



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 9

#### SPECIAL RULES ABOUT SETTLEMENTS AND TRUSTEES

### CHAPTER 10

#### HERITAGE MAINTENANCE SETTLEMENTS

##### *Introduction*

#### **507 Overview of Chapter**

- (1) This Chapter makes provision about income arising from heritage maintenance property comprised in a heritage maintenance settlement.
- (2) In this Chapter—
  - “heritage body” means a body or charity of a kind mentioned in paragraph 3(1)(a)(ii) of Schedule 4 to IHTA 1984 (maintenance funds for historic buildings etc),
  - “heritage direction” means a direction under paragraph 1 of that Schedule,
  - “heritage maintenance property” means any property in respect of which a heritage direction has effect,
  - “heritage maintenance settlement” means a settlement which comprises heritage maintenance property, and
  - “property maintenance purpose” means any of the purposes mentioned in paragraph 3(1)(a)(i) of that Schedule.
- (3) If a settlement comprises both heritage maintenance property and other property, the heritage maintenance property and the other property are treated as comprised in separate settlements for the purposes of Chapters 2 to 8 of this Part and the following provisions—

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- (a) sections 64 to 66 and sections 75 to 79 (trade loss relief against general income),
- (b) sections 83 to 88 (carry-forward trade loss relief), and
- (c) Chapter 5 of Part 5 of ITTOIA 2005.

*Trustees' election in respect of income etc*

**508 Election by trustees**

- (1) The trustees of a heritage maintenance settlement may elect for this section to have effect for a tax year.
- (2) If an election under subsection (1) has effect for a tax year, the rules in subsections (3) and (4) apply.
- (3) Income arising in the year from the heritage maintenance property comprised in the settlement, which would otherwise be treated as income of the settlor under Chapter 5 of Part 5 of ITTOIA 2005, is not to be so treated.
- (4) Any sum applied out of the heritage maintenance property in the year for a property maintenance purpose, which would otherwise be treated for income tax purposes as the income of a person—
  - (a) because of the person's interest in (or occupation of) the property in respect of which the sum is applied, or
  - (b) under section 633 of ITTOIA 2005 (capital sums paid to settlor by trustees of settlement),
 is not to be so treated.
- (5) An election under subsection (1) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year to which it relates.

**509 Change of circumstances during a tax year**

- (1) If a change of circumstances arises during a tax year—
  - (a) the part of the year before the change and the part of the year after the change are to be treated as separate tax years for the purposes of section 508, this section and section 510, and
  - (b) separate elections under section 508(1) may be made for each part.
- (2) A change of circumstances arises if conditions A and B are met.
- (3) Condition A is that for any part of the tax year—
  - (a) a heritage direction has effect, and
  - (b) income arising from the heritage maintenance property comprised in the settlement is treated as income of the settlor under Chapter 5 of Part 5 of ITTOIA 2005.
- (4) Condition B is that for the remaining part of the year one or both of the following paragraphs applies—
  - (a) no heritage direction has effect, and
  - (b) no income arising from property comprised in the settlement is treated as income of the settlor under Chapter 5 of Part 5 of ITTOIA 2005.

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*Absence of election and income treated as income of settlor: special rules*

**510 Sums applied for property maintenance purposes**

- (1) This section applies if—
- (a) income arises from the heritage maintenance property comprised in a heritage maintenance settlement in a tax year in respect of which no election is made under section 508,
  - (b) the income is treated under Chapter 5 of Part 5 of ITTOIA 2005 as income of the settlor, and
  - (c) a sum in excess of the income is applied for a property maintenance purpose in the year.
- (2) Any such sum which is so applied in that year, which would otherwise be treated for income tax purposes as the income of a person—
- (a) because of the person's interest in (or occupation of) the property in respect of which the sum is applied, or
  - (b) under section 633 of ITTOIA 2005 (capital sums paid to settlor by trustees of settlement),
- is not to be so treated.

**511 Prevention of double taxation: reimbursement of settlor**

- (1) This section applies to income arising from heritage maintenance property if—
- (a) the income is treated under Chapter 5 of Part 5 of ITTOIA 2005 as income of the settlor,
  - (b) the income is applied in reimbursing the settlor for expenditure incurred by the settlor for a property maintenance purpose, and
  - (c) the expenditure is deductible in calculating the profits of—
    - (i) a trade, or
    - (ii) a UK property business,carried on by the settlor.
- (2) Any such income—
- (a) is not to be brought into account as a receipt in calculating the profits of that trade or business, and
  - (b) is not to be treated as income of the settlor otherwise than under Chapter 5 of Part 5 of ITTOIA 2005.

*Application of property for non-heritage purposes: charge to tax*

**512 Charge to tax on some settlements**

- (1) Income tax is charged in respect of a heritage maintenance settlement on any of the occasions described in cases A to D, subject to sections 516 and 517.
- (2) Case A is where any of the property comprised in the settlement (whether capital or income) is applied otherwise than—
- (a) for a property maintenance purpose, or

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- (b) as respects income not so applied and not accumulated, for the benefit of a heritage body.
- (3) Case B is where any of that property, on ceasing to be comprised in the settlement, devolves otherwise than on a heritage body.
- (4) Case C is where the heritage direction ceases to have effect in respect of the settlement.
- (5) Case D is where any of the property comprised in the settlement, on ceasing at any time to be comprised in the settlement—
  - (a) devolves on a heritage body, and
  - (b) at or before that time an interest under the settlement is or has been acquired for a consideration in money or money's worth by that or another such body.
- (6) For the purposes of subsection (5)(b) any acquisition from another such body is to be ignored.

### **513 Income charged**

- (1) Tax is charged under section 512 on the whole of the income—
  - (a) which has arisen in the relevant period from the property comprised in the settlement, and
  - (b) which has not been applied (whether or not it has been first accumulated) for a property maintenance purpose or for the benefit of a heritage body.
- (2) In this section “relevant period” means—
  - (a) if tax has become chargeable under section 512 in respect of the settlement on a previous occasion, the period since the last occasion, and
  - (b) in any other case, the period since the settlement took effect.
- (3) Tax charged under section 512 is in addition to any tax otherwise chargeable.
- (4) All the provisions of the Income Tax Acts relating to assessments and to the collection and recovery of income tax (so far as applicable) are to apply to that charge.

### **514 Persons liable**

The persons liable for any tax charged under section 512 are the trustees of the settlement.

### **515 Rate of tax**

Tax is charged under section 512 at the rate found by—

- (a) taking the [<sup>F1</sup>additional rate] for the tax year during which the charge arises, and
- (b) reducing it by the trust rate for that year.

#### **Textual Amendments**

- F1** Words in s. 515(a) substituted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 7](#)

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## **516 Transfer of property between settlements**

- (1) This section applies if the whole of the property comprised in a settlement becomes comprised in another settlement because of a tax-free transfer.
- (2) The occasion of charge under section 512, which would otherwise occur at the time of transfer, occurs when tax first becomes chargeable under that section in respect of any settlement comprising the transferred property (“the chargeable settlement”).
- (3) For the purposes of section 513(1) as it applies to the chargeable settlement, the relevant period is adjusted so that it begins—
  - (a) on the occasion when tax last became chargeable under section 512 in respect of any previous settlement from which the property was transferred, or
  - (b) if there has been no such occasion, when such previous settlement (or the first of them) took effect.
- (4) In this section “tax-free transfer” means a transfer of property from one settlement into another in either of the following cases—
  - (a) where paragraph 9(1) of Schedule 4 to IHTA 1984 provides (or, but for paragraph 9(4) of that Schedule, would provide) an exception from charge in respect of the property, or
  - (b) where, both immediately before and immediately after the transfer, the property is heritage maintenance property.

## **517 Exemption for income treated as income of settlor**

- (1) Tax is not chargeable under section 512 in respect of income which is treated under section 624 or 629 of ITTOIA 2005 as income of the settlor.
- (2) If such income arises in a tax year, any sums applied in the year—
  - (a) for a property maintenance purpose, or
  - (b) for the benefit of a heritage body,are to be treated as paid first out of that income and, so far as there is any excess, out of income that does not fall within subsection (1).

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