



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 6

#### EXEMPT INCOME

### CHAPTER 3

#### INCOME FROM INDIVIDUAL INVESTMENT PLANS

#### **699 Non-entitlement to exemption**

- (1) Investment plan regulations may—
  - (a) provide that in circumstances specified in the regulations an investor ceases to be entitled to the exemption given by regulations made under section 694(1) and is treated as not having been entitled to it,
  - (b) adapt or modify the effect of any enactment relating to income tax for that purpose, and
  - (c) provide that in those circumstances the investor or the plan manager (depending on the terms of the regulations) is to account to the Board of Inland Revenue for income tax from which exemption has already been given on the basis that the investor was entitled to the exemption.
- (2) They may provide that an investor or the plan manager (depending on the terms of the regulations) is to account to the Board—
  - (a) for income tax from which the exemption has been given in circumstances where the investor was not entitled to it, or
  - (b) for an amount determined in accordance with the regulations to be the amount to be taken as representing that tax.

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*Status: This is the original version (as it was originally enacted).*

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- (3) They may modify the effect of or adapt any enactment relating to income tax for the purposes of securing that investors or plan managers account for the tax and other amounts mentioned in subsections (1) and (2).
- (4) They may also modify the provisions of or adapt Chapter 9 of Part 4 of this Act (gains from contracts for life insurance etc.) or Chapter 2 of Part 13 of ICTA (life policies, life annuities and capital redemption policies) for cases where an investor—
  - (a) ceases to be entitled to the exemption given by regulations made under section 694(1) and is treated as not having been entitled to it, or
  - (b) has been given the exemption on the basis of an entitlement to it when there was no such entitlement.
- (5) They may provide for plan managers (as well as investors) to be liable to account for amounts becoming due from investors as a result of regulations made under subsection (4).
- (6) They may provide that, instead of having to account as mentioned in subsection (2) or (5), an investor or a plan manager is liable to a penalty of an amount specified in the regulations if—
  - (a) an exemption has been given to which there was no entitlement, and
  - (b) the circumstances are such as are specified in the regulations.
- (7) They may provide that liabilities are imposed in cases which—
  - (a) are not cases in which liabilities may be imposed under subsections (1) to (6) where relief has been given to which there was no entitlement, but
  - (b) are cases where—
    - (i) a contravention or failure to comply with investment plan regulations that is specified in the regulations, or
    - (ii) the existence of such other circumstances as are so specified,would have the effect of excluding or limiting an entitlement to exemption, apart from the regulations under this subsection.
- (8) Regulations under subsection (7)—
  - (a) may only provide for the imposition of liabilities equivalent to those which may be imposed under subsections (1) to (6), and
  - (b) must provide for those liabilities to replace the liabilities to tax which would otherwise arise.