



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 10

#### SPECIAL RULES ABOUT CHARITABLE TRUSTS ETC

##### *Introduction*

#### **518 Overview of Part**

- (1) This Part makes provision about some gifts and payments made to charitable trusts, including provision imposing charges to income tax and conferring exemptions from those charges (see sections 520 to 523).
- (2) This Part also provides for some of the income of charitable trusts and others to be exempt from charges to income tax (see sections 524 to 537).
- (3) In the provisions of this Part containing exemptions, references to total income of a charitable trust are to the total income of the trustees of the charitable trust concerned.
- (4) See [F1sections 538 and 538A] for provision about making claims for the exemptions under this Part.
- (5) In the case of a charitable trust which has a non-exempt amount for a tax year (see section 540), the exemptions under this Part are subject to restrictions (see section 539).
- (6) The non-exempt amount for a tax year depends on the charitable trust's attributable income and gains for the tax year and its non-charitable expenditure for the tax year (see sections 540 and 543 to 564).

#### **Textual Amendments**

- F1** Words in s. 518(4) substituted (8.4.2010 with effect in accordance with Sch. 8 para. 8(6) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 8 para. 5\(2\)](#)

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

## **F<sup>2</sup>519 Meaning of “charitable trust”**

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### **Textual Amendments**

- F2** S. 519 omitted (8.3.2012) (with effect in accordance with art. 17 of the commencing S.I.) by virtue of Finance Act 2010 (c. 13), **Sch. 6 paras. 23(4), 34(2)**; S.I. 2012/736, art. 17

### *Gifts and other payments*

## **520 Gifts entitling donor to gift aid relief: income tax treated as paid**

- (1) This section applies if a gift is made to a charitable trust by an individual and the gift is a qualifying donation for the purposes of Chapter 2 of Part 8 (gift aid).
- (2) The charitable trust is treated as receiving, under deduction of income tax at the basic rate for the tax year in which the gift is made, a gift of an amount equal to the grossed up amount of the gift.
- (3) The grossed up amount of the gift is the amount of the gift grossed up by reference to the basic rate for the tax year in which the gift is made.
- (4) The income tax treated as deducted is treated as income tax paid by the trustees of the charitable trust.

## **521 Gifts entitling donor to gift aid relief: income tax liability and exemption**

- (1) This section applies if gifts are made to charitable trusts by individuals and the gifts are qualifying donations for the purposes of Chapter 2 of Part 8 (gift aid).
  - (2) Income tax is charged on the gifts under this section.
  - (3) It is charged on the grossed up amount of the gifts arising in the tax year.
  - (4) But a gift is not taken into account in calculating total income so far as it is applied to charitable purposes only.
  - (5) The grossed up amount of a gift is the amount of the gift grossed up by reference to the basic rate for the tax year in which the gift is made.
  - (6) The trustees of the charitable trust are liable for any tax charged under this section.
- [<sup>F3</sup>(7) Schedule 19 to FA 2008 contains provision for transitional payments to charitable trusts in respect of gifts made in the tax years 2008-09 to 2010-11.]

### **Textual Amendments**

- F3** S. 521(7) inserted (21.7.2008) by Finance Act 2008 (c. 9), **Sch. 19 para. 9**

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#### **[<sup>F4</sup>521A Gifts under payroll deduction schemes: income tax liability and exemption**

- (1) This section applies if gifts are made to charitable trusts by individuals and the gifts are donations for the purposes of Part 12 of ITEPA 2003 (payroll giving).
- (2) Income tax is charged on the gifts under this section.
- (3) It is charged on the full amount of the gifts arising in the tax year.
- (4) But a gift is not taken into account in calculating total income so far as it is applied to charitable purposes only.
- (5) The trustees of the charitable trust are liable for any tax charged under this section.]

#### **Textual Amendments**

- F4** S. 521A inserted (8.4.2010 with effect in accordance with Sch. 8 para. 8(1) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 8 para. 1\(1\)](#)

#### **522 Gifts of money from companies: income tax liability and exemption**

- (1) This section applies if gifts of sums of money are made to charitable trusts by companies.
- (2) But this section does not apply to a gift of a sum of money made by a company that is itself a charity (see section 523).
- (3) Income tax is charged on the gifts under this section.
- (4) It is charged on the full amount of the gifts arising in the tax year.
- (5) But a gift is not taken into account in calculating total income so far as it is applied to charitable purposes only.
- (6) The trustees of the charitable trust are liable for any tax charged under this section.

#### **523 Payments from other charities: income tax liability and exemption**

- (1) This section applies to payments which—
  - (a) are received by charitable trusts from other charities,
  - (b) are not made for full consideration in money or money's worth,
  - (c) are not charged to income tax, apart from this section, and
  - (d) are not of a description which (on a claim) would be exempt from income tax under any of the exemptions conferred by this Part.
- (2) This section does not apply to a payment which arises from a source outside the United Kingdom.
- (3) Income tax is charged under this section on the payments.
- (4) It is charged on the full amount of the payments arising in the tax year.
- (5) But a payment is not taken into account in calculating total income so far as it is applied to charitable purposes only.

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- (6) The amount charged under this section in the case of certain payments made by the trustees of a charitable trust in the exercise of a discretion is subject to section 494 (grossing up of discretionary payments from trusts).
- (7) The trustees of the charitable trust are liable for any tax charged under this section.

#### *Other exemptions*

### **524 Exemption for profits etc of charitable trades**

- (1) The income mentioned in subsection (2) is not taken into account in calculating total income if conditions A and B are met.
- (2) The income referred to in subsection (1) is—
  - (a) the profits of a trade carried on by a charitable trust,
  - (b) amounts treated as adjustment income of a charitable trust under section 228 of ITTOIA 2005 in respect of a trade carried on by the trust, and
  - (c) post-cessation receipts arising from a trade carried on by a charitable trust which are received by the trustees of the trust or to which they are entitled.
- (3) Condition A is—
  - (a) in the case of the profits of a trade, that the profits are profits of a tax year in relation to which the trade is a charitable trade,
  - (b) in the case of an amount treated as adjustment income, that the amount arises in a tax year in relation to which the trade is a charitable trade, and
  - (c) in the case of a post-cessation receipt, that the trade was a charitable trade in relation to the tax year in which the cessation occurred.

See section 525 as to when a trade is a charitable trade in relation to a tax year.

- (4) Condition B is that the profits are, or the amount or post-cessation receipt is, (as the case may be) applied to the purposes of the charitable trust only.
- (5) Sections 232(1) and (2), 235 and 236 of ITTOIA 2005 (when adjustment income is treated as arising) apply for the purposes of subsection (3) as they apply for the purposes of Chapter 17 of Part 2 of that Act.
- (6) In this section “post-cessation receipt” means an amount that is a post-cessation receipt for the purposes of Chapter 18 of Part 2 of ITTOIA 2005 (post-cessation receipts) (see sections 246 to 253 of that Act).

### **525 Meaning of “charitable trade”**

- (1) For the purposes of this Part a trade carried on by a charitable trust is a charitable trade in relation to a tax year if throughout the basis period for the tax year—
  - (a) the trade is exercised in the course of carrying out a primary purpose of the charitable trust, or
  - (b) the work in connection with the trade is mainly carried out by beneficiaries of the charitable trust.
- (2) For the purposes of subsection (1)(a), if a trade is exercised partly in the course of carrying out a primary purpose of the charitable trust and partly otherwise, each part is to be treated as a separate trade.

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- (3) For the purposes of subsection (1)(b), if work in connection with a trade is carried out partly but not mainly by beneficiaries, the part in connection with which work is carried out by beneficiaries and the other part are to be treated as separate trades.
- (4) If different parts of a trade are treated as separate trades under subsection (2) or (3), a just and reasonable apportionment is to be made for that purpose of—
  - (a) expenses and receipts of the trade, and
  - (b) any amounts which are treated as adjustment income under section 228 of ITTOIA 2005 in respect of the trade, or which are post-cessation receipts arising from the trade for the purposes of Chapter 18 of Part 2 of that Act.
- (5) For the rules about basis periods, see Chapter 15 of Part 2 of ITTOIA 2005.

## **526 Exemption for profits etc of small-scale trades**

- (1) The income mentioned in subsection (2) is not taken into account in calculating total income if conditions A and B are met.
- (2) The income referred to in subsection (1) is—
  - (a) the profits of a trade carried on by a charitable trust,
  - (b) amounts treated as adjustment income of a charitable trust under section 228 of ITTOIA 2005 in respect of a trade carried on by the trust, and
  - (c) post-cessation receipts arising from a trade carried on by a charitable trust which are received by the trustees of the trust or to which they are entitled.
- (3) Subsection (1) does not apply in respect of—
  - (a) profits of a trade that are, apart from this section, exempt from income tax chargeable under Part 2 of ITTOIA 2005,
  - (b) amounts treated as adjustment income that are, apart from this section, exempt from income tax chargeable under Chapter 17 of Part 2 of that Act, or
  - (c) post-cessation receipts that are, apart from this section, exempt from income tax chargeable under Chapter 18 of Part 2 of that Act.
- (4) Condition A is—
  - (a) in the case of the profits of a trade, that the profits are profits of a tax year in relation to which the condition specified in section 528 (condition as to trading and miscellaneous incoming resources) is met,
  - (b) in the case of an amount treated as adjustment income, that the amount arises in such a tax year, and
  - (c) in the case of a post-cessation receipt, that it is received in such a tax year.
- (5) Condition B is that the profits are, or the amount or post-cessation receipt is, (as the case may be) applied to the purposes of the charitable trust only.
- (6) Sections 232(1) and (2), 235 and 236 of ITTOIA 2005 (when adjustment income is treated as arising) apply for the purposes of subsection (4) as they apply for the purposes of Chapter 17 of Part 2 of that Act.
- (7) In this section “post-cessation receipt” means an amount that is a post-cessation receipt for the purposes of Chapter 18 of Part 2 of that Act (post-cessation receipts) (see sections 246 to 253 of that Act).

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## 527 Exemption from charges under provisions to which section 1016 applies

- (1) Any income or gains of a charitable trust that is or are chargeable to income tax under or by virtue of any provision to which section 1016 applies is not or are not taken into account in calculating total income if conditions A and B are met.
- (2) Subsection (1) does not apply in respect of any income or gains chargeable to income tax by virtue of any of—
  - (a) [<sup>F5</sup>section 1086(2) of CTA 2010] (chargeable payments connected with exempt distributions),
  - <sup>F6</sup>(b) .....
  - (c) Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc),
  - (d) Chapter 5 of Part 5 of that Act (settlements: amounts treated as income of settlor), [<sup>F7</sup>and]
  - <sup>F8</sup>(e) .....
  - (f) any other enactment specified in an order made by the Treasury.
- (3) Subsection (1) does not apply in respect of any income that is, or gains that are, apart from this section, exempt from income tax chargeable under or by virtue of any provision to which section 1016 applies.
- (4) Condition A is that the income is, or the gains are, for a tax year in relation to which the condition specified in section 528 is met.
- (5) Condition B is that the income is, or the gains are, applied to the purposes of the charitable trust only.

### Textual Amendments

- F5** Words in s. 527(2)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 530](#) (with [Sch. 2](#))
- F6** S. 527(2)(b) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 81, Sch. 10 Pt. 1](#) (with [Sch. 9 paras. 1-9, 22](#))
- F7** Word in s. 527(2)(d) inserted (with effect in accordance with s. 82 of the amending Act) by [Finance Act 2016 \(c. 24\), s. 79\(4\)\(a\)](#) (and also with effect in accordance with [Finance \(No. 2\) Act 2017 \(c. 32\), s. 39\(1\)\(2\)](#))
- F8** S. 527(2)(e) omitted (with effect in accordance with s. 82 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), s. 79\(4\)\(b\)](#) (and also with effect in accordance with [Finance \(No. 2\) Act 2017 \(c. 32\), s. 39\(1\)\(2\)](#))

## 528 Condition as to trading and miscellaneous incoming resources

- (1) The condition in this section is met in relation to a tax year if—
  - (a) the sum of the charitable trust's trading incoming resources and miscellaneous incoming resources for the tax year does not exceed the requisite limit for the tax year, or
  - (b) the trustees of the charitable trust had, at the beginning of the tax year, a reasonable expectation that it would not do so.
- (2) The charitable trust's “trading incoming resources” for the tax year are—

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- (a) the incoming resources which are required to be taken into account in calculating the profits of, or losses made in, the basis period for the tax year of any non-exempt trade carried on by the charitable trust, and
- (b) the incoming resources which are treated as adjustment income under section 228 of ITTOIA 2005 in respect of such a trade, or which are post-cessation receipts arising from such a trade.

“Post-cessation receipt” has the meaning given by section 526(7).

- (3) For the purposes of subsection (2) a trade is a “non-exempt trade” if any profits of the trade would not, apart from section 526, be exempt from income tax chargeable under Part 2 of ITTOIA 2005.
- (4) The charitable trust's “miscellaneous incoming resources” for the tax year are the incoming resources which are required to be taken into account in calculating non-exempt miscellaneous income or non-exempt miscellaneous losses for the tax year.

- (5) In this section—

“non-exempt miscellaneous income” means income or gains chargeable to income tax under or by virtue of any provision to which section 1016 applies that is not, or are not, apart from section 526 or 527, exempt from income tax chargeable under or by virtue of that provision, and

“non-exempt miscellaneous losses” means losses arising from a transaction which is of such a nature that if income or gains had arisen from it the income would have been non-exempt miscellaneous income.

- (6) The requisite limit—

- (a) is 25% of the charitable trust's total incoming resources for the tax year, but
- (b) must not be less than £5,000 or more than £50,000.

## **529 Exemption for profits from fund-raising events**

- (1) The profits of a trade carried on by a charitable trust are not taken into account in calculating total income so far as they arise from a VAT-exempt event.
- (2) Subsection (1) applies so far as the profits are [<sup>F9</sup>either applied for charitable purposes or transferred to another charity].
- (3) An event is a VAT-exempt event if the supply of goods and services by the charitable trust in connection with the event would be exempt from value added tax under Group 12 of Schedule 9 to the Value Added Tax Act 1994 (c. 23) (fund-raising events by charities and other qualifying bodies).

### **Textual Amendments**

- F9** Words in s. 529(2) substituted (1.4.2011) (with effect in accordance with art. 14(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2011 \(S.I. 2011/1037\)](#), arts. 1, **14(1)**

## **530 Exemption for profits from lotteries**

- (1) The profits accruing to a charitable trust from a lottery are not taken into account in calculating total income if conditions A and B are met.

*Status: Point in time view as at 16/11/2017.*

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- (2) Condition A is that—
- [<sup>F10</sup>(a) the lottery is an exempt lottery within the meaning of the Gambling Act 2005 by virtue of Part 1 or 4 of Schedule 11 to that Act,
  - (ab) the lottery is promoted in accordance with a lottery operating licence within the meaning of Part 5 of that Act, or]
  - (b) the lottery is promoted and conducted in accordance with Article 133 or 135 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)).
- (3) Condition B is that the profits are applied to the purposes of the charitable trust only.

#### Textual Amendments

**F10** S. 530(2)(a)(ab) substituted for s. 530(2)(a) (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 para. 2, 23\(2\)](#); [S.I. 2007/2532, art. 2](#)

### 531 Exemption for property income etc

- (1) Income which is chargeable to income tax under Part 2 of ITTOIA 2005 (trading income) as a result of section 261 of that Act is not taken into account in calculating total income so far as—
- (a) it arises in respect of rents or other receipts from an estate, interest or right in or over land, and
  - (b) the estate, interest or right is vested in any person in trust for a charitable trust or for charitable purposes.
- (2) Income which is chargeable to income tax under Part 3 of ITTOIA 2005 (property income) is not taken into account in calculating total income so far as—
- (a) it arises in respect of an estate, interest or right in or over land, and
  - (b) the estate, interest or right is vested in any person in trust for a charitable trust or for charitable purposes.
- [<sup>F11</sup>(2A) Distributions to which [<sup>F12</sup>section 548 of CTA 2010] (Real Estate Investment Trusts: distributions) applies and which are chargeable to income tax under Part 2 or Part 3 of ITTOIA 2005 are not taken into account in calculating total income so far as they arise in respect of shares vested in a person in trust for a charitable trust or for charitable purposes.]
- (3) Subsection (1) [<sup>F13</sup>to (2A)] apply so far as the income is applied to charitable purposes only.

#### Textual Amendments

- F11** S. 531(2A) inserted (with effect in accordance with s. 52(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 17 para. 18\(a\)](#)
- F12** Words in s. 531(2A) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 531](#) (with [Sch. 2](#))
- F13** Words in s. 531(3) substituted (with effect in accordance with s. 52(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 17 para. 18\(b\)](#)



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## 532 Exemption for savings and investment income

- (1) The income mentioned in subsection (2) is not taken into account in calculating total income if—
  - (a) it is income of a charitable trust, or
  - (b) it is required, under an Act, court judgment, charter, trust deed or will, to be applied to charitable purposes only.
- (2) The income referred to in subsection (1) is—
  - (a) interest,
  - (b) a dividend or other distribution of a UK resident company,
  - (c) a dividend of a non-UK resident company,
  - (d) an annuity payment under a purchased life annuity,
  - (e) profits on the disposal of deeply discounted securities, or
  - (f) income treated for the purposes of <sup>F14</sup>regulation 15 of the Unauthorised Unit Trusts (Tax) Regulations 2013 as received by a unit holder from an exempt unauthorised unit trust].
- (3) Subsection (1) applies only so far as the income falls within, and is dealt with under, Part 4 of ITTOIA 2005 (see section 366 of that Act as to provisions given priority over Part 4).
- (4) Subsection (1) applies so far as the income is applied to charitable purposes only.
- (5) In this section—
  - “deeply discounted security” has the same meaning as in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see section 430 of that Act),
  - “disposal”, in relation to a deeply discounted security, has the same meaning as in Chapter 8 of Part 4 of that Act (see section 437(1) of that Act),
  - “dividend”, in relation to a UK resident company, has the same meaning as in Chapter 3 of Part 4 of that Act (dividends etc from UK resident companies etc) (see section 382(4) of that Act),
  - “interest” includes anything treated as interest for the purposes of Chapter 2 of Part 4 of that Act (interest), and
  - “purchased life annuity” has the same meaning as in Chapter 7 of Part 4 of that Act (purchased life annuity payments) (see section 423 of that Act).

### Textual Amendments

- F14** Words in s. 532(2)(f) substituted (6.4.2014) by [The Unauthorised Unit Trusts \(Tax\) Regulations 2013](#) (S.I. 2013/2819), regs. 1(3), **37(7)** (with reg. 32)

## 533 Exemption for public revenue dividends

- (1) Public revenue dividends on securities which are in the name of trustees are not taken into account in calculating total income so far as the dividends are applicable and applied only for the repair of—
  - (a) a cathedral, college, church or chapel, or
  - (b) a building used only for the purposes of divine worship.

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- (2) In this section “public revenue dividends” means—
- (a) income from securities which is payable out of the public revenue of the United Kingdom or Northern Ireland, or
  - (b) income from securities issued by or on behalf of a government or a public or local authority in a country outside the United Kingdom.

#### **534 Exemption for transactions in deposits**

- (1) Profits or gains arising to a charitable trust from the disposal of exempt deposit rights are not taken into account in calculating total income.
- (2) Subsection (1) applies so far as the profits or gains are applied to charitable purposes only.
- (3) For the purposes of this section, the exercise of an exempt deposit right is a disposal of it, except so far as the right is a right to receive interest.
- (4) In this section “exempt deposit rights” means—
  - (a) a right to receive, with or without interest, a principal amount stated in, or determined in accordance with, the current terms of issue of an eligible debt security, where in accordance with those terms the issue of uncertificated units of the eligible debt security corresponds to the issue of a certificate of deposit,
  - (b) a right to receive the principal amount stated in a certificate of deposit, with or without interest, and
  - (c) an uncertificated right to receive a principal amount, with or without interest, as a result of a deposit of money.
- (5) In this section—
 

“eligible debt security” has the meaning given in regulation 3(1) of the Uncertificated Securities Regulations 2001 (S.I. 2001/3755),

“uncertificated”, in relation to a unit, has the meaning given in regulation 3(1) of the Uncertificated Securities Regulations 2001,

“uncertificated right” means a right in respect of which no certificate of deposit has been issued, although the person for the time being entitled to it is entitled to call for the issue of such a certificate, and

“unit” has the meaning given in regulation 3(1) of the Uncertificated Securities Regulations 2001.

#### **535 Exemption for offshore income gains**

- (1) Offshore income gains accruing to a charitable trust are not taken into account in calculating total income.
- (2) Subsection (1) applies if the gain is applicable and applied to charitable purposes only.
- (3) In this section “offshore income gain” has the same meaning as in <sup>[F15]</sup>Chapter 5 of Part 2 of the Offshore (Tax) Funds Regulations 2009 (S.I. 2009/3001)].
- (4) See <sup>[F16]</sup>regulation 31(3) to (5) of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001)], which—
  - (a) applies where property held on charitable trusts ceases to be subject to charitable trusts, and

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- (b) provides for any gain accruing under that subsection to be treated as an offshore income gain not accruing to a charity.

#### Textual Amendments

- F15** Words in s. 535(3) substituted (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), regs. 1(1), **129(4)(a)**
- F16** Words in s. 535(4) substituted (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), regs. 1(1), **129(4)(b)**

### 536 Exemption for certain miscellaneous income

- (1) The income mentioned in subsection (3) is not taken into account in calculating total income if—
- (a) it is income of a charitable trust, or
  - (b) it is required, under an Act, court judgment, charter, trust deed or will, to be applied to charitable purposes only.
- (2) Subsection (1) applies so far as the income is applied to charitable purposes only.
- (3) The income referred to in subsection (1) is—
- (a) royalties and other income from intellectual property that do not fall within Chapter 2 of Part 2 of ITTOIA 2005 (receipts of a trade etc),
  - (b) income derived from a relevant telecommunication right that is not income falling within Chapter 2 of Part 2 of ITTOIA 2005 (receipts of a trade etc),
  - (c) annual payments charged to tax under Chapter 7 of Part 5 of ITTOIA 2005, and
  - (d) relevant foreign distributions.
- (4) In this section—
- “intellectual property” has the same meaning as in section 579 of ITTOIA 2005,
  - “relevant foreign distribution” means a distribution of a non-UK resident company which—
    - (a) is not chargeable to tax under Chapter 4 of Part 4 of ITTOIA 2005 (dividends from non-UK resident companies), but
    - (b) would be chargeable to tax under Chapter 3 of that Part of that Act (dividends etc from UK resident companies etc) if the company were a UK resident company, and
  - “relevant telecommunication right” has the same meaning as in Chapter 10 of Part 2 of that Act (trade profits: certain telecommunications rights) (see section 146 of that Act).

### 537 Exemption for income from estates in administration

- (1) If the person liable under section 659 of ITTOIA 2005 for any income tax charged under section 649 of that Act (charge to tax on estate income) is the trustee of a charitable trust, the estate income is not taken into account in calculating total income.
- (2) Subsection (1) applies so far as the estate income is applied to the purposes of the charitable trust only.

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- (3) In this section “estate income” has the same meaning as in Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) (see section 649(2) of that Act).

### Claims

#### 538 Requirement to make claim

- (1) The exemptions under this Part require a claim.
- (2) Subsection (1) does not apply to an exemption under—
- (a) section 534 (exemption for transactions in deposits), or
  - (b) section 535 (exemption for offshore income gains).

<sup>F17</sup>(3) .....

<sup>F18</sup>(4) .....

#### Textual Amendments

**F17** S. 538(3) omitted (retrospective to 6.4.2012) by virtue of [Finance Act 2012 \(c. 14\), s. 50\(2\)\(b\)\(4\)](#)

**F18** S. 538(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 452](#)

#### <sup>F19</sup>538A Claims in relation to gift aid relief [<sup>F20</sup>etc]

[ This section applies to claims for—

- <sup>F21</sup>(A1) (a) repayment of income tax treated as having been paid by virtue of section 520(4) (gift aid relief: income tax treated as paid by trustees of charitable trust), or
- (b) repayment of income tax deducted at source from income to which any of the following applies—
- (i) section 532 (exemption for savings and investment income),
  - (ii) section 533 (exemption for public revenue dividends),
  - (iii) section 536 (exemption for certain miscellaneous income), or
  - (iv) section 537 (exemption for income from estates in administration).]

- (1) This section [<sup>F22</sup>also ] applies to claims for amounts to be exempt from tax [<sup>F23</sup>by virtue of—

- (a) section 521(4) (gifts entitling donor to gift aid relief: charitable trusts), or
- (b) any of the provisions mentioned in subsection (A1)(b).]

- (2) A claim to which this section applies may be made—

- (a) to an officer of Revenue and Customs, or
- (b) by being included in a return under section 8A of TMA 1970 (trustee's self-assessment return).

- (3) In this section—

“free-standing claim” means a claim made as mentioned in subsection (2) (a), and

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

“tax return claim” means a claim made as mentioned in subsection (2)(b).

- (4) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—
- (a) limiting the number of free-standing claims that may be made by a person in a tax year, or
  - (b) requiring a claim for an amount below an amount specified in the regulations to be made as a tax return claim.
- (5) The regulations may make different provision for different cases or purposes.]

#### Textual Amendments

- F19** S. 538A inserted (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 8 para. 5\(3\)](#)
- F20** Word in s. 538A heading inserted (retrospective to 8.4.2010) by [Finance Act 2012 \(c. 14\)](#), [Sch. 15 paras. 1\(4\), 17\(1\)](#)
- F21** S. 538A(A1) inserted (retrospective to 8.4.2010) by [Finance Act 2012 \(c. 14\)](#), [Sch. 15 paras. 1\(2\), 17\(1\)](#)
- F22** Word in s. 538A(1) inserted (retrospective to 8.4.2010) by [Finance Act 2012 \(c. 14\)](#), [Sch. 15 paras. 1\(3\)\(a\), 17\(1\)](#)
- F23** Words in s. 538A(1) substituted (retrospective to 8.4.2010) by [Finance Act 2012 \(c. 14\)](#), [Sch. 15 paras. 1\(3\)\(b\), 17\(1\)](#)

### *Restrictions on exemptions*

#### **539 Restrictions on exemptions**

- (1) This section applies if a charitable trust has a non-exempt amount for a tax year (see section 540).
- (2) The exemptions under this Part do not apply, and are treated as never having applied, to so much of any income of the charitable trust for the tax year as is attributed under section 541 to the non-exempt amount.
- (3) Section 256(4) of TCGA 1992 contains corresponding restrictions which apply in relation to section 256(1) of that Act (gains accruing to charities not to be chargeable gains).

#### **540 The non-exempt amount**

- (1) A charitable trust has a non-exempt amount for a tax year if it has—
- (a) non-charitable expenditure for the tax year (amount A), and
  - (b) attributable income and gains for the tax year (amount B).
- (2) The non-exempt amount for the tax year is—
- (a) amount A, or
  - (b) if less, amount B.
- (3) For the purposes of this Part—
- (a) a charitable trust's “attributable income” for a tax year is the charitable trust's income for the tax year that is exempt from income tax as a result of any of the exemptions under this Part,

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

- (b) a charitable trust's "attributable gains" for a tax year are any gains accruing to the charitable trust in the tax year that as a result of <sup>F24</sup>section 256(1) of TCGA 1992, are not chargeable gains, and
  - (c) a charitable trust's "attributable income and gains" for a tax year is the sum of its attributable income for the tax year and its attributable gains for the tax year.
- (4) In applying subsection (3)(a) ignore any restrictions on the exemptions under this Part which result from section 539(2).
- (5) In applying subsection (3)(b) ignore any restriction on the exemption under section 256(1) of TCGA 1992 which results from section 256(4) of that Act.

#### Textual Amendments

**F24** Words in s. 540(3)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [Income Tax Act 2007 \(Amendment\) \(No.3\) Order 2007 \(S.I. 2007/3506\)](#), arts. 1(1), **3(3)**

### 541 Attributing income to the non-exempt amount

- (1) This section applies if a charitable trust has a non-exempt amount for a tax year.
- (2) Attributable income of the charitable trust for the tax year may be attributed to the non-exempt amount but only so far as the non-exempt amount has not been used up.
- (3) The non-exempt amount can be used up (in whole or in part) by—
  - (a) attributable income being attributed to it under this section, or
  - (b) attributable gains being attributed to it under section 256A of TCGA 1992.
- (4) The whole of the non-exempt amount must be used up by—
  - (a) attributable income being attributed to the whole of it under this section,
  - (b) attributable gains being attributed to the whole of it under section 256A of TCGA 1992, or
  - (c) a combination of attributable income being attributed to some of it under this section and attributable gains being attributed to the rest of it under section 256A of TCGA 1992.
- (5) See section 542 for the way in which income is to be attributed to the non-exempt amount under this section.

### 542 How income is attributed to the non-exempt amount

- (1) This section is about the ways in which attributable income can be attributed to a non-exempt amount under section 541.
- (2) The trustees of the charitable trust may specify the attributable income that is to be attributed to the non-exempt amount.
- (3) A specification under subsection (2) is made by notice to an officer of Revenue and Customs.
- (4) Subsection (6) applies if—

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*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

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- (a) an officer of Revenue and Customs requires the trustees of a charitable trust to make a specification under this section, and
  - (b) the trustees have not given notice under subsection (3) of the specification before the end of the required period.
- (5) The required period is 30 days beginning with the day on which the officer made the requirement.
- (6) An officer of Revenue and Customs may determine the attributable income that is to be attributed to the non-exempt amount.

### *Non-charitable expenditure*

#### **543 Meaning of “non-charitable expenditure”**

- (1) For the purposes of this Part a charitable trust's non-charitable expenditure for a tax year is—
- (a) any loss made in the tax year in a trade carried on by the charitable trust unless—
    - (i) the trade is a charitable trade in relation to the tax year, or
    - (ii) the trade is not a charitable trade in relation to the tax year but profits of the trade arising in the tax year would be exempt from income tax as a result of one of the exemptions in sections 526, 529 or 530,
  - (b) any payment made in the tax year by the charitable trust in connection with a trade in circumstances where relief is available under section 96 (post-cessation trade relief) unless—
    - (i) the trade was a charitable trade in relation to the tax year in which the cessation occurred, or
    - (ii) the trade was not a charitable trade in relation to that tax year but profits of the trade arising immediately before the cessation would have been exempt from income tax as a result of one of the exemptions in sections 526, 529 or 530,
  - (c) any loss made in the tax year in a trade, or in a UK property business or an overseas property business, carried on by the charitable trust, if—
    - (i) the loss relates to land, and
    - (ii) profits of the trade, or income of the business, generated from the land in the tax year would not be exempt from income tax as a result of the exemptions in section 531,
  - (d) any payment made in the tax year by the charitable trust in connection with a trade or UK property business in circumstances where relief is available under section 96 or 125 (post-cessation trade or property relief), if—
    - (i) the payment relates to land, and
    - (ii) profits of the trade, or income of the business, generated from the land immediately before the cessation would not have been exempt from income tax as a result of the exemptions in section 531,
  - (e) any loss made in the tax year in a miscellaneous transaction entered into by the charitable trust otherwise than in the course of carrying out a charitable purpose,

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

- (f) any expenditure incurred by the charitable trust in the tax year, not falling within paragraphs (b) or (d), which is not incurred for charitable purposes only and is not required to be taken into account in calculating—
- (i) the profits of, or losses made in, any trade, UK property business or overseas property business carried on by the charitable trust, or
  - (ii) the profit or loss made in any miscellaneous transaction entered into by the charitable trust,
- <sup>F25</sup>(g) .....
- <sup>F25</sup>(h) .....
- (i) the amount of any of the charitable trust's funds that is invested in the tax year in an investment which is not an approved charitable investment (see section 558), and
  - (j) any amount lent in the tax year by the charitable trust, if the loan is neither an investment nor an approved charitable loan (see section 561).

But anything which falls within more than one of the above paragraphs counts as non-charitable expenditure only once.

- (2) An amount may also be non-charitable expenditure for a tax year as a result of section 562 (excess expenditure treated as non-charitable expenditure of earlier years).
- (3) This section needs to be read with—
  - section 525 (meaning of “charitable trade”),
  - sections 544 to 548 (supplementary provision in relation to this section, in particular in relation to subsection (1)(f), (i) and (j)),
  - sections 549 to 557 (transactions with substantial donors),
  - section 558 (approved charitable investments), and
  - section 561 (approved charitable loans).

#### Textual Amendments

**F25** S. 543(1)(g)(h) omitted (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 12](#)

#### Modifications etc. (not altering text)

**C1** S. 543(1)(f) modified by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [s. 339\(3B\)\(a\)](#) (as inserted by The Enactment of Extra-Statutory Concessions Order 2010 (S.I. 2010/157), arts. 1, 5(1)(2))

## 544 Section 543: supplementary

- (1) This section applies for the purposes of section 543.
- (2) For rules about the calculation of losses, see—
  - (a) section 26 of ITTOIA 2005 (losses of a trade calculated on same basis as profits),
  - (b) section 272 of that Act (which applies section 26 of that Act, so that losses of a UK property business or overseas property business are calculated on the same basis as profits), and
  - (c) section 872 of that Act (losses from miscellaneous transactions calculated on same basis as miscellaneous income).



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*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

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- (3) A transaction is a miscellaneous transaction if it is of such a nature that, if income or gains had arisen from it—
  - (a) ignoring section 527 (exemption from charges under provisions to which section 1016 applies), it would have been charged to income tax under or by virtue of any provision to which section 1016 applies, and
  - (b) the trustees of the charitable trust would have been liable for any tax so chargeable.
- (4) References to a charitable trust making a loss in a trade in a tax year are to the charitable trust making a loss in the trade in the basis period for the tax year.

#### **545 Section 543(1)(f): meaning of expenditure**

- (1) For the purposes of section 543(1)(f) “expenditure” includes expenditure of a capital nature.
- (2) None of the following is “expenditure” for those purposes—
  - (a) the investment of any of the charitable trust's funds,
  - (b) the making of a loan by the charitable trust, or
  - (c) the repayment by the charitable trust of the whole or a part of a loan made to it.

#### **546 Section 543(1)(f): tax year in which certain expenditure treated as incurred**

- (1) This section applies for the purposes of section 543(1)(f).
- (2) Subsection (3) applies to expenditure which is referable to commitments (whether or not of a contractual nature) that the charitable trust has entered into before or during a tax year.
- (3) The expenditure is treated as incurred in the tax year if, had the charitable trust been required to draw up accounts that met the requirements mentioned in subsection (4), the expenditure would have been required to be taken into account in preparing those accounts.
- (4) The requirements referred to in subsection (3) are—
  - (a) that the accounts are drawn up for the tax year, and
  - (b) that UK generally accepted accounting practice applies with respect to them.

#### **547 Section 543(1)(f): payment to body outside the UK**

A payment made, or to be made, to a body situated outside the United Kingdom is non-charitable expenditure under section 543(1)(f) if—

- (a) it is incurred for charitable purposes only, but
- (b) the trustees of the charitable trust have not taken such steps as [<sup>F26</sup>the Commissioners for Her Majesty's Revenue and Customs consider ] are reasonable in the circumstances to ensure that the payment will be applied for charitable purposes.

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

#### Textual Amendments

**F26** Words in s. 547(b) inserted (8.4.2010 with effect in accordance with Sch. 8 para. 8(3) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), **Sch. 8 para. 2(1)**

### 548 Section 543(1)(i) and (j): investments and loans

- (1) Subsection (2) applies if in a tax year a charitable trust—
- (a) realises the whole or part of an investment which was made in the tax year and is not an approved charitable investment (see section 558), or
  - (b) is repaid the whole or part of a loan which was made in the tax year and is neither an investment nor an approved charitable loan (see section 561).
- (2) Any further investment or lending in the tax year of the sum realised or repaid, so far as it does not exceed the sum originally invested or lent, is not non-charitable expenditure as a result of section 543(1)(i) or (j).

#### *Substantial donor transactions*

### <sup>F27</sup>549 Transactions with substantial donors

.....

#### Textual Amendments

**F27** Ss. 549-557 repealed (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 3 para. 13** (with [Sch. 3 para. 29](#) and [S.I. 2012/700, art. 1\(3\)](#), **Sch. para. 8**)

### <sup>F27</sup>550 Meaning of “relievable gift”

.....

#### Textual Amendments

**F27** Ss. 549-557 repealed (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 3 para. 13** (with [Sch. 3 para. 29](#) and [S.I. 2012/700, art. 1\(3\)](#), **Sch. para. 8**)

### <sup>F27</sup>551 Non-charitable expenditure in substantial donor transactions

.....

#### Textual Amendments

**F27** Ss. 549-557 repealed (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 3 para. 13** (with [Sch. 3 para. 29](#) and [S.I. 2012/700, art. 1\(3\)](#), **Sch. para. 8**)

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

**F27 552 Adjustment if section 551(1) and (2) applied to single transaction**

.....

**Textual Amendments**

**F27** Ss. 549-557 repealed (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 3 para. 13** (with Sch. 3 para. 29 and S.I. 2012/700, art. 1(3), **Sch. para. 8**)

**F27 553 Section 551: certain payments and benefits to be ignored**

.....

**Textual Amendments**

**F27** Ss. 549-557 repealed (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 3 para. 13** (with Sch. 3 para. 29 and S.I. 2012/700, art. 1(3), **Sch. para. 8**)

**F27 554 Transactions: exceptions**

.....

**Textual Amendments**

**F27** Ss. 549-557 repealed (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 3 para. 13** (with Sch. 3 para. 29 and S.I. 2012/700, art. 1(3), **Sch. para. 8**)

**F27 555 Donors: exceptions**

.....

**Textual Amendments**

**F27** Ss. 549-557 repealed (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 3 para. 13** (with Sch. 3 para. 29 and S.I. 2012/700, art. 1(3), **Sch. para. 8**)

**F27 556 Connected charities**

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*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

#### Textual Amendments

**F27** Ss. 549-557 repealed (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 3 para. 13** (with Sch. 3 para. 29 and S.I. 2012/700, art. 1(3), **Sch. para. 8**)

### <sup>F27</sup>**557 Substantial donor transactions: supplementary**

.....

#### Textual Amendments

**F27** Ss. 549-557 repealed (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 3 para. 13** (with Sch. 3 para. 29 and S.I. 2012/700, art. 1(3), **Sch. para. 8**)

### *Approved charitable investments and loans*

### **558 Approved charitable investments**

An investment is an approved charitable investment for the purposes of section 543 (meaning of “non-charitable expenditure”) if it is an investment of any of the following types.

#### *Type 1*

An investment to which section 559 applies.

#### *Type 2*

An investment in a common investment fund established under—

- (a) section 22 of the Charities Act 1960 (c. 58),
- (b) section 24 of the Charities Act 1993 (c. 10),
- (bb) [<sup>F28</sup>section 96 of the Charities Act 2011, or]
- (c) section 25 of the Charities Act (Northern Ireland) 1964.

#### *Type 3*

An investment in a common deposit fund established under—

- (a) section 22A of the Charities Act 1960, <sup>F29</sup>...
- (b) section 25 of the Charities Act 1993 [<sup>F30</sup>or
- (c) section 100 of the Charities Act 2011.]

#### *Type 4*

An investment in a fund which—

- (a) is similar to a fund mentioned in relation to Type 2 or 3, and
- (b) is established for the exclusive benefit of charities by or under a provision relating to any particular charities or class of charities contained in an Act.

#### *Type 5*

An interest in land, other than an interest held as security for a debt.

#### *Type 6*

Any of the following issued by Her Majesty's Government in the United Kingdom—

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

- (a) bills,
- (b) Certificates of Tax Deposit,
- (c) Savings Certificates, and
- (d) Tax Reserve Certificates.

*Type 7*

Northern Ireland Treasury Bills.

*Type 8*

Units in a unit trust scheme (as defined in section 237(1) of FISMA 2000) or in a recognised scheme (as defined in section 237(3) of FISMA 2000).

“Units” is defined in section 237(2) of FISMA 2000.

*Type 9*

A deposit with a bank (as defined in section 991)—

- (a) in respect of which interest is payable at a commercial rate, and
- (b) which is not made as part of an arrangement under which a loan is made by the bank to some other person.

*Type 10*

A deposit with—

- (a) the National Savings Bank,
- (b) a building society, or
- (c) a credit institution which operates on mutual principles and which is authorised by an appropriate governmental body in the territory in which the deposit is taken.

*Type 11*

Certificates of deposit (including uncertificated eligible debt security units as defined in section 986(3)).

*Type 12*

A loan or other investment as to which an officer of Revenue and Customs is satisfied, on a claim, that it is made for the benefit of the charitable trust and not for the avoidance of tax (whether by the trust or any other person).

#### **Textual Amendments**

- F28** Words in s. 558 substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 126\(2\)](#) (with [s. 20\(2\)](#), [Sch. 8](#))
- F29** Word in s. 558 omitted (14.3.2012) by virtue of [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 126\(3\)](#), [Sch. 10](#) (with [s. 20\(2\)](#), [Sch. 8](#))
- F30** Words in s. 558 inserted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 126\(3\)](#) (with [s. 20\(2\)](#), [Sch. 8](#))

## **559 Securities which are approved charitable investments**

- (1) The investments to which this section applies are investments in securities—
  - (a) issued or guaranteed by the government of a member State of the European Union,
  - (b) issued or guaranteed by the government or a governmental body of any territory or part of a territory,

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

- (c) issued by an international entity listed in the Annex to Council Directive [2003/48/EC](#) (directive on taxation of interest payments),
  - (d) issued by an entity meeting the four criteria set out at the end of that Annex,
  - (e) issued by a building society,
  - (f) issued by a credit institution which operates on mutual principles and which is authorised by an appropriate governmental body in the territory in which the securities are issued,
  - (g) issued by an open-ended investment company,
  - (h) issued by a company and listed on a recognised stock exchange, or
  - (i) issued by a company but not listed on a recognised stock exchange.
- (2) Subsection (1) is subject to section 560.
- (3) In this section and in section 560—
- “debentures” includes—
    - (a) debenture stock and bonds (whether constituting a charge on assets or not), and
    - (b) loan stock or notes,
  - “open-ended investment company” is to be read in accordance with <sup>F31</sup>sections 613 and 615 of CTA 2010],
  - “securities” includes shares and debentures, and
  - “shares” includes stocks.

#### Textual Amendments

**F31** Words in s. 559(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 536](#) (with [Sch. 2](#))

### 560 Conditions to be met for some securities

- (1) Section 559 does not apply to an investment by virtue of subsection (1)(b), (c) or (d) of that section unless—
- (a) condition A is met in relation to the securities, and
  - (b) if the securities are shares or debenture stock, condition B is met in relation to the securities.

But see subsection (3) of this section.

- (2) In the case of an investment in securities issued by a company which is incorporated, section 559 does not apply to the investment by virtue of subsection (1)(i) of that section unless—
- (a) condition A is met in relation to the securities,
  - (b) if the securities are shares or debenture stock, condition B is met in relation to the securities, and
  - (c) condition C is met in relation to the company.

But see subsection (3) of this section.

- (3) Conditions A and B need not be met if the securities are traded or quoted on a money market supervised by the government or a governmental body of any territory or part of a territory.

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*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

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- (4) Condition A is that the securities are traded or quoted on—
- (a) a recognised investment exchange (as defined in section 285(1) of FISMA 2000), or
  - (b) an investment exchange which constitutes the principal or only market established in a territory on which securities admitted to official listing are dealt in or traded.
- (5) Condition B is that—
- (a) the securities are fully paid up,
  - (b) the terms of the issue of the securities require them to be fully paid up within the period of 9 months beginning with the day after the day on which they are issued, or
  - (c) the securities are shares issued with no nominal value.
- (6) Condition C is that—
- (a) throughout the last business day before the investment day, the company has total issued and paid up share capital of at least £1,000,000 (or the equivalent of £1,000,000 in some other currency), and
  - (b) in each of the five years immediately before the calendar year in which the investment day falls, the company paid a dividend on all the shares issued by the company (excluding any shares issued after the dividend was declared and any shares which by their terms of issue did not rank for dividend for that year).
- (7) For the purposes of the words in brackets in subsection (6)(a) use the exchange rate prevailing in the United Kingdom at the close of business on the last business day before the investment day.
- (8) For the purposes of subsection (6)(b) a company formed—
- (a) to take over the business of another company or other companies, or
  - (b) to acquire the securities of, or control of, another company or other companies,
- is treated as having paid a dividend in any year in which a dividend has been paid by the other company or all of the other companies (as the case may be).
- (9) It is irrelevant that the company is formed for other purposes in addition to those mentioned in paragraph (a) or (b) of subsection (8).
- (10) In this section—
- “business day” means, in relation to an investment, a business day in the place where the investment is made, and
- “the investment day” means, in relation to an investment, the day on which the investment is made.

## **561 Approved charitable loans**

- (1) A loan is an approved charitable loan for the purposes of section 543 (meaning of “non-charitable expenditure”) if it meets conditions A and B.
- (2) Condition A is that the loan is not made by way of investment.
- (3) Condition B is that either—
  - (a) the loan is made to another charity for charitable purposes only,

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

- (b) it is made to a beneficiary of the charitable trust in the course of carrying out the purposes of the charitable trust,
  - (c) it consists of money placed on current account with a bank otherwise than as part of an arrangement under which a loan is made by a bank to some other person, or
  - (d) an officer of Revenue and Customs is satisfied, on a claim, that the loan is made for the benefit of the charitable trust and not for the avoidance of tax (whether by the charitable trust or by some other person).
- (4) In this section “bank” has the meaning given by section 991.

*Carry back of excess non-charitable expenditure*

**562 Excess expenditure treated as non-charitable expenditure of earlier years**

- (1) This section applies if a charitable trust's non-charitable expenditure for a tax year exceeds its available income and gains for the tax year.
- (2) The excess is the charitable trust's “excess expenditure” for the tax year.
- (3) The charitable trust's excess expenditure for the tax year is treated for the purposes of this Part as non-charitable expenditure for earlier tax years so far as it can be attributed to earlier tax years under section 563.
- (4) For the purposes of this Part a charitable trust's “available income and gains” for a tax year is the sum of—
  - (a) the charitable trust's total income for the tax year (ignoring any restrictions on the exemptions under this Part which result from sections 539(2) and 541),
  - (b) any chargeable gains accruing to the charitable trust in the tax year (ignoring any restriction on the exemption under section 256(1) of TCGA 1992 which results from section 256(4) of that Act),
  - (c) the charitable trust's attributable income and gains for the tax year (see section 540), and
  - (d) any non-taxable sums received by the charitable trust in the tax year.
- (5) In subsection (4) “non-taxable sums” means donations, legacies and other sums of a similar nature which, ignoring exemptions from income tax under this Part and from capital gains tax under section 256 of TCGA 1992, are not liable to income tax or capital gains tax.

**563 Rules for attributing excess expenditure to earlier years**

- (1) The rules in this section apply for attributing a charitable trust's excess expenditure for a tax year to earlier tax years under section 562.
- (2) The excess expenditure for a tax year may be attributed to an earlier tax year if—
  - (a) the earlier tax year ends not more than 6 years before the end of the tax year in question, and
  - (b) the charitable trust's available income and gains for the earlier tax year exceed its non-charitable expenditure for the earlier tax year.



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*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 10. (See end of Document for details)*

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- (3) If the conditions in subsection (2) are met in the case of more than one earlier tax year, the excess expenditure is to be attributed to a later tax year in priority to an earlier tax year.
- (4) The amount of excess expenditure that is to be attributed to an earlier tax year must not be greater than the amount by which the charitable trust's available income and gains for the earlier tax year exceed its non-charitable expenditure for the earlier tax year.
- (5) For the purposes of subsections (2)(b) and (4) the charitable trust's non-charitable expenditure for the earlier tax year includes any excess expenditure attributed to the earlier tax year as a result of a previous operation of this section, but ignores the attribution in question.

#### **564 Adjustments in consequence of section 562**

Such adjustments must be made (whether by way of the making of assessments or otherwise) as may be required in consequence of section 562.

**Status:**

Point in time view as at 16/11/2017.

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax Act 2007, Part 10.