



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XVI

#### ESTATES OF DECEASED PERSONS IN COURSE OF ADMINISTRATION

##### 695 Limited interests in residue.

- <sup>M1</sup>(1) The following provisions of this section shall have effect in relation to a [<sup>F1</sup>company which], during the period commencing on the death of a deceased person and ending on the completion of the administration of his estate (“the administration period”) or during a part of that period, has a limited interest in the residue of the estate or in a part thereof.
- (2) When any sum has been paid during the administration period in respect of that limited interest, the amount of that sum shall <sup>F2</sup>. . . be deemed for [<sup>F3</sup>corporation tax] purposes to have been paid to that [<sup>F4</sup>company] as income for the [<sup>F5</sup>accounting period] in which that sum was paid or, in the case of a sum paid in respect of an interest that has ceased, for the last [<sup>F5</sup>accounting period] in which it was subsisting.
- <sup>F6</sup>(3) Where, on the completion of the administration of the estate, there is an amount which remains payable in respect of that limited interest, that amount shall be deemed for [<sup>F7</sup>corporation tax] purposes to have been paid to that [<sup>F8</sup>company] as income for the [<sup>F9</sup>accounting period] in which the administration period ends or, in the case of a sum which is deemed to be paid in respect of an interest that ceased before the end of [<sup>F10</sup>the administration period], for the last [<sup>F9</sup>accounting period] in which that interest was subsisting.]
- (4) Any amount which is deemed to have been paid to that [<sup>F11</sup>company] as income [<sup>F12</sup>for any accounting period] by virtue of this section shall—
- in the case of a United Kingdom estate, be deemed to be income of such an amount as would after deduction of income tax for [<sup>F13</sup>the relevant year of assessment] be equal to the amount deemed to have been so paid, and to be income which has borne income tax at the [<sup>F14</sup>applicable rate]; and
  - in the case of a foreign estate, be deemed to be income of the amount deemed to have been so paid <sup>F15</sup>. . . .

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(5) Where—

- (a) a [<sup>F16</sup>company] has been charged to [<sup>F17</sup>corporation tax for any accounting period] by virtue of this section in respect of an amount deemed to have been paid to [<sup>F18</sup>it] as income in respect of an interest in a foreign estate (“the deemed income”), and
- (b) any part of the aggregate income of that estate for [<sup>F19</sup>the relevant year of assessment] has borne United Kingdom income tax by deduction or otherwise (“the aggregate income”),

the tax so charged on [<sup>F18</sup>it] shall, on proof of the facts on a claim, be reduced by an amount bearing the same proportion thereto as the amount of the deemed income which has borne United Kingdom income tax, less the tax so borne, bears to the amount of the aggregate income, less the tax so borne.

(6) Where relief has been given under subsection (5) above, such part of the amount in respect of which [<sup>F20</sup>the company] has been charged [<sup>F21</sup>to corporation tax] as corresponds to the proportion mentioned in that subsection shall <sup>F22</sup>. . . be deemed to represent income of such an amount as would after deduction of income tax be equal to that part of the amount charged.

<sup>F23</sup>(7) In this section “the relevant year of assessment”, in relation to an amount deemed to have been paid to a company as income for an accounting period by virtue of this section, means the year of assessment for which the amount would have been deemed to have been paid as income if references to accounting periods in subsections (2) and (3) were references to years of assessment.]

#### Textual Amendments

- F1** Words in s. 695(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(2\)](#) (with Sch. 2)
- F2** Words in s. 695(2) repealed (with effect in accordance with [Sch. 18 para. 2\(2\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\), Sch. 18 para. 2\(1\), Sch. 29 Pt. 8\(10\)](#)
- F3** Words in s. 695(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(3\)\(a\)](#) (with Sch. 2)
- F4** Word in s. 695(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(3\)\(b\)](#) (with Sch. 2)
- F5** Words in s. 695(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(3\)\(c\)](#) (with Sch. 2)
- F6** [S. 695\(3\)](#) substituted (with effect in accordance with [Sch. 18 para. 2\(2\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\), Sch. 18 para. 2\(1\)](#)
- F7** Words in s. 695(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(4\)\(a\)](#) (with Sch. 2)
- F8** Word in s. 695(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(4\)\(b\)](#) (with Sch. 2)
- F9** Words in s. 695(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(4\)\(c\)](#) (with Sch. 2)
- F10** Words in s. 695(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(4\)\(d\)](#) (with Sch. 2)
- F11** Word in s. 695(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(5\)\(a\)](#) (with Sch. 2)
- F12** Words in s. 695(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 284\(5\)\(b\)](#) (with Sch. 2)

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- F13** Words in s. 695(4)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(5)(c)** (with Sch. 2)
- F14** Words in s. 695(4)(a) substituted (27.7.1993 with effect for the year 1993-1994 and subsequent years of assessment) by 1993 c. 34, s. 79, **Sch. 6 paras. 11(1), 25(1)**
- F15** Words in s. 695(4)(b) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(5)(d), Sch. 3** (with Sch. 2)
- F16** Word in s. 695(5)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(6)(a)** (with Sch. 2)
- F17** Words in s. 695(5)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(6)(b)** (with Sch. 2)
- F18** Words in s. 695(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(6)(c)** (with Sch. 2)
- F19** Words in s. 695(5)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(6)(d)** (with Sch. 2)
- F20** Words in s. 695(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(7)(a)** (with Sch. 2)
- F21** Words in s. 695(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(7)(b)** (with Sch. 2)
- F22** Words in s. 695(6) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(7)(c), Sch. 3** (with Sch. 2)
- F23** S. 695(7) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 284(8)** (with Sch. 2)

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

- C1** See 1974 s.44(4) and Sch.7 para.9(1)(2)—*development gains to be excluded from aggregate income and United Kingdom tax thereon to be left out of account.*

#### **Marginal Citations**

- M1** Source-1970 s.426; 1971 Sch.6 52

### **696 Absolute interests in residue.**

- <sup>M2</sup>(1) The following provisions of this section shall have effect in relation to a [<sup>F24</sup>company which], during the administration period or during a part of that period, has an absolute interest in the residue of the estate of a deceased person or in a part thereof.
- (2) There shall be ascertained in accordance with section 697 the amount of the residuary income of the estate for each whole year of assessment, and for each broken part of a year of assessment, during which—
- the administration period was current, and
  - that [<sup>F25</sup>company] had that interest;
- and the amount so ascertained in respect of any year or part of a year or, in the case of a [<sup>F25</sup>company] having an absolute interest in a part of a residue, a proportionate part of that amount, is in this Part referred to as the “residuary income” of that [<sup>F25</sup>company] for that year of assessment [<sup>F26</sup>; and references to the residuary income of a company for an accounting period are to be construed in accordance with subsection (8)].
- [<sup>F27</sup>(3) When any sum has been paid during the administration period in respect of that absolute interest, that sum, except so far as it is excluded from the operation of this subsection, shall be deemed for [<sup>F28</sup>corporation tax] purposes to have been paid to that [<sup>F29</sup>company] as income for the [<sup>F30</sup>accounting period] in which it was actually paid.

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- (3A) A payment shall be excluded from the operation of subsection (3) above to the extent (if any) that the aggregate of that sum and all the sums which—
- (a) have been paid previously during the administration period in respect of that absolute interest, and
  - (b) fall under this section to be treated as paid to that [<sup>F31</sup>company] as income [<sup>F32</sup>(whether or not the company was a company liable to corporation tax at the time of payment)],
- exceeds the aggregated income entitlement of that [<sup>F31</sup>company] for the [<sup>F33</sup>accounting period] in which the sum is paid.
- (3B) For the purposes of this section the aggregated income entitlement of that [<sup>F34</sup>company] for any [<sup>F35</sup>accounting period] is the amount which would be the aggregate of the amounts received for that [<sup>F35</sup>accounting period] and all previous [<sup>F36</sup>accounting periods] in respect of the interest if that [<sup>F34</sup>company] had a right in [<sup>F37</sup>each accounting period] to receive, and had received—
- (a) in the case of a United Kingdom estate, [<sup>F38</sup>its] residuary income for [<sup>F39</sup>that accounting period] less income tax at the applicable rate for [<sup>F39</sup>that accounting period]; and
  - (b) in the case of a foreign estate, [<sup>F38</sup>its] residuary income for [<sup>F39</sup>that accounting period].]
- (4) In the case of a United Kingdom estate, any amount which is deemed to have been paid to that [<sup>F40</sup>company] as income for [<sup>F40</sup>any accounting period] by virtue of subsection (3) above shall be deemed to be income of such an amount as would, after deduction of income tax for [<sup>F40</sup>that accounting period], be equal to the amount deemed to have been so paid, and to be income that has borne income tax at the [<sup>F41</sup>applicable rate].
- [<sup>F42</sup>(5) Where, on the completion of the administration of the estate, the aggregate of all the sums which, apart from this subsection—
- (a) have been paid during the administration period in respect of that absolute interest, and
  - (b) fall under this section to be treated as paid to that [<sup>F43</sup>company] as income,
- is exceeded by the aggregated income entitlement of that [<sup>F43</sup>company] for the [<sup>F44</sup>accounting period] in which the administration of the estate is completed, then an amount equal to the amount of the excess shall be treated for the purposes of subsections (3) to (4) above as having been actually paid, immediately before the end of the administration period, in respect of that interest.]
- (6) In the case of a foreign estate, any amount which is deemed to have been paid to that [<sup>F45</sup>company] as income for any [<sup>F46</sup>accounting period] by virtue of this section shall be deemed to be income of that amount <sup>F47</sup> . . . .
- (7) Where—
- (a) a [<sup>F48</sup>company] has been charged to [<sup>F49</sup>corporation tax for any accounting period] by virtue of this section in respect of an amount deemed to have been paid to [<sup>F50</sup>it] as income in respect of an interest in a foreign estate (“the deemed income”), and
  - (b) any part of the aggregate income of that estate for [<sup>F51</sup>the relevant year of assessment] has borne United Kingdom income tax by deduction or otherwise (“the aggregate income”),

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the tax so charged on [<sup>F50</sup>it] shall, on proof of the facts on a claim, be reduced by an amount bearing the same proportion thereto as the amount of the deemed income which has borne United Kingdom income tax bears to the amount of the aggregate income.

(8) <sup>F52</sup> . . . The residuary income of a company shall be computed in the first instance by reference to years of assessment, and the residuary income for any such year shall be apportioned between the accounting periods (if more than one) comprising that year.

[<sup>F53</sup>(9) In subsection (7) “the relevant year of assessment”, in relation to an amount deemed to have been paid to a company as income for an accounting period by virtue of this section, means the year of assessment for which the amount would have been deemed to have been paid as income if references in subsections (3) to (6) to accounting periods were references to years of assessment.]

#### Textual Amendments

- F24** Words in s. 696(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(2)** (with Sch. 2)
- F25** Words in s. 696(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(3)(a)** (with Sch. 2)
- F26** Words in s. 696(2) added (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(3)(b)** (with Sch. 2)
- F27** S. 696(3)-(3B) substituted for s. 696(3) (with effect in accordance with Sch. 18 para. 3(3)(4) of the amending Act) by *Finance Act 1995 (c. 4)*, **Sch. 18 para. 3(1)**
- F28** Words in s. 696(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(4)(a)** (with Sch. 2)
- F29** Word in s. 696(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(4)(b)** (with Sch. 2)
- F30** Words in s. 696(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(4)(c)** (with Sch. 2)
- F31** Words in s. 696(3A) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(5)(a)** (with Sch. 2)
- F32** Words in s. 696(3A)(b) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(5)(b)** (with Sch. 2)
- F33** Words in s. 696(3A) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(5)(c)** (with Sch. 2)
- F34** Words in s. 696(3B) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(6)(a)** (with Sch. 2)
- F35** Words in s. 696(3B) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(6)(b)** (with Sch. 2)
- F36** Words in s. 696(3B) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(6)(c)** (with Sch. 2)
- F37** Words in s. 696(3B) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(6)(d)** (with Sch. 2)
- F38** Words in s. 696(3B)(a)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(6)(e)** (with Sch. 2)
- F39** Words in s. 696(3B)(a)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(6)(f)** (with Sch. 2)
- F40** Words in s. 696(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 285(7)** (with Sch. 2)

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- F41** Words in s. 696(3)-(5) substituted (27.7.1993 with effect for the year 1993-1994 and subsequent years of assessment) by 1993 c. 34, s. 79, Sch. 6 paras. 11(1), **25(1)**
- F42** S. 695(5) substituted (with effect in accordance with Sch. 18 para. 3(3)(4) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 18 para. 3(2)**
- F43** Words in s. 696(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 285(8)(a)** (with Sch. 2)
- F44** Words in s. 696(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 285(8)(b)** (with Sch. 2)
- F45** Word in s. 696(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 285(9)(a)** (with Sch. 2)
- F46** Words in s. 696(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 285(9)(b)** (with Sch. 2)
- F47** Words in s. 696(6) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 285(9)(c), **Sch. 3** (with Sch. 2)
- F48** Word in s. 696(7)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 285(10)(a)** (with Sch. 2)
- F49** Words in s. 696(7)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 285(10)(b)** (with Sch. 2)
- F50** Words in s. 696(7) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 285(10)(d)** (with Sch. 2)
- F51** Words in s. 696(7)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 285(10)(c)** (with Sch. 2)
- F52** Words in s. 696(8) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 285(11), **Sch. 3** (with Sch. 2)
- F53** S. 696(9) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 285(12)** (with Sch. 2)

#### Marginal Citations

- M2** Source-1970 s.427; 1971 Sch.6 53

### 697 Supplementary provisions as to absolute interests in residue.

<sup>M3</sup>(1) The amount of the residuary income of an estate for any year of assessment shall be ascertained by deducting from the aggregate income of the estate for that year—

- (a) the amount of any annual interest, annuity or other annual payment for that year which is a charge on residue and the amount of any payment made in that year in respect of any such expenses incurred by the personal representatives as such in the management of the assets of the estate as, in the absence of any express provision in a will, would be properly chargeable to income, but excluding any such interest, annuity or payment allowed or allowable in computing the aggregate income of the estate; and
- (b) the amount of any of the aggregate income of the estate for that year to which a person has on or after assent become entitled by virtue of a specific disposition either for a vested interest during the administration period or for a vested or contingent interest on the completion of the administration.

<sup>F54</sup>(1A) For the purpose of ascertaining under subsection (1) above the residuary income of an estate for any year, where the amount of the deductions falling to be made from the aggregate income of the estate for that year (including any falling to be made



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- by virtue of this subsection) exceeds the amount of that income, the excess shall be carried forward and treated for that purpose as an amount falling to be deducted from the aggregate income of the estate for the following year.]
- (2) In the event of its appearing, on the completion of the administration of an estate in the residue of which, or in a part of the residue of which, a [<sup>F55</sup>company] had an absolute interest at the completion of the administration, that the aggregate of the benefits received in respect of that interest does not amount to as much as the aggregate for all years of the residuary income of the [<sup>F55</sup>company] having that interest, [<sup>F56</sup>section 696 shall have effect as if the amount of the deficiency were to be applied in reducing the amount taken to be [<sup>F57</sup>its] residuary income for the year in which the administration of the estate is completed and, in so far as the deficiency exceeds that income, in reducing the amount taken to be [<sup>F57</sup>its] residuary income for the previous year, and so on.]
- (3) In subsection (2) above “benefits received” in respect of an absolute interest means the following amounts in respect of all sums paid before, or payable on, the completion of the administration in respect of that interest, that is to say—
- (a) as regards a sum paid before the completion of the administration, in the case of a United Kingdom estate such an amount as would, after deduction of income tax for the year of assessment in which that sum was paid, be equal to that sum, or in the case of a foreign estate the amount of that sum; and
- (b) as regards a sum payable on the completion of the administration, in the case of a United Kingdom estate such an amount as would, after deduction of income tax for the year of assessment in which the administration is completed, be equal to that sum, or in the case of a foreign estate the amount of that sum.
- (4) In the application of subsection (2) above to a residue or a part of a residue in which a person other than the person having an absolute interest at the completion of the administration had an absolute interest at any time during the administration period, the aggregates mentioned in that subsection shall be computed in relation to those interests taken together <sup>F58</sup>. . . .
- [<sup>F59</sup>(5) If the amount resulting from the computation mentioned in subsection (4) is greater than the total amount of the reduction which can be made under subsection (2), the share of the residuary income of the estate of the last previous holder of the interest for the last year in which that person had that interest is to be reduced, and so on.]

#### Textual Amendments

- F54** S. 697(1A) inserted (with effect in accordance with Sch. 18 para. 4(3) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 18 para. 4(1)**
- F55** Words in s. 697(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 286(2)(a)** (with Sch. 2)
- F56** Words in s. 697(2) substituted (with effect in accordance with Sch. 18 para. 4(3) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 18 para. 4(2)**
- F57** Words in s. 697(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 286(2)(b)** (with Sch. 2)
- F58** Words in s. 697(4) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 286(3), **Sch. 3** (with Sch. 2)
- F59** S. 697(5) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 286(4)** (with Sch. 2)

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### Marginal Citations

**M3** Source-1970 s.428; 1971 Sch.6 54

## 698 Special provisions as to certain interests in residue.

<sup>M4</sup>(1) Where the personal representatives of a deceased person have as such a right in relation to the estate of another deceased person such that, if that right were vested in them for their own benefit, they would have an absolute or limited interest in the residue of that estate or in a part of that residue, they shall be deemed to have that interest notwithstanding that that right is not vested in them for their own benefit, and any amount deemed to be paid to them as income by virtue of this Part shall be treated as part of the aggregate income of the estate of the person whose personal representatives they are.

<sup>F60</sup>(1A) Subsection (1B) below applies where—

- (a) successively during the administration period there are different persons with interests in the residue of the estate of a deceased person or in parts of such a residue;
- (b) the later interest or, as the case may be, each of the later interests arises or is created on the cessation otherwise than by death of the interest that precedes it; and
- (c) the earlier or, as the case may be, earliest interest is a limited interest.

(1B) Where this subsection applies, this Part shall have effect in relation to any payment made in respect of any of the interests referred to in subsection (1A) above—

- (a) as if all those interests were the same interest so that none of them is to be treated as having ceased on being succeeded by any of the others;
- (b) as if (subject to paragraph (c) below) the interest which is deemed to exist by virtue of paragraph (a) above (“the deemed single interest”) were an interest of—
  - (i) except in a case to which sub-paragraph (ii) below applies, the person in respect of whose interest or previous interest the payment is made;
  - (ii) in a case where the person entitled to receive the payment is any other person who has or has had an interest which is deemed to be comprised in the deemed single interest, that other person;

and

- (c) in so far as any of the later interests is an absolute interest as if, for the purposes of section 696(3A) to (5)—
  - (i) the earlier interest or interests had never existed and the absolute interest had always existed;
  - (ii) the sums (if any) which were deemed in relation to the earlier interest or interests to have been paid as income for any <sup>F61</sup>accounting period] to any of the persons entitled thereto were sums previously paid during the administration period in respect of the absolute interest; and
  - (iii) those sums were sums falling to be treated as sums paid as income to the person entitled to the absolute interest.

(2) Where successively during the administration period there are different persons with absolute interests in the residue of the estate of a deceased person or in parts of



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such a residue, the aggregate payments and aggregated income entitlement referred to in subsections (3A) and (3B) of section 696 shall be computed for the purposes of that section in relation to an absolute interest subsisting at any time (“the subsequent interest”)—

- (a) as if the subsequent interest and any previous absolute interest corresponding to the subsequent interest, or relating to any part of the residue to which the subsequent interest relates, were the same interest; and
- (b) as if the residuary income for any [<sup>F62</sup>accounting period] of the person entitled to the previous interest were residuary income of the person entitled to the subsequent interest and any amount deemed to be paid as income to the person entitled to the previous interest were an amount deemed to have been paid to the person entitled to the subsequent interest.]

(3) Where, upon the exercise of a discretion, any of the income of the residue of the estate of a deceased person for any period (being the administration period or a part of the administration period) would, if the residue had been ascertained at the commencement of that period, be properly payable to any person, or to another in his right, for his benefit, whether directly by the personal representatives or indirectly through a trustee or other person—

- (a) the amount of any sum paid pursuant to an exercise of the discretion in favour of that person shall be deemed for [<sup>F63</sup>corporation tax] purposes to have been paid to that person as income for the [<sup>F64</sup>accounting period] in which it was paid; and
- (b) section 695(4) to (6) shall have effect in relation to an amount which is deemed to have been paid as income by virtue of paragraph (a) above.

[<sup>F65</sup>(4) Subsection (5) applies in any case where—

- (a) successively during the administration period there are different persons with absolute interests in the residue of the estate of a deceased person, or in parts of such a residue, and
- (b) some, but not all are companies liable to corporation tax in respect of income within this Part.

(5) References in this section—

- (a) to sums deemed to be paid as income for an accounting period to a person who is not such a company,
- (b) to the residuary income for any accounting period of such a person, or
- (c) to amounts deemed to be paid to such a person as income,

are references to sums that would be so deemed, to the income that would be such residuary income or, as the case may be, to the amounts that would be so deemed if the assumptions in subsection (6) were made.

(6) The assumptions are—

- (a) that each of the persons who is not a company liable to corporation tax in respect of income within this Part is such a company, and
- (b) that in the case of each person who is not a company, the person's accounting periods correspond with years of assessment.]

#### Textual Amendments

**F60** S. 698(1A)(1B)(2) substituted for s. 698(2) (with effect in accordance with Sch. 18 para. 5(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 18 para. 5(1)

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- F61** Words in s. 698(1B)(c)(ii) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 287\(2\)](#) (with Sch. 2)
- F62** Words in s. 698(2)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 287\(3\)](#) (with Sch. 2)
- F63** Words in s. 698(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 287\(4\)\(a\)](#) (with Sch. 2)
- F64** Words in s. 698(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 287\(4\)\(b\)](#) (with Sch. 2)
- F65** S. 698(4)-(6) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 287\(5\)](#) (with Sch. 2)

#### Marginal Citations

- M4** Source-1970 s.429; 1971 Sch.6 55

### [<sup>F67</sup>698A Taxation of income of beneficiaries at lower rate or at rates applicable to [<sup>F66</sup>distribution] income.

<sup>F68</sup> .....

#### Textual Amendments

- F66** Word in s. 698A sidenote substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 288\(5\)](#) (with Sch. 2)
- F67** S. 698A inserted (27.7.1993 with effect for the year 1993-1994 and subsequent years of assessment) by 1993 c. 34, s. 79, Sch. 6 paras. 11(2), 25(1)
- F68** S. 698A repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 150, Sch. 3 Pt. 1](#) (with Sch. 2)

### 699 Relief from higher rate tax for inheritance tax on accrued income.

<sup>F69</sup> .....

#### Textual Amendments

- F69** S. 699 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 289, Sch. 3](#) (with Sch. 2)

### [<sup>F70</sup>699A Untaxed sums comprised in the income of the estate.

- (1) In this section “a relevant amount” means so much of any amount which a person is deemed by virtue of this Part to receive or to have a right to receive as is or would be paid out of sums which—
- (a) are included in the aggregate income of the estate of the deceased by virtue of any of [<sup>F71</sup>paragraphs (c) to (e) of section 701(8) below]; and
  - (b) are sums in respect of which the personal representatives are not directly assessable to United Kingdom income tax;

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[<sup>F72</sup>or out of any sums included in the aggregate income of the estate of the deceased which fall within subsection (1A) below.]

[ A sum falls within this subsection if it is a sum in respect of—  
<sup>F73</sup>(1A) [ a distribution chargeable under [<sup>F75</sup>Chapter 3 of Part 4 of ITTOIA 2005  
<sup>F74</sup>(a) (dividends etc. from UK resident companies etc.)]; <sup>F76</sup> . . .  
(b) <sup>F76</sup> . . . . . ]

(1B) Any reference in this Part to a sum to which subsection (1)(a) and (b) above applies includes a reference to a sum falling within subsection (1A) above which is included in the aggregate income of the estate of the deceased.]

(2) In determining for the purposes of this Part whether any amount is a relevant amount—

- (a) such apportionments of any sums to which subsection (1)(a) and (b) above applies shall be made between different persons with interests in the residue of the estate as are just and reasonable in relation to their different interests; and
- (b) subject to paragraph (a) above, the [<sup>F77</sup>assumptions] in section 701(3A)(b) shall apply, but (subject to that) it shall be assumed that payments are to be made out of other sums comprised in the aggregate income of the estate before they are made out of any sums to which subsection (1)(a) and (b) above applies.

(3) In the case of a foreign estate, and notwithstanding anything in section 695(4)(b) or 696(6), a relevant amount shall be deemed—

- (a) to be income of such amount as would, after deduction of income tax for the year in which it is deemed to be paid, be equal to the relevant amount; and
- (b) to be income that has borne tax at the applicable rate.

(4) Sums to which subsection (1)(a) and (b) above applies shall be assumed, for the purpose of determining the applicable rate in relation to any relevant amount, to bear tax—

- (a) in the case of sums included by virtue of [<sup>F78</sup>section 701(8)(c) or (d), at the dividend][<sup>F79</sup>ordinary rate], and
- (b) in the case of sums included by virtue of [<sup>F80</sup>section 701(8)(e)], at [<sup>F81</sup>the [<sup>F82</sup>basic rate]][<sup>F83</sup>; and
- (c) in the case of sums falling within subsection (1A) above, at the [<sup>F79</sup>[<sup>F84</sup>dividend] ordinary rate].]

(5) No repayment shall be made of any income tax which by virtue of this Part is treated as having been borne by the income that is represented by a relevant amount.

(6) <sup>F85</sup> . . . . . ]

#### Textual Amendments

- F70** S. 699A inserted (with effect in accordance with s. 76(6) of the amending Act) by Finance Act 1995 (c. 4), s. 76(4)
- F71** Words in s. 699A(1)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 290(2) (with Sch. 2)
- F72** Words in s. 699A(1) inserted (with effect in accordance with s. 21(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 21(2)
- F73** S. 699A(1A)(1B) inserted (with effect in accordance with s. 21(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 21(3)

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- F74** Words in s. 699A(1A) inserted (with effect in accordance with s. 33(10) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 33(3)**
- F75** Words in s. 699A(1A)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 290(3)(a)** (with Sch. 2)
- F76** S. 699A(1A)(b) and preceding word repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 290(3)(b), **Sch. 3** (with Sch. 2)
- F77** Word in s. 699A(2)(b) substituted (with effect in accordance with s. 33(11) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 33(4)**
- F78** Words in s. 699A(4)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 290(4)(a)** (with Sch. 2)
- F79** Words in s. 699A(4)(a)(c) substituted (with effect in accordance with s. 33(11) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 33(5)**
- F80** Words in s. 699A(4)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 290(4)(b)** (with Sch. 2)
- F81** Words in s. 699A(4)(b) substituted (with effect in accordance with s. 173(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 35 para. 4**
- F82** Words in s. 699A(4)(b) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 44**
- F83** S. 699A(4)(c) and preceding word inserted (with effect in accordance with s. 21(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 21(4)**
- F84** Word in s. 699A(4)(c) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 290(4)(c)** (with Sch. 2)
- F85** S. 699A(6) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 290(5), **Sch. 3** (with Sch. 2)

## **700 Adjustments and information.**

<sup>M5</sup>(1) Where on the completion of the administration of an estate any amount is deemed by virtue of this Part to have been paid to any [<sup>F86</sup>company] as income for any [<sup>F87</sup>accounting period] and—

- (a) that amount is greater than the amount that has previously been deemed to have been paid to [<sup>F88</sup>it] as income for [<sup>F89</sup>that accounting period] by virtue of this Part; or
- (b) no amount has previously been so deemed to have been paid to [<sup>F88</sup>it] as income for [<sup>F89</sup>that accounting period];

an assessment may be made upon [<sup>F88</sup>it] for [<sup>F89</sup>that accounting period] and [<sup>F90</sup>corporation tax] charged accordingly or, on a claim being made for the purpose, any relief or additional relief to which [<sup>F91</sup>it] may be entitled shall be allowed accordingly.

(2) Where on the completion of the administration of an estate any amount is deemed by virtue of this Part to have been paid to any [<sup>F92</sup>company] as income for any [<sup>F93</sup>accounting period], and that amount is less than the amount that has previously been so deemed to have been paid to [<sup>F94</sup>it], then—

- (a) if an assessment has already been made upon [<sup>F94</sup>it] for [<sup>F95</sup>that accounting period], such adjustments shall be made in that assessment as may be necessary for the purpose of giving effect to the provisions of this Part which take effect on the completion of the administration, and any [<sup>F96</sup>corporation tax] overpaid shall be repaid; and
- (b) if—

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- (i) any relief has been allowed to [F94:it] by reference to the amount which has been previously deemed by virtue of this Part to have been paid to [F94:it] as income for [F95:that accounting period], and
- (ii) the amount of that relief exceeds the amount of relief which could have been given by reference to the amount which, on the completion of the administration, is deemed to have been paid to [F94:it] as income for [F95:that accounting period],
- the relief so given in excess may, if not otherwise made good, be charged under Case VI of Schedule D and recovered from that [F92:company] accordingly.
- (3) Notwithstanding anything in the Tax Acts, the time within which an assessment may be made for the purposes of this Part, or an assessment may be adjusted for those purposes, or a claim for relief may be made by virtue of this Part, shall not expire before the end of the [F97:period of three years beginning with the 31st January next] following the [F98:accounting period] in which the administration of the estate in question was completed.
- (4) An inspector may by notice require any person being or having been a personal representative of a deceased person, or having or having had an absolute or limited interest in the residue of the estate of a deceased person or in a part of such residue, to furnish him within such time as he may direct (not being less than 28 days) with such particulars as he thinks necessary for the purposes of this Part [F99:or Chapter 6 of Part 5 of ITTOIA 2005].
- [F100](5) It shall be the duty of a personal representative of a deceased person, if a request to do so is made in writing by a person who has, or has had, an absolute or limited interest in the residue of the estate of the deceased or by a person to whom any of the income of the residue of that estate has been paid in the exercise of any discretion, to furnish the person making the request with a statement in writing setting out—
- (a) in respect of every amount which has been, or is treated as having been, actually paid to that person in respect of that interest or in the exercise of that discretion, the amount (if any) deemed under this Part to have been paid to him as income for [F101:an accounting period]; [F102: . . .
- [F103](aa) [ the amount treated as estate income under Chapter 6 of Part 5 of ITTOIA 2005 in respect of that interest or the exercise of that discretion for which he is liable to income tax for a year of assessment, and]
- (b) the amount of any tax at the applicable rate which any amount falling within paragraph (a) [F104:or (aa)] above is deemed to have borne;
- and, where an amount deemed to have been paid as income to any person for [F105:any accounting period under this Part or treated as estate income under that Chapter] is deemed for any of the purposes of this Part [F106:or that Chapter] to have borne tax on different parts of it at different applicable rates, the matters to be set out in pursuance of [F107:paragraphs (a) to (b)] above shall be set out separately as respects each part of that amount.
- (6) The duty imposed by subsection (5) above shall be enforceable at the suit or instance of the person making the request.]

#### Textual Amendments

**F86** Word in s. 700(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 291(2)(a)** (with Sch. 2)



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- F87** Words in s. 700(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(2)(b)* (with Sch. 2)
- F88** Words in s. 700(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(2)(c)* (with Sch. 2)
- F89** Words in s. 700(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(2)(d)* (with Sch. 2)
- F90** Words in s. 700(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(2)(e)* (with Sch. 2)
- F91** Word in s. 700(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(2)(f)* (with Sch. 2)
- F92** Words in s. 700(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(3)(a)* (with Sch. 2)
- F93** Words in s. 700(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(3)(b)* (with Sch. 2)
- F94** Words in s. 700(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(3)(c)* (with Sch. 2)
- F95** Words in s. 700(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(3)(d)* (with Sch. 2)
- F96** Words in s. 700(2)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(3)(e)* (with Sch. 2)
- F97** Words in s. 700(3) substituted (with effect in accordance with s. 135(2) of the amending Act) by *Finance Act 1996 (c. 8), Sch. 21 para. 20*
- F98** Words in s. 700(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(4)* (with Sch. 2)
- F99** Words in s. 700(4) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(5)* (with Sch. 2)
- F100** S. 700(5)(6) inserted (1.5.1995) by *Finance Act 1995 (c. 4), Sch. 18 para. 6*
- F101** Words in s. 700(5)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(6)(a)* (with Sch. 2)
- F102** Word at the end of s. 700(5)(a) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(6)(b), Sch. 3* (with Sch. 2)
- F103** S. 700(5)(aa) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(6)(c)* (with Sch. 2)
- F104** Words in s. 700(5)(b) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(6)(d)* (with Sch. 2)
- F105** Words in s. 700(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(6)(e)* (with Sch. 2)
- F106** Words in s. 700(5) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(6)(f)* (with Sch. 2)
- F107** Words in s. 700(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 291(6)(g)* (with Sch. 2)

#### Marginal Citations

**M5** Source-1970 s.431; 1971 Sch.6 57

## 701 Interpretation.

- (1) <sup>M6</sup>The following provisions of this section shall have effect for the purpose of the interpretation of sections 695 to 700.





*Status: Point in time view as at 21/07/2008.*

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- (b) general legacies, demonstrative legacies, annuities and any sum payable out of residue to which a person is entitled under the law of intestacy of any part of the United Kingdom or any other country, and
  - (c) any other liabilities of his personal representatives as such.
- (7) Where, as between persons interested under a specific disposition or in a general or demonstrative legacy or in an annuity and persons interested in the residue of the estate, any such liabilities as are mentioned in subsection (6) above fall exclusively or primarily upon the property that is the subject of the specific disposition or upon the legacy or annuity, only such part (if any) of those liabilities as falls ultimately upon the residue shall be treated as charges on residue.
- (8) References to the aggregate income of the estate of a deceased person for any year of assessment shall be construed as references to the aggregate income from all sources for that year of the personal representatives of the deceased as such, treated as consisting of—
- (a) any such income which is chargeable to United Kingdom income tax by deduction or otherwise, such income being computed at the amount on which that tax falls to be borne for that year; <sup>F116</sup> . . .
  - (b) any such income which would have been so chargeable if it had arisen in the United Kingdom to a person resident and ordinarily resident there, such income being computed at the full amount thereof actually arising during that year, less such deductions as would have been allowable if it had been charged to United Kingdom income tax;
  - <sup>F117</sup>(c) any amount of income treated as arising to the personal representatives under section 410(4) of ITTOIA 2005 (stock dividends) that would be charged to income tax under Chapter 5 of Part 4 of that Act if income arising to personal representatives were so charged (see section 413 of that Act);
  - (d) in a case where section 419(2) of that Act applies (release of loans to participator in close company: debts due from personal representatives), 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 as such under section 466 of that Act if the condition in section 466(2) had been met (gains from contracts for life insurance);]
- but excluding any income from property devolving on the personal representatives otherwise than as assets for payment of the debts of the deceased.

<sup>F118</sup>

- .....
- (9) “United Kingdom estate” means, as regards any year of assessment [<sup>F119</sup>or accounting period], an estate the income of which comprises only income which either—
- (a) has borne United Kingdom income tax by deduction, or
  - (b) in respect of which the personal representatives are directly assessable to United Kingdom income tax,
- not being an estate any part of the income of which is income in respect of which the personal representatives are entitled to claim exemption from United Kingdom income tax by reference to the fact that they are not resident, or not ordinarily resident, in the United Kingdom.

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- (10) “Foreign estate” means, as regards any year of assessment [<sup>F120</sup>or accounting period], an estate which is not a United Kingdom estate.
- [<sup>F121</sup>(10A) Amounts to which section 699A(1)(a) and (b) applies shall be disregarded in determining whether an estate is a United Kingdom estate or a foreign estate, except that any estate the aggregate income of which comprises only such amounts shall be a United Kingdom estate.]
- (11) In a case in which different parts of the estate of a deceased person are the subjects respectively of different residuary dispositions, this Part shall have effect in relation to each of those parts with the substitution—
- (a) for references to the estate of references to that part of the estate; and
  - (b) for references to the personal representatives of the deceased as such of references to his personal representatives in their capacity as having the functions referred to in subsection (4) above in relation to that part of the estate.
- (12) In this Part—
- (a) references to sums paid include references to assets that are transferred or that are appropriated by a personal representative to himself, and to debts that are set off or released;
  - (b) references to sums payable include references to assets as to which an obligation to transfer or a right of a personal representative to appropriate to himself is subsisting on the completion of the administration and to debts as to which an obligation to release or set off, or a right of a personal representative so to do in his own favour, is then subsisting; and
  - (c) references to amount shall be construed, in relation to such assets as are referred to in paragraph (a) or (b) above, as references to their value at the date on which they were transferred or appropriated, or at the completion of the administration, as the case may require, and, in relation to such debts as are so referred to, as references to the amount thereof.
- (13) <sup>M8</sup>In this Part references to the administration period shall be construed in accordance with section 695(1).
- (14) <sup>F122</sup> .....

#### Textual Amendments

- F108** S. 701(3A) inserted (27.7.1993 with effect for the year 1993-1994 and subsequent years of assessment) by 1993 c. 34, s. 79, Sch. 6 paras. 11(3), **25(1)**
- F109** Words in s. 701(3A) omitted (with effect in accordance with Sch. 1 para. 65 of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 1 para. 45(a)**
- F110** Words in s. 701(3A) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 292(2)** (with Sch. 2)
- F111** Words in s. 701(3A)(b) renumbered as s. 701(3A)(b)(i) (with effect in accordance with s. 33(11) of the amending Act) by virtue of Finance (No. 2) Act 1997 (c. 58), **s. 33(9)(a)**
- F112** Words in s. 701(3A)(b)(i) omitted (with effect in accordance with Sch. 1 para. 65 of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 1 para. 45(b)**
- F113** Words in s. 701(3A)(b)(i) inserted (with effect in accordance with s. 33(11) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 33(9)(b)**
- F114** S. 701(3A)(b)(ii) added (with effect in accordance with s. 33(11) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 33(9)(c)**

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- F115** S. 701(3A)(b)(ii) and preceding word omitted (with effect in accordance with Sch. 1 para. 65 of the repealing Act) by virtue of **Finance Act 2008 (c. 9), Sch. 1 para. 45(c)**
- F116** Word at the end of s. 701(8)(a) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 292(3)(a), Sch. 3** (with Sch. 2)
- F117** S. 701(8)(c)-(e) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 292(3)(b)** (with Sch. 2)
- F118** Words in s. 701(8) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 292(3)(c), Sch. 3** (with Sch. 2)
- F119** Words in s. 701(9) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 292(4)** (with Sch. 2)
- F120** Words in s. 701(10) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 292(5)** (with Sch. 2)
- F121** S. 701(10A) inserted (with effect in accordance with s. 76(6) of the amending Act) by **Finance Act 1995 (c. 4), s. 76(5)**
- F122** S. 701(14) repealed (1.5.1995) by **Finance Act 1995 (c. 4), Sch. 18 para. 7, Sch. 29 Pt. 8(10)**

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

- C2** *Definition applied for purposes of 1979(C)—see 1979(C) s.155(1).*

#### **Marginal Citations**

- M6** Source-1970 s.432; 1972 Sch.24 25; 1975 (No.2) s.34(5)
- M7** 1925 c. 23.
- M8** Source-1970 s.426(1)

## **702 Application to Scotland.**

<sup>M9</sup>For the purpose of the application of this Part to Scotland—

- (a) any reference to the completion of the administration of an estate shall be construed 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 (including, without prejudice to the generality of the foregoing, debts, legacies immediately payable, prior rights of surviving spouse [<sup>F123</sup>or civil partner] on intestacy and legal rights of surviving spouse [<sup>F123</sup>or civil partner] or children), the free balance held in trust for behoof of the residuary legatees has been ascertained;
- (b) for paragraph (b) of section 697(1) the following paragraph shall be substituted—
- “(b) the amount of any of the aggregate income of the estate for that year to which a person has become entitled by virtue of a specific disposition”;
- (c) “real estate” means heritable estate, and
- (d) “charge on residue” shall include, in addition to the liabilities specified in section 701(6), any sums required to meet claims in respect of prior rights by surviving spouse [<sup>F123</sup>or civil partner] or in respect of legal rights by surviving spouse [<sup>F123</sup>or civil partner] or children.

#### **Textual Amendments**

- F123** Words in s. 702(a)(d) inserted (5.12.2005) by **The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), 96**

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**Marginal Citations**

**M9** Source-1970 s.433; 1987 Sch.15 2(15)

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**Changes to legislation:**

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