



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 5

MISCELLANEOUS INCOME

CHAPTER 5

SETTLEMENTS: AMOUNTS TREATED AS INCOME OF SETTLOR [^{F1}OR FAMILY]

[^{F1}Benefits matched with protected foreign-source income

[^{F1}643I Recipients of onward gifts

- (1) Sections 643J to 643L apply if—
- (a) in the case of a settlement, an amount—
 - (i) is treated by section 643A(1)(a), both before and after the application of section 643A(3) and (4), as income of an individual (“the original beneficiary”) for a tax year (“the matching year”), or
 - (ii) having been treated by section 643A(1) before the application of section 643A(3) and (4) as income of an individual (“the original beneficiary”) for a tax year (“the matching year”), is treated by section 643A(3) or (4) as income of the settlor for the matching year, or
 - (iii) is treated by section 643A(1)(b), before the application of section 643A(3) and (4), as income of an individual (“the original beneficiary”) for a tax year (“the matching year”) but is not treated by section 643A(3), and is not treated by section 643A(4), as income of the settlor for the matching year,

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- (b) under section 643G (if it applied also for this purpose) the amount would be matched with a benefit provided in the matching year, or an earlier tax year, to the original beneficiary,
 - (c) at the time the benefit is provided to the original beneficiary—
 - (i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole, or part, of the benefit to another person, and
 - (ii) it is reasonable to expect that, in the event of the whole or part of the benefit being passed on to another person as envisaged by the arrangements or intention, that other person will be UK resident when they receive at least part of what is passed on to them,
 - (d) the original beneficiary makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”)—
 - (i) at the time the benefit is provided to the original beneficiary, or at any later time in the 3 years beginning with the day containing the start time, or
 - (ii) at any time before the benefit is provided to the original beneficiary and, it is reasonable to assume, in anticipation of the benefit being provided,
 - (e) the gift is of or includes—
 - (i) the whole or part of the benefit,
 - (ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of the benefit, or
 - (iii) any other property, but only if the benefit is provided with a view to enabling or facilitating, or otherwise in connection with, the making of the gift of the property to the subsequent recipient,
 - (f) in a case within paragraph (a)(i), either—
 - (i) the original beneficiary is non-UK resident for the matching year, or
 - (ii) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the original beneficiary for the matching year and none of the amount is relevantly remitted in the matching year or in any tax year later than the matching year but not later than the tax year in which the onward payment is made,
 - (g) in a case within paragraph (a)(ii), section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the settlor for the matching year and none of the amount is relevantly remitted in the matching year or in any tax year later than the matching year but not later than the tax year in which the onward payment is made, and
 - (h) the subsequent recipient—
 - (i) is the settlor, or
 - (ii) is a close member of the settlor's family (see section 643H) at the time the onward payment is made or, where that time is given by subsection (4), at either or both of the time so given and the actual time the onward payment is made.
- (2) Where, in a case within subsection (1)(a)(i) and by reference to the amount mentioned in subsection (1)(a), income is treated by section 643J or 643L as arising to a person for a tax year, the original beneficiary is not liable to tax for any later tax year on so much of the amount mentioned in subsection (1)(a) as is equal to that income; and where, in a case within subsection (1)(a)(ii) and by reference to the amount mentioned

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- in subsection (1)(a), income is treated by section 643J as arising to a person for a tax year, the settlor is not liable to tax for any later tax year on so much of the amount mentioned in subsection (1)(a) as is equal to that income.
- (3) The amount mentioned in subsection (1)(a) need not be—
- (a) the whole amount that in the case of the settlement is treated by section 643A(1), before the application of section 643A(3) and (4), as income of the original beneficiary for the matching year;
 - (b) the whole amount that would be matched with the benefit mentioned in subsection (1)(b).
- (4) Where the onward payment is made as mentioned in subsection (1)(d)(ii), the onward payment is to be treated—
- (a) for the purposes of the provisions of this section following subsection (1)(d), and
 - (b) for the purposes of sections 643J to 643L,
- as made immediately after, and in the tax year in which, the benefit is provided to the original beneficiary.
- (5) For the purposes of subsection (1)(d)(i)—
- (a) if the amount mentioned in subsection (1)(a) is not one that is treated as arising by section 643K, “the start time”—
 - (i) is the time the benefit mentioned in subsection (1)(b) is provided to the original beneficiary, or
 - (ii) where that benefit is one that section 643M(3) treats as provided, is the time the original benefit in that case (see section 643M(1)(a)) is provided, and
 - (b) if the amount mentioned in subsection (1)(a) is one that is treated as arising by section 643K in connection with the operation of this section and section 643K on a previous occasion, “the start time” is the time given by this subsection as the start time on that occasion.
- (6) Where subsection (1)(d) and (e) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(c) is also met in that case.
- (7) In this section (and sections 643J to 643L)—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
 - “the charging year” means the gift year or, if later, the matching year,
 - “gift” includes any benefit,
 - “the gift year” means the tax year in which the onward payment is made (but see subsection (4)),
 - “make”, in relation to a gift that is a benefit, means confer, and
 - “relevantly remitted” means remitted to the United Kingdom in a tax year for which the original beneficiary is UK resident but, in a case within subsection (1)(a)(ii), means remitted to the United Kingdom in a tax year for which the settlor is UK resident.
- (8) Sections 742C to 742E of ITA 2007 (value of certain benefits)—
- (a) apply for the purpose of calculating the value of the onward payment for the purposes of sections 643J to 643L as they apply for the purpose of calculating an income tax charge under Chapter 2 of Part 13 of ITA 2007, and

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- (b) apply for that purpose as if their references to a benefit provided were references to a gift made.
- (9) Sections 809L to 809Z6 of ITA 2007 (remittance basis: rules about when income is remitted)—
- (a) apply for the purposes of this section and sections 643J to 643L, and
 - (b) apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were relevant foreign income of the subsequent recipient.]

Textual Amendments

- F1** Ss. 643A-643N and cross-heading inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 11** (with [Sch. 10 para. 22](#))

Changes to legislation:

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