



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 5

#### MISCELLANEOUS INCOME

#### [<sup>F1</sup>CHAPTER 2A

#### OFFSHORE RECEIPTS IN RESPECT OF INTANGIBLE PROPERTY

#### *Exemptions*

#### [<sup>F1</sup> Exemption for certain bodies corporate that are transparent in full treaty <sup>F2</sup>608MB territory

- (1) This section applies where—
  - (a) a body corporate formed under the laws of a full treaty territory (“the relevant territory”) is not regarded under those laws, for tax purposes, as an entity separate and distinct from its members,
  - (b) the body is not resident, at any time in a tax year, in a territory that is not a full treaty territory,
  - (c) UK-derived amounts arise to the body in the tax year, and
  - (d) each relevant member is resident in the relevant territory throughout the tax year.
- (2) In the application of section 608A to the body for the tax year, no account is to be taken of the UK-derived amounts.
- (3) The relevant members are to be determined as follows—
  - (a) each member of the body is a relevant member (subject to paragraph (b));

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**Changes to legislation:** *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Section 608MB. (See end of Document for details)*

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- (b) if a body corporate that meets the conditions in subsection (4) would otherwise be a relevant member, that body's members are relevant members (and that body is not a relevant member);
  - (c) paragraph (b) applies in relation to a body that would otherwise be a relevant member by virtue of that paragraph (as well as in relation to a body that would otherwise be a relevant member by virtue of paragraph (a)).
- (4) The conditions referred to in subsection (3)(b) are—
- (a) that the body is formed under the laws of the relevant territory;
  - (b) that under those laws, the body is not regarded for tax purposes as an entity separate and distinct from its members;
  - (c) that the body is not resident, at any time in the tax year, in a territory that is not a full treaty territory.]]

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**Textual Amendments**

- F1** Pt. 5 Ch. 2A inserted (with effect in accordance with Sch. 3 para. 7 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 3 para. 4](#) (with [Sch. 3 para. 8](#))
- F2** [S. 608MB](#) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Trading and Other Income\) Act 2005 \(Amendments to Chapter 2A of Part 5\) Regulations 2019 \(S.I. 2019/1452\)](#), regs. 1(1), **11**

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Section 608MB.