



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 4

SAVINGS AND INVESTMENT INCOME

CHAPTER 3

DIVIDENDS ETC. FROM UK RESIDENT COMPANIES ^[F1] AND TAX CREDITS ETC. IN RESPECT OF CERTAIN DISTRIBUTIONS]

Textual Amendments

- F1** Words in Pt. 4 Ch. 3 heading substituted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 2](#)

Introduction

382 Contents of Chapter

- (1) This Chapter—
- (a) imposes a charge to income tax on dividends and other distributions of UK resident companies (see section 383),
 - (b) treats dividends as paid in some circumstances (see sections 386 to 391), and
 - (c) makes special provision where the charge is in respect of shares awarded under an approved share incentive plan (see sections 392 to 396).
- (2) This Chapter also makes provision about tax credits, tax being treated as paid and reliefs available in respect of certain distributions which applies whether or not the distributions are otherwise dealt with under this Chapter (see sections 397 to 401).

Status: Point in time view as at 21/07/2008.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (3) For exemptions from the charge under this Chapter, see in particular—
 Chapter 3 of Part 6 (income from individual investment plans),
 Chapter 5 of that Part (venture capital trust dividends),
 section 770 (amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment), and
 section 498 of ITEPA 2003 (no charge on shares ceasing to be subject to SIP in certain circumstances).
- (4) In this Chapter “dividends” does not include income treated as arising under section 410 (stock dividends).

Charge to tax on dividends and other distributions

383 Charge to tax on dividends and other distributions

- (1) Income tax is charged on dividends and other distributions of a UK resident company.
- (2) For income tax purposes such dividends and other distributions are to be treated as income.
- (3) For the purposes of subsection (2), it does not matter that those dividends and other distributions are capital apart from that subsection.

384 Income charged

- (1) Tax is charged under this Chapter on the amount or value of the dividends paid and other distributions made in the tax year.
- (2) Subsection (1) is subject to—
 section 393(2) and (3) (later charge where cash dividends retained in SIPs are paid over), and
 section 394(3) (distribution when dividend shares cease to be subject to SIP).
- (3) See also section 398 (under which the amount or value of the dividends or other distributions is treated as increased if any person is entitled to a tax credit in respect of them).

385 Person liable

- (1) The person liable for any tax charged under this Chapter is—
 (a) the person to whom the distribution is made or is treated as made (see Part 6 of ICTA and sections 386(3) and 389(3)), or
 (b) the person receiving or entitled to the distribution.
- (2) Subsection (1) is subject to—
 section 393(4) (later charge where cash dividends retained in SIPs are paid over), and
 section 394(4) (distribution when dividend shares cease to be subject to SIP).

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

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

Amounts treated as dividends

386 Open-ended investment company dividend distributions

- (1) This section applies if the distribution accounts of an open-ended investment company show the total amount available for distribution to owners of shares in the company as available for distribution as dividends.
- (2) Subsection (1) is subject to subsection (5).
- (3) For income tax purposes dividends are treated as paid to the owners of the shares by the company.
- (4) The amount of the dividends treated as paid to each owner is so much of the total amount mentioned in subsection (1) as is proportionate to the owner's shares.
- (5) This section does not apply if the open-ended investment company is an approved personal pension scheme.
- (6) See section 388 for the interpretation of this section and section 387.

387 Date when dividends paid under section 386

- (1) This section applies for determining the date on which dividends are treated as paid under section 386.
- (2) The date on which the dividends are treated as paid depends on whether a date is specified for the distribution period in question by or in accordance with—
 - (a) the company's instrument of incorporation and its prospectus in issue for the time being (including any supplements), or
 - (b) in the case of an open-ended investment company which is part of an umbrella company, such parts of those documents of the umbrella company as apply to the open-ended investment company.
- (3) If such a date is so specified, the dividends are treated as paid on that date.
- (4) If no such date is so specified, the dividends are treated as paid on the last day of that period.

388 Interpretation of sections 386 and 387

- (1) In sections 386 and 387 and this section—
 - “approved personal pension scheme” has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),
 - “distribution” includes investment on behalf of an owner of shares in respect of the owner's accumulation shares,
 - “distribution accounts” means the accounts showing how the total amount available for distribution to owners of shares is calculated,
 - “distribution period” means the period by reference to which that amount is ascertained,
 - “the OEIC Regulations” means the Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154),

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

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

“open-ended investment company” has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (11) of ICTA, as inserted by regulation 10 of the OEIC Regulations),

“owner of shares” has the same meaning as in that Chapter (see section 468(10) and (15) of that Act, as so inserted), and

“umbrella company” has the same meaning as in section 468 of that Act (see section 468(18), as so inserted).

- (2) In subsection (1) “accumulation share” means a share in respect of which income is credited periodically to the capital part of the company's scheme property.
- (3) In subsection (2) “scheme property” has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (13) of ICTA, as inserted by regulation 10 of the OEIC Regulations).

389 Authorised unit trust dividend distributions

- (1) This section applies if the distribution accounts of an authorised unit trust show the total amount available for distribution to unit holders as available for distribution as dividends.
- (2) Subsection (1) is subject to subsection (6).
- (3) For income tax purposes dividends are treated as paid to the unit holders.
- (4) The amount of the dividends treated as paid to each unit holder is so much of the total amount mentioned in subsection (1) as is proportionate to the unit holder's rights.
- (5) The dividends are treated as paid on the shares and by the company referred to in section 468(1) of ICTA (which relates to the trustees of an authorised unit trust being treated as a UK resident company in which the unit holders' rights are shares).
- (6) This section does not apply if the authorised unit trust is an approved personal pension scheme.
- (7) See section 391 for the interpretation of this section and section 390.

390 Date when dividends paid under section 389

- (1) This section applies for determining the date on which dividends are treated as paid under section 389.
- (2) The date on which the dividends are treated as paid depends on whether a date is specified by or in accordance with the trust's terms for any distribution for the distribution period in question.
- (3) If such a date is so specified, the dividends are treated as paid on that date.
- (4) If no such date is so specified, the dividends are treated as paid on the last day of that period.

391 Interpretation of sections 389 and 390

In sections 389 and 390—

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

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)*

“approved personal pension scheme” has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

“distribution” includes investment on behalf of a unit holder in respect of the holder's accumulation units,

“distribution accounts” means the accounts showing how the total amount available for distribution to unit holders is ascertained, and

“distribution period” means the period by reference to which that amount is ascertained.

Shares in approved share incentive plans (“SIPs”)

392 SIP shares: introduction

- (1) Sections 393 to 395 contain special rules about the charge under this Chapter in respect of shares awarded to an individual under an approved share incentive plan.
- (2) Those sections only apply if condition A or B was met at the time the shares in question were so awarded.
- (3) Condition A is that—
 - (a) the earnings from the eligible employment were general earnings (see section 7(3) of ITEPA 2003) to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 applied, or
 - (b) if there had been any earnings from it, they would have been such earnings.
- (4) In subsection (3)—
 - (a) “the eligible employment” means the employment resulting in the individual meeting the employment requirement in relation to the plan, and
 - (b) the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 has the same meaning as it has in the employment income Parts of that Act (see sections 14(3) and 20(3) of that Act).
- (5) Condition B is that—
 - (a) the shares were awarded before 6th April 2003, and
 - (b) the individual was liable for tax under Schedule E in respect of the relevant employment.
- (6) In subsection (5) “the relevant employment” means the employment by reference to which the individual met the requirements in paragraph 14 of Schedule 8 to FA 2000 (employee share ownership plans: the employment requirement) in relation to the plan.
- (7) See section 396 for the general interpretation of this section and sections 393 to 395.

393 Later charge where cash dividends retained in SIPs are paid over

- (1) This section applies if a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested etc.).
- (2) Tax charged under this Chapter is charged for the tax year in which the cash dividend is paid over instead of the tax year in which it was originally paid.
- (3) Tax so charged is charged on the amount of the cash dividend paid over.

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

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (4) The person liable for any tax so charged is the participant.
- (5) For the purposes of determining—
 - (a) whether the participant is entitled to a tax credit under section 397 in respect of a cash dividend so charged, and
 - (b) the amount of that tax credit,
 that section applies as it has effect for the tax year in which the cash dividend is paid over.
- (6) For the purposes of this Chapter, the question whether a cash dividend paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 is a dividend paid by a company that is UK resident is determined by reference to the tax year in which the dividend was originally paid.

394 Distribution when dividend shares cease to be subject to SIP

- (1) This section applies if dividend shares cease to be subject to an approved share incentive plan before the end of the period of 3 years beginning with the date on which the shares were acquired on the participant's behalf.
- (2) For income tax purposes a distribution is treated as made to the participant in the tax year in which the shares cease to be subject to the plan.
- (3) The amount of the distribution treated as made is the amount of the cash dividend applied to acquire the shares on the participant's behalf, so far as it represents a cash dividend paid in respect of plan shares in a UK resident company.
- (4) The person liable for any tax charged on the distribution as a result of this section is the participant.
- (5) For the purposes of determining—
 - (a) whether the participant is entitled to a tax credit under section 397 in respect of a distribution so charged, and
 - (b) if so, the amount of that tax credit,
 that section applies as it has effect for the tax year in which the shares cease to be subject to the plan.
- (6) But for the purposes of this Chapter, the question whether the distribution under subsection (2) is a distribution by a company that is UK resident is determined by reference to the year in which the company paid the dividend applied to acquire the shares on the participant's behalf.
- (7) For rules identifying shares ceasing to be subject to approved share incentive plans, see section 508 of ITEPA 2003.

395 Reduction in tax due in cases within section 394

- (1) This section applies if—
 - (a) a person is liable to tax as a result of section 394, and
 - (b) any tax is paid on any capital receipts under section 501 of ITEPA 2003 (charge on capital receipts in respect of plan shares) in respect of the shares that cease to be subject to the approved share incentive plan.

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

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (2) The tax due is to be reduced by an amount equal to the total tax so paid.
- (3) In subsection (2) “the tax due” means the amount of tax due as a result of section 394 after deduction of the tax credit determined in accordance with section 394(5).
- (4) For rules identifying shares ceasing to be subject to approved share incentive plans, see section 508 of ITEPA 2003.

396 Interpretation of sections 392 to 395

- (1) This section and sections 392 to 395 form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in this section or those sections and contained in the index in paragraph 100 of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (3) In particular—
 - (a) for the meaning of “award of shares” see paragraph 5(1) of that Schedule,
 - (b) for the meaning of “ceasing to be subject to plan” see paragraph 97 of that Schedule,
 - (c) for the meaning of “dividend shares” see paragraph 62(3)(b) of that Schedule,
 - (d) for the meaning of “employment requirement” see paragraph 15(3) of that Schedule,
 - (e) for the meaning of “participant” see paragraph 5(4) of that Schedule,
 - (f) for the meaning of “plan shares” see paragraphs 86 to 88 and 99(1) of that Schedule, and
 - (g) for the meaning of “shares” see paragraphs 87(6) and 99(2) of that Schedule.

Tax credits and payment and deduction of tax

397 Tax credits for qualifying distributions [^{F2}of UK resident companies] : UK residents and eligible non-UK residents

- (1) A UK resident or eligible non-UK resident receiving a qualifying distribution made by a UK resident company is entitled to a tax credit equal to one-ninth of the amount or value of the distribution (but see subsections (3) and (6)).
- (2) Such a person may claim to deduct the tax credit from—
 - (a) the income tax charged on the person's total income for the tax year in which the distribution is made, ^{F3} . . .
 - (b) ^{F3}
- (3) Subsection (1) only applies so far as the distribution is brought into charge to tax, and accordingly if the person's total income is reduced by any deductions which fall to be made from the distribution, the tax credit for the distribution is reduced in the same proportion as the distribution.
- (4) For the purposes of this section “eligible non-UK resident”, in relation to a qualifying distribution, means an individual who at any time in the tax year in which it is received is a non-UK resident within section 278(2) of ICTA [^{F4}or section 56(3) of ITA 2007](Commonwealth citizens, EEA nationals etc.).

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

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (5) If a distribution is, or is treated under any provision of the Tax Acts as, the income of a person (“P”) other than the recipient (“R”), P (not R) is treated as receiving it for the purposes of this section (and so P (not R) is entitled to a tax credit if P falls within subsection (1)).
- (6) This section is subject to the following provisions—
- [^{F5}section 504(4) of ITA 2007 (disapplication of certain provisions for income of unauthorised unit trusts),
 - section 592 of ITA 2007 (no tax credits for borrower under stock lending arrangement),
 - section 593 of ITA 2007 (no tax credits for interim holder under repo),
 - section 594 of ITA 2007 (no tax credits for original owner under repo),] and
 - section 171(2B) of FA 1993 (no tax credit for distributions in respect of assets in Lloyd's member's premium trust fund).

Textual Amendments

- F2** Words in s. 397 heading inserted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 3](#)
- F3** S. 397(2)(b) and preceding word repealed (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, [Sch. 1 para. 515\(2\)](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))
- F4** Words in s. 397(4) inserted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 515\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F5** Words in s. 397(6) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 515\(4\)](#) (with transitional provisions and savings in [Sch. 2](#))

Modifications etc. (not altering text)

- C1** S. 397 excluded (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [s. 121\(5\)](#) (with [Sch. 17 para. 18\(2\)](#))
S. 397(1) excluded (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [s. 504\(4\)\(b\)](#) (with transitional provisions and savings in [Sch. 2](#))
- C2** S. 397 excluded by S.I. 2006/694, regs. 69Z18(5), 69Z19(2) (as inserted (6.4.2008) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2008 \(S.I. 2008/705\)](#), regs. 1, 5)

[^{F6}397A Tax credits for distributions of non-UK resident companies: UK residents and eligible non-UK residents

- (1) This section applies where a UK resident or eligible non-UK resident receives a relevant distribution made by a non-UK resident company, provided that—
- (a) the company is not an offshore fund (within the meaning of section 756A of ICTA), and
 - (b) the person is a minority shareholder in the company at the time the distribution is received.
- (2) The person is entitled to a tax credit equal to one-ninth of the amount or value of the grossed up distribution (but see subsections (3) and (6)).
- (3) Subsection (2) only applies so far as the distribution is brought into charge to tax, and accordingly if the person's total income is reduced by any deductions which fall to be

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

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)*

made from the distribution, the tax credit for the distribution is reduced in the same proportion as the distribution.

- (4) The person may claim to deduct the tax credit from the income tax charged on the person's total income for the tax year in which the distribution (or the part of the distribution to which the tax credit relates) is brought into charge to tax.
- (5) If a distribution is, or is treated under any provision of the Tax Acts as, the income of a person ("P") other than the recipient ("R"), P (not R) is treated as receiving it for the purposes of this section (and so P (not R) is entitled to a tax credit if P falls within subsection (1)).
- (6) This section is subject to the following provisions—
- section 171(2B) of FA 1993 (no tax credit for distributions in respect of assets in Lloyd's member's premium trust fund),
 - section 504(4) of ITA 2007 (disapplication of certain provisions for income of unauthorised unit trusts),
 - section 592 of ITA 2007 (no tax credits for borrower under stock lending arrangement),
 - section 593 of ITA 2007 (no tax credits for interim holder under repo), and
 - section 594 of ITA 2007 (no tax credits for original owner under repo).
- (7) In this section—
- "eligible non-UK resident", in relation to a distribution, means an individual who, at any time in the tax year in which the distribution (or the part of the distribution to which the tax credit relates) is brought into charge to tax, is a non-UK resident who meets the condition in section 56(3) of ITA 2007 (residence etc of claimants),
 - "grossed up distribution" means the distribution increased by the amount of any tax chargeable in respect of the distribution directly or by deduction under the laws of the territory in which the company is resident, including special withholding tax,
 - "minority shareholder", in relation to a company, has the meaning given in section 397C,
 - "relevant distribution", in relation to a person, means—
 - (a) a qualifying distribution arising in a relevant tax year,
 - (b) a cash dividend paid over to the person under paragraph 68(4) of Schedule 2 of ITEPA 2003 (cash dividend paid over if not reinvested etc) in a relevant tax year, and
 - (c) a dividend treated under section 407 as paid to the person in a relevant tax year,
 - "relevant tax year" means the tax year 2008-09 or a subsequent tax year, and
 - "special withholding tax" has the meaning given in section 107(3) of FA 2004.
- (8) Section 397B makes provision about the application of this section in the case of overseas dividends arising from manufactured overseas dividends (within the meaning of Chapter 2 of Part 11 of ITA 2007).

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

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

Textual Amendments

- F6** Ss. 397A-397C inserted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 4](#)

397B Tax credits under section 397A: manufactured overseas dividends

- (1) This section applies where, under section 581 of ITA 2007, a person is treated as receiving an overseas dividend by virtue of having received a manufactured overseas dividend which is representative of an overseas dividend.
- (2) For the purposes of section 397A, the person is treated as receiving a relevant distribution made by a non-UK resident company that is not an offshore fund if, and only if, the manufactured overseas dividend is representative of such a distribution.
- (3) References in section 397A to the grossed up distribution have effect as if they were references to the gross amount of the overseas dividend of which the manufactured overseas dividend is representative, disregarding the amount of any overseas tax credit.
- (4) In this section—
 - “gross amount”, in relation to a manufactured overseas dividend, has the same meaning as in Chapter 2 of Part 11 of ITA 2007 (manufactured payments) (see section 589 of that Act),
 - “manufactured overseas dividend” and “overseas tax credit” have the same meaning as in Chapter 2 of that Part (see sections 581 and 591 of that Act), and
 - “overseas dividend” has the same meaning as in that Part (see section 567 of that Act).

Textual Amendments

- F6** Ss. 397A-397C inserted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 4](#)

397C Meaning of “minority shareholder”

- (1) In section 397A “minority shareholder”, in relation to a non-UK resident company, means a person whose shareholding in the company is less than 10% of the company's issued share capital.
- (2) Subsections (3) to (6) make provision about the circumstances in which shares form part of a person's shareholding in a company for the purposes of this section.
- (3) Shares form part of a person's shareholding in a company to the extent that the person is beneficially entitled to the shares or to a distribution arising in respect of the shares (or both).
- (4) Shares form part of a person's shareholding in the company where—
 - (a) a person is a settlor in relation to a settlement, and
 - (b) income arising from shares comprised in the settlement is treated for income tax purposes as the income of that person and of that person alone.

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

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (5) Shares form part of the shareholding in a company of a person (“P”) if—
- (a) they form part of the shareholding in the company of a person connected with P,
 - (b) P transferred the shares to the connected person or arranged for the connected person to acquire the shares, and
 - (c) the purpose of the transfer or arrangement was wholly or mainly to enable P to avoid tax.
- (6) Shares form part of a person's shareholding in a company if that person has transferred the shares to another person under a repo or stock lending arrangement.
- (7) In this section—
- “repo” has the same meaning as in Part 11 of ITA 2007 (see section 569 of that Act),
- “settlement” and “settlor” have the same meaning as in Chapter 5 of Part 5 of this Act, and
- “stock lending arrangement” has the same meaning as in Part 11 of ITA 2007 (see section 568 of that Act).]

Textual Amendments

- F6** Ss. 397A-397C inserted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 4](#)

398 Increase in amount or value of dividends where tax credit available

- (1) If a person is entitled to a tax credit [^{F7}under section 397 or 397A] in respect of a dividend or other distribution, the amount or value of the dividend or other distribution is treated as increased by the amount of the tax credit for all income tax purposes (except [^{F8}sections 397(1) and 397A(2)]).
- (2) Subsection (1) does not apply if the distribution is dealt with under Chapter 2 of Part 2 unless the trade consists of the underwriting business of a member of Lloyd's.

Textual Amendments

- F7** Words in s. 398(1) inserted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 5\(a\)](#)
- F8** Words in s. 398(1) substituted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 5\(b\)](#)

399 Qualifying distributions received by persons not entitled to tax credits

- (1) This section applies if a person is not entitled to a tax credit [^{F9}under section 397 or 397A] for a qualifying distribution included in the person's income for a tax year.
- (2) The person is treated as having paid income tax at the dividend ordinary rate on the amount or value of the distribution (but see subsection (7)).

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

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (3) For the purposes of subsection (2), if the person is non-UK resident the amount or value of the distribution is treated as the grossed up amount, unless the person is a company which is beneficially entitled to the income.
- (4) If the person is non-UK resident [^{F10}, the amount or value of the distribution is treated for the purposes of Chapters 3, 4 and 6 of Part 9 of ITA 2007 (special rates for trustees' income)] as the grossed up amount.
- (5) In this section “the grossed up amount” means the actual amount or value of the distribution, grossed up by reference to the dividend ordinary rate for the tax year.
- (6) The income tax treated as paid under subsection (2) is not repayable.
- (7) Subsection (2) is subject to the following provisions—
 - [^{F11}section 504(4) of ITA 2007 (disapplication of certain provisions for income of unauthorised unit trusts),
 - section 592 of ITA 2007 (no tax credits for borrower under stock lending arrangement),
 - section 593 of ITA 2007 (no tax credits for interim holder under repo), and
 - section 594 of ITA 2007 (no tax credits for original owner under repo).]

Textual Amendments

- F9** Words in s. 399(1) inserted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 6](#)
- F10** Words in s. 399(4) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 1027, 1034](#), [Sch. 1 para. 516\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F11** Words in s. 399(7) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 1027, 1034](#), [Sch. 1 para. 516\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

Modifications etc. (not altering text)

- C3** S. 399(2) excluded (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 594\(3\), 1034](#) (with transitional provisions and savings in [Sch. 2](#))
- C4** S. 399(2) excluded (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 593\(3\), 1034](#) (with transitional provisions and savings in [Sch. 2](#))
- C5** S. 399(2) excluded (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 592\(3\), 1034](#) (with transitional provisions and savings in [Sch. 2](#))
- C6** S. 399(2)(6) excluded (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 504\(4\)\(c\), 1034](#) (with transitional provisions and savings in [Sch. 2](#))

400 Non-qualifying distributions

- (1) This section applies if a person's income in a tax year includes a non-qualifying distribution.
- (2) The person is treated as having paid income tax at the dividend ordinary rate on the amount or value of the distribution.
- (3) The income tax treated as paid under subsection (2) is not repayable.

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

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (4) If the distribution is [^{F12}assessed (in whole or in part) at the dividend trust rate by virtue of Chapter 3 of Part 9 of ITA 2007 (trustees' accumulated or discretionary income to be charged at special rates), the trustees' liability for income tax at that rate is reduced]
- (5) The amount of the reduction is equal to income tax at the dividend ordinary rate on so much of the distribution as is assessed at the dividend trust rate.
- (6) In this section and section 401 “non-qualifying distribution” means a distribution which is not a qualifying distribution.
- [^{F13}(7) Subsection (2) is subject to section 504(4) of ITA 2007 (disapplication of certain provisions for income of unauthorised unit trusts).]

Textual Amendments

- F12** Words in s. 400(4) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 517\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F13** S. 400(7) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 517\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

Modifications etc. (not altering text)

- C7** S. 400(2)(3) excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. [504\(4\)\(d\)](#), 1034 (with transitional provisions and savings in [Sch. 2](#))

401 Relief: qualifying distribution after linked non-qualifying distribution

- (1) Where a person pays an amount in respect of extra liability for a non-qualifying distribution, the person's extra liability for a subsequent qualifying distribution is reduced by that amount if conditions A and B are met.
- (2) Condition A is that the non-qualifying distribution consists of the issue of share capital or security.
- (3) Condition B is that the qualifying distribution consists of a repayment of the share capital or the principal of the security.
- (4) A person's extra liability for a distribution charged to tax for the tax year 1999-2000 or a later tax year is the amount by which the person's liability to income tax on the distribution exceeds the amount it would be if it were charged only at the dividend ordinary rate.
- (5) A person's extra liability for a distribution charged to tax for a tax year after the tax year 1992-93 and before the tax year 1999-2000 is the amount by which the person's liability to income tax on the distribution exceeds the amount it would be if it were charged only at the lower rate.
- (6) A person's extra liability for a distribution charged to tax for a tax year before the tax year 1993-94 is the amount by which the person's liability to income tax on the distribution exceeds the amount it would be if it were charged only at the basic rate.
- [^{F14}(6A) The reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007.]

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

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)*

(7) In this section “security” has the meaning given in section 254(1) of ICTA.

Textual Amendments

F14 S. 401(6A) inserted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 518](#) (with transitional provisions and savings in [Sch. 2](#))

Status:

Point in time view as at 21/07/2008.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3.