income tax on estate income for any tax year who previously appeared not to be so liable or to be liable for tax on a lesser amount.
- (2) If subsection (1) applies—
 - (a) the person may be assessed and taxed for the tax year, and
 - (b) any relief or additional relief to which the person may be entitled for the tax year is to be allowed if a claim is made.
- (3) This subsection applies if after the administration period ends it is apparent that a person who previously appeared to be liable for income tax on estate income for any tax year is not so liable or is liable for tax on a lesser amount.
- (4) If subsection (3) applies—
 - (a) all necessary adjustments and repayments of income tax for the tax year are to be made, and
 - (b) if the person has been allowed relief which exceeds the relief that could have been given by reference to the amount actually charged for the tax year, income tax is charged on the person for that year under this subsection on the excess.
- (5) An assessment or adjustment made for the purposes of this Chapter or a claim made as a result of this Chapter may be made after the end of the period otherwise allowed if it is made on or before the third anniversary of the normal self-assessment filing date for the tax year in which the administration period ends.

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

CHAPTER 7 U.K.

ANNUAL PAYMENTS NOT OTHERWISE CHARGED

683 Charge to tax on annual payments not otherwise charged U.K.

- (1) Income tax is charged under this Chapter on annual payments that are not charged to income tax under or as a result of any other provision of this Act or any other Act.
- (2) Subsection (1) does not apply to annual payments that would be charged to income tax under or as a result of another provision but for an exemption.
- (3) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of this Chapter.
- (4) For exemptions, see in particular—
 - (a) sections 727 to 730 (certain annual payments by individuals),
 - (b) section 731 (periodical payments of personal injury damages),
 - (c) section 732 (compensation awards),
 - (d) section 734 (payments from trusts for injured persons),
 - (e) sections 735 to 743 (health and employment insurance payments),
 - (f) sections 744 to 747 (payments to adopters),
 - (g) section 748 (payments by persons liable to pool betting duty),
 - (h) sections 757 to 767 (interest and royalty payments), and
 - (i) section 776 (scholarship income).

684 Income charged U.K.

- (1) Tax is charged under this Chapter on the full amount of the annual payments arising in the tax year.
- (2) Subsection (1) is subject to Part 8 (foreign income: special rules).
- (3) The amount charged under this Chapter in the case of certain payments made by trustees in the exercise of a discretion is subject to section 687 of ICTA (grossing up of discretionary payments from trusts).

685 Person liable U.K.

The person liable for any tax charged under this Chapter is the person receiving or entitled to the annual payments.

VALID FROM 19/07/2006

^{F4} 685A Settlor-interested settlements U.K.

- (1) This section applies if—
 - (a) a person receives an annual payment in respect of income from the trustees of a settlement,
 - (b) the payment is made in the exercise of a discretion (whether of the trustees of the settlement or any other person), and

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- (c) a settlor is charged to tax under section 619(1) on the income arising to the trustees of the settlement (whether in the current year of assessment or in a previous year of assessment) out of which the annual payment is made.
- (2) This section applies only in respect of that proportion of the annual payment which corresponds to the proportion of the total income arising to the trustees of the settlement in respect of which a settlor is chargeable to tax under section 619(1).
- (3) If and in so far as this section applies, the recipient of the annual payment shall be treated for the purposes of this Chapter as having paid income tax at the higher rate in respect of the annual payment.
- (4) But—
- (a) tax which the recipient is treated by virtue of this section as having paid is not repayable,
 - (b) tax which the recipient is treated by virtue of this section as having paid may not be taken into account in relation to a tax liability of the recipient in respect of any other income of his, and
 - (c) the annual payment shall be treated for the purposes of sections 348 and 349(1) of ICTA as payable wholly out of profits or gains not brought into charge to income tax.
- (5) If the recipient of the annual payment is a settlor in relation to the settlement, if and in so far as this section applies the annual payment shall not be treated as his income for the purposes of the Income Tax Acts (and subsection (3) does not apply).
- (6) Section 687 of ICTA shall not apply in relation to an annual payment if and in so far as this section applies.]

Textual Amendments

- F4** S. 685A inserted (19.7.2006 with effect as mentioned in [Sch. 13 para. 6\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 89, Sch. 13 para. 6\(1\)](#)

686 Payments received after deduction of tax **U.K.**

- (1) Income tax deducted under either of the following sections from an annual payment within this Chapter is treated as income tax paid by the recipient—
- section 348(1)(b) of ICTA (under which income tax may be deducted from some payments by the payer), and
 - section 349(1)(a) of that Act (under which income tax must be deducted from some payments by the payer).
- (2) See also section 687(2) of that Act (sum treated as deducted from payments made under a discretionary trust treated as income tax paid by the person to whom the payment is made or the settlor).

Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5. (See end of Document for details)

CHAPTER 8 U.K.

INCOME NOT OTHERWISE CHARGED

687 Charge to tax on income not otherwise charged U.K.

- (1) Income tax is charged under this Chapter on income from any source that is not charged to income tax under or as a result of any other provision of this Act or any other Act.
- (2) Subsection (1) does not apply to annual payments.
- (3) Subsection (1) does not apply to income that would be charged to income tax under or as a result of another provision but for an exemption.
- (4) The definition of “income” in section 878(1) does not apply for the purposes of this section.
- (5) For exemptions from the charge under this Chapter, see in particular—
section 768 (commercial occupation of woodlands), and
section 779 (gains on commodity and financial futures).

688 Income charged U.K.

- (1) Tax is charged under this Chapter on the full amount of the income arising in the tax year.
- (2) Subsection (1) is subject to—
 - (a) Chapter 1 of Part 7 (which provides relief on income from the use of furnished accommodation in an individual's only or main residence: see, in particular, sections 794 and 798),
 - (b) Chapter 2 of that Part (which provides relief on income from the provision by an individual of foster care: see, in particular, sections 814 and 817), and
 - (c) Part 8 (foreign income: special rules).

689 Person liable U.K.

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

Status:

Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 5.