



# Finance Act 2005

## 2005 CHAPTER 7

### PART 2

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 1

#### INCOME TAX AND CORPORATION TAX CHARGE AND RATE BANDS

#### *Trusts*

#### **14 Special trust rates not to apply to first slice of trust income**

(1) In ICTA, after section 686C insert—

#### **“686D Special trust rates not to apply to first slice of trust income**

- (1) This section applies where income arising (or treated as arising) to the trustees of a trust in a year of assessment consists of or includes income subject to a special trust tax rate (“the special trust tax rate income”).
- (2) “Income subject to a special trust tax rate” means any income which is (or apart from this section would be) chargeable to income tax at—
  - (a) the dividend trust rate, or
  - (b) the rate applicable to trusts.
- (3) So much of the special trust tax rate income as does not exceed £500 is not chargeable to income tax at the dividend trust rate or the rate applicable to trusts (but is instead chargeable to income tax at the basic rate, the lower rate or the dividend ordinary rate, depending on the nature of the income).
- (4) In the following provisions “the relevant purposes” means the purposes of—

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*Status: This is the original version (as it was originally enacted).*

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- (a) determining (in accordance with section 1A(5)) which of the special trust tax rate income is not chargeable to income tax at the dividend trust rate, or the rate applicable to trusts, by virtue of subsection (3), and
  - (b) determining at which of the basic rate, the lower rate and the dividend ordinary rate that special trust tax rate income is chargeable to income tax.
- (5) For the relevant purposes the fact that any amount forming part of the special trust tax rate income is subject to a special trust tax rate is to be disregarded if, in any circumstances, an amount of that description is chargeable on trustees at the basic rate, the lower rate or the dividend ordinary rate.
- (6) For the relevant purposes any of the special trust tax rate income that consists of—
- (a) an amount which, by virtue of section 686A, is treated for the purposes of the Tax Acts as if it were income to which section 686 applies, or
  - (b) income treated as arising under Chapter 5 of Part 4 of ITTOIA 2005 (stock dividends from UK resident companies),
- is to be regarded as income to which section 1A applies and which is chargeable at the dividend ordinary rate.
- (7) For the relevant purposes any of the special trust tax rate income that consists of—
- (a) income treated as arising under section 761(1) (offshore income gains),
  - (b) income treated as received under section 68 of FA 1989 (employee share ownership trusts), or
  - (c) profits or gains which are treated as income under Chapter 12 of Part 4 of ITTOIA 2005 (guaranteed returns on disposals of futures and options) and in relation to which section 568 of that Act applies (profits or gains not meeting conditions of that section),
- is or are to be regarded as chargeable at the basic rate.
- (8) For the relevant purposes any of the special trust tax rate income that consists of—
- (a) income treated as received under section 714(2) or 716(3) (transfers of securities),
  - (b) profits taken to be income arising under Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities), or
  - (c) gains which are treated as arising under Chapter 9 of that Part and on which tax is charged at the rate applicable to trusts under section 467(7)(b) of that Act (gains from contracts for life assurance),
- is or are chargeable at the lower rate.”
- (2) In section 686(1) of ICTA (accumulation and discretionary trusts: special rates of tax), after “shall” insert “(subject to section 686D)”.
- (3) In subsection (3) of section 687 of ICTA (payments under discretionary trusts: amounts to be set against amount assessable on trustees under subsection (2)(b) of that section), after paragraph (a) insert—

“(aa1) the amount of any tax on income arising to the trustees which is charged by virtue of section 686D(3) at the basic rate or the lower rate;”.

(4) After that subsection insert—

“(3A) Paragraphs (a1) to (bc) of subsection (3) above do not apply in relation to income, distributions or sums chargeable to tax by virtue of section 686D(3) at the basic rate, the lower rate or the dividend ordinary rate.”

(5) This section applies for the year 2005-06 and subsequent years of assessment.