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Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Schedule 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 29

ESTATES IN ADMINISTRATION AND TRUSTS

PART 1

ESTATES IN ADMINISTRATION

CHAPTER 1

INCOME TAX

The applicable rate for grossing up basic amounts of estate income

- 1 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) is amended as follows.
 - (2) In section 656 (income charged: UK estates), in subsection (2) omit “for that year”.
 - (3) In section 657 (income charged: foreign estates), in subsection (3) omit “for that year”.
 - (4) For section 663 (the applicable rate for grossing up basic amounts of estate income) substitute—

“663 The applicable rate for grossing up basic amounts of estate income

- (1) The applicable rate by reference to which a basic amount of estate income is grossed up for the purposes of sections 656 and 657 depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which section 679 treats the basic amount as having been paid.
- (2) If the same rate was borne by all of the income from which section 679 treats the basic amount as having been paid, the applicable rate is that rate.
- (3) If different rates were borne by different parts of the income from which section 679 treats the basic amount as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the basic amount is grossed up.”

The applicable rate for grossing up for determining shares in an estate in the final tax year

- 2 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) is amended as follows.
 - (2) In section 668 (reduction in share of residuary income of estate)—

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- (a) in subsection (1), in paragraph (b), for “(grossed up where subsection (5) applies)” substitute “grossed up, where the estate is a UK estate, by the applicable rate (see [subsections \(5A\) to \(5C\)](#))”;
- (b) for subsection (5) substitute—
- “(5A) The applicable rate by reference to which a sum within subsection (1)(b) is grossed up depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which [section 679A](#) treats the sum as having been paid.
- (5B) If the same rate was borne by all the income from which [section 679A](#) treats the sum as having been paid, the applicable rate is that rate.
- (5C) If different rates were borne by different parts of the income from which [section 679A](#) treats the sum as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the sum is grossed up.”
- (3) After section 679 insert—
- “679A Income from which sums within section 668(1)(b) are treated as paid**
- (1) The part of the aggregate income of the estate from which a sum within section 668(1)(b) is treated as paid is determined by applying assumptions A and B in that order.
- (2) Assumption A is that if there are different persons with an absolute interest in the residue of the estate, such apportionments of the aggregate income of the estate in respect of those interests are to be made as are just and reasonable for the different interests.
- (3) Assumption B is that sums are paid from the income to which a person’s share of the residuary estate relates in descending order, starting with the income bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate.
- (4) If some, but not all, of the aggregate income of the estate is income within section 680, assumption C is applied before assumptions A and B.
- (5) Assumption C is that the basic amount is paid from income that is not within section 680 before it is paid from income within that section.
- (6) Assumptions A and B then apply—
- (a) first to determine the part of the income not within that section from which the basic amount is paid, and
- (b) then to determine the part of the income within that section from which the basic amount is paid.”
- (4) In section 680 (income treated as bearing income tax), in subsection (1)—
- (a) omit the “and” at the end of the entry for section 670;
- (b) at the end insert “, and [section 679A](#) (income from which sums within section 668(1)(b) are treated as paid).”

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Income from stock dividends etc treated as bearing income tax at 0%

- 3 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) is amended as follows.
- (2) In section 670 (applicable rate for determining assumed income entitlement (UK estates)) omit subsection (4A).
- (3) In section 680 (income treated as bearing income tax)—
- (a) in subsection (2), after “within subsection” insert “(2A) or”;
- (b) after subsection (2) insert—
- “(2A) A sum that is part of the aggregate income of the estate because of falling within section 664(2)(c) (stock dividends) or (d) (release of loans to participator in close company: loans and advances to persons who die) is treated as bearing income tax at 0%.”

Income treated as dividend income and savings income

- 4 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) is amended as follows.
- (2) For section 680A (income treated as dividend income) substitute—
- “680A Income treated as dividend income**
- (1) This section applies to estate income that—
- (a) by virtue of section 663 (applicable rate for grossing up basic amounts of estate income) is treated as bearing income tax at the ordinary dividend rate, or
- (b) by virtue of that section and section 680(2A) (income treated as bearing income tax: dividends and loans to a participator in close company) is treated as bearing income tax at 0%.
- (2) The income is treated as being dividend income.”
- (3) After that section insert—

“680B Income treated as savings income

- (1) This section applies to estate income relating to a person's interest in the residue of an estate so far as that interest relates to income that—
- (a) falls within section 664(2)(a) (income of personal representatives charged to UK income tax), and
- (b) is savings income (see section 18 of ITA 2007).
- (2) The income is treated as being savings income.”

Order in which basic amounts are treated as paid from aggregate income

- 5 In section 679 of ITTOIA 2005 (income from which basic amounts are treated as paid)—
- (a) in subsection (3), for the words “in the following order” to the end of paragraph (c) substitute “in descending order, starting with the income

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- bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate”;
- (b) in subsection (4), for “treated under section 680 as bearing income tax” substitute “within section 680”.

CHAPTER 2

CORPORATION TAX

The applicable rate for grossing up basic amounts of estate income

- 6 (1) Chapter 3 of Part 10 of CTA 2009 (beneficiaries’ income from estates in administration) is amended as follows.
- (2) In section 941 (income charged: UK estates), in subsection (2) omit “for the relevant tax year”.
- (3) In section 942 (income charged: foreign estates), in subsection (3) omit “for the relevant tax year”.
- (4) For section 946 (applicable rate for grossing up basic amounts of estate income) substitute—

“946 Applicable rate for grossing up basic amounts of estate income

- (1) The applicable rate by reference to which a basic amount of estate income is grossed up for the purposes of sections 941 and 942 depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which section 962 treats the basic amount as having been paid.
- (2) If the same rate was borne by all of the income from which section 962 treats the basic amount as having been paid, the applicable rate is that rate.
- (3) If different rates were borne by different parts of the income from which section 962 treats the basic amount as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the basic amount is grossed up.”
- (5) After section 961 insert—

“961A Meaning of “the relevant tax year”

In sections 960 and 961, “the relevant tax year” in relation to an amount of estate income, means the tax year in which the amount of estate income would be treated as arising if—

- (a) the references in this Chapter to accounting periods were references to tax years, and
- (b) section 950(3) (apportionment between accounting periods) were ignored.”

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The applicable rate for grossing up for determining shares in an estate in the final tax year

7 (1) Chapter 3 of Part 10 of CTA 2009 (beneficiaries' income from estates in administration) is amended as follows.

(2) In section 951 (reduction in share of residuary income of estate)—

- (a) in subsection (1), in paragraph (b), for “(grossed up where subsection (5) applies)” substitute “grossed up, where the estate is a UK estate, by the applicable rate (see subsections (5A) to (5C));
- (b) for subsection (5) substitute—

“(5A) The applicable rate by reference to which a sum within subsection (1)(b) is grossed up depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which [section 962A](#) treats the sum as having been paid.

(5B) If the same rate was borne by all the income from which [section 962A](#) treats the sum as having been paid, the applicable rate is that rate.

(5C) If different rates were borne by different parts of the income from which [section 962A](#) treats the sum as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the sum is grossed up.”

(3) After section 962 insert—

“962A Income from which sums within section 951(1)(b) are treated as paid

- (1) The part of the aggregate income of the estate from which a sum within section 951(1)(b) is treated as paid is determined by applying assumptions A and B in that order.
- (2) Assumption A is that if there are different persons with an absolute interest in the residue of the estate, such apportionments of the aggregate income of the estate in respect of those interests are to be made as are just and reasonable for the different interests.
- (3) Assumption B is that sums are paid from the income to which a person's share of the residuary estate relates in descending order, starting with the income bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate.
- (4) If some, but not all, of the aggregate income of the estate is income within section 963, assumption C is applied before assumptions A and B.
- (5) Assumption C is that the basic amount is paid from income that is not within section 963 before it is paid from income within that section.
- (6) Assumptions A and B then apply—
 - (a) first to determine the part of the income not within that section from which the basic amount is paid, and
 - (b) then to determine the part of the income within that section from which the basic amount is paid.”

(4) In section 963 (income treated as bearing income tax)—

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- (a) omit the “and” at the end of the entry for section 952;
- (b) at the end insert “, and
section 962A (income from which sums within section 951(1)(b) are treated as paid).”

Income from stock dividends etc treated as bearing income tax at 0%

- 8 (1) Chapter 3 of Part 10 of CTA 2009 (beneficiaries’ income from estates in administration) is amended as follows.
- (2) In section 936 (meaning of “UK estate” and “foreign estate”), in subsections (4) and (5), after “section 963(3)” insert “, (3A)”.
- (3) In section 963 of CTA 2009 (income treated as bearing income tax)—
- (a) in subsection (2), after “within subsection (3)” insert “, (3A)”;
 - (b) in subsection (3), omit paragraph (b) (and the “or” immediately before it);
 - (c) after subsection (3) insert—
- “(3A) A sum that is part of the aggregate income of the estate because of falling within section 947(2)(c) (stock dividends) or (d) (release of loans to participator in close company: loans and advances to persons who die) is treated as bearing income tax at 0%.”

Order in which basic amounts are treated as paid from aggregate income

- 9 In section 962 of CTA 2009 (income from which basic amounts are treated as paid)—
- (a) in subsection (3), for the words “in the following order” to the end of paragraph (b) substitute “in descending order, starting with the income bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate”;
 - (b) in subsection (4), for “treated under section 963 as bearing income tax” substitute “within section 963”.

PART 2

LOW INCOME TRUSTS AND ESTATES

CHAPTER 1

INCOME TAX

Low income estates and trusts: tax liability of personal representatives and trustees

- 10 (1) Chapter 3 of Part 2 of ITA 2007 (calculation of income tax liability) is amended as follows.
- (2) In section 23 (the calculation of income tax liability), at the end of Step 2 insert—
- “See also section 24B which provides that a taxpayer’s net income is taken to be £0 in certain cases.”

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(3) After section 24A insert—

“24B Calculation of net income at Step 2 for low income estates and trusts

- (1) **Subsection (2)** applies in relation to a taxpayer if—
- (a) they are the personal representative of a deceased person and, ignoring this section, their net income in that capacity at the end of Step 2 of the calculation in section 23 would be equal to or less than the de minimis estates amount, or
 - (b) they are the trustee of a settlement (“the relevant settlement”) and, ignoring this section, their net income in that capacity at the end of that Step would be equal to or less than the de minimis trusts amount.
- (2) The taxpayer’s net income in their capacity as a personal representative of a deceased person or trustee of a settlement (as the case may be) at the end of Step 2 of the calculation in section 23 is taken to be £0.
- (3) The de minimis estates amount is £500.
- (4) The de minimis trusts amount is—
- (a) £500, or
 - (b) in a case where **subsection (5)** applies, the higher of—
 - (i) £100, and
 - (ii) the settlor’s threshold amount.
- (5) This subsection applies where—
- (a) the settlor in relation to the relevant settlement is also the settlor in relation to one or more qualifying settlements,
 - (b) ignoring this section, the trust rate income (within the meaning of Part 9) for the tax year of the trustees of the relevant settlement would be greater than £0, and
 - (c) the relevant settlement is a settlement in respect of which each of the conditions mentioned in **subsection (9)** is met throughout the tax year.
- (6) The settlor’s threshold amount is the amount given by—

$$\frac{\pounds 500}{QS + 1}$$

where QS is the total number of qualifying settlements.

- (7) If there is more than one settlor in relation to the relevant settlement—
- (a) calculate the threshold amount of each of them, and
 - (b) use the lowest of those threshold amounts for the purposes of **subsection (4)(b)(ii)**.
- (8) A settlement is a “qualifying settlement” if—
- (a) it is not the relevant settlement,
 - (b) it is in existence at a time during the tax year,

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- (c) ignoring this section, the trust rate income (within the meaning of Part 9) for the tax year of the trustees of the settlement would be greater than £0, and
 - (d) it is a settlement in respect of which each of the conditions mentioned in [subsection \(9\)](#) is met throughout the tax year.
- (9) The conditions are—
- (a) the property comprised in the settlement is not held for a pensions purpose within the meaning of paragraph 7(3) of Schedule 1C to TCGA 1992 (property comprised in settlements held for a pensions purpose);
 - (b) no income arising under the settlement is treated as the income of the settlor as a result of section 624 of ITTOIA 2005 (income where settlor retains an interest);
 - (c) the settlement is not a qualifying trust within the meaning of section 34 or 35 of FA 2005 (trusts for the benefit of disabled persons or relevant minors);
 - (d) the settlement is not a heritage maintenance settlement within the meaning of Chapter 10 of Part 9 (heritage maintenance settlements) (see section 507(2) and (3)).”

Low income estates: tax liability of beneficiaries

- 11 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries’ income from estates in administration) is amended as follows.
- (2) In section 649 (charge to tax on estate income), after subsection (1) insert—
- “(1A) But income tax is not charged on estate income so far as that income consists of a basic amount which section 679 treats as having been paid from de minimis aggregate income.
- (1B) In [subsection \(1A\)](#), “de minimis aggregate income” means aggregate income of an estate which is treated as bearing income tax at 0% because of section 680(1A).”
- (3) In section 656 (income charged: UK estates), in subsection (1), for “tax is charged under section 649” substitute “the charge to tax under section 649 is a charge”.
- (4) In section 657 (income charged: foreign estates), in subsection (1), for “tax is charged under section 649” substitute “the charge to tax under section 649 is a charge”.
- (5) In section 679 (income from which basic amounts are treated as paid)—
- (a) in subsection (3) (as amended by [paragraph 5\(a\)](#)), at the end insert “(subject to [subsection \(3A\)](#))”;
 - (b) after that subsection insert—
- “(3A) For the purposes of assumption B, where those parts include—
- (a) income bearing income tax at 0% by virtue of section 680(1A), and
 - (b) other income bearing income tax at 0%,
- payments are to be made from income within [paragraph \(a\)](#) after income within [paragraph \(b\)](#).”

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- (6) In section 679A (income from which sums within section 668(1)(b) are treated as paid) (inserted by [paragraph 2\(3\)](#))—
- (a) in subsection (3), at the end insert “(subject to [subsection \(3A\)](#))”;
 - (b) after that subsection insert—
 - “(3A) For the purposes of assumption B, where that income includes—
 - (a) income bearing income tax at 0% by virtue of section 680(1A), and
 - (b) other income bearing income tax at 0%,sums are to be paid from income within [paragraph \(a\)](#) after income within [paragraph \(b\)](#).”
- (7) In section 680 (income treated as bearing income tax)—
- (a) after subsection (1) insert—
 - “(1A) If, in the case of a UK estate, the aggregate income of the estate for a tax year is equal to or less than the de minimis estates amount (within the meaning of [section 24B](#) of ITA 2007), the aggregate income of the estate for that tax year is treated as bearing income tax at 0%.”;
 - (b) for subsection (2) substitute—
 - “(2) If—
 - (a) [subsection \(1A\)](#) does not apply to treat the aggregate income of the estate for a tax year as bearing income tax at 0%, and
 - (b) the aggregate income of the estate for that tax year includes a sum within subsection (2A) or (4),the sum is treated as bearing income tax at the rate specified for it in that subsection.”;
 - (c) in subsection (5), after “sums within this section” insert “or from aggregate income treated as bearing income tax at 0% by virtue of [subsection \(1A\)](#)”.

CHAPTER 2

CORPORATION TAX

Low income estates: tax liability of beneficiaries

- 12 (1) Chapter 3 of Part 10 of CTA 2009 (beneficiaries’ income from estates in administration) is amended as follows.
- (2) In section 934 (charge to tax on estate income), after subsection (1) insert—
- “(1A) But corporation tax is not charged on estate income so far as that income consists of a basic amount which section 962 treats as having been paid from de minimis aggregate income.
 - (1B) In [subsection \(1A\)](#), “de minimis aggregate income” means aggregate income of an estate which is treated as bearing income tax at 0% because of section 963(1A).”
- (3) In section 941 (income charged: UK estates), in subsection (1), for “tax is charged under section 934” substitute “the charge to tax under section 934 is a charge”.

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- (4) In section 942 (income charged: foreign estates), in subsection (1), for “tax is charged under section 934” substitute “the charge to tax under section 934 is a charge”.
- (5) In section 962 (income from which basic amounts are treated as paid)—
- (a) in subsection (3) (as amended by [paragraph 9\(a\)](#)), at the end insert “(subject to [subsection \(3A\)](#))”;
 - (b) after that subsection insert—

“(3A) For the purposes of assumption B, where those parts include—

 - (a) income bearing income tax at 0% by virtue of section 963(1A), and
 - (b) other income bearing income tax at 0%,

payments are to be made from income within [paragraph \(a\)](#) after income within [paragraph \(b\)](#).”
- (6) In section 962A (income from which sums within section 951(1)(b) are treated as paid) (inserted by [paragraph 7\(3\)](#))—
- (a) in subsection (3), at the end insert “(subject to [subsection \(3A\)](#))”;
 - (b) after that subsection insert—

“(3A) For the purposes of assumption B, where that income includes—

 - (a) income bearing income tax at 0% by virtue of section 963(1A), and
 - (b) other income bearing income tax at 0%,

sums are to be paid from income within [paragraph \(a\)](#) after income within [paragraph \(b\)](#).”
- (7) In section 963 (income treated as bearing income tax)—
- (a) after subsection (1) insert—

“(1A) If, in the case of a UK estate, the aggregate income of the estate for a tax year is equal to or less than the de minimis estates amount (within the meaning of [section 24B](#) of ITA 2007), the aggregate income of the estate for that tax year is treated as bearing income tax at 0%.”;
 - (b) for subsection (2) substitute—

“(2) If—

 - (a) [subsection \(1A\)](#) does not apply to treat the aggregate income of the estate for a tax year as bearing income tax at 0%, and
 - (b) the aggregate income of the estate for that tax year includes a sum within subsection (3), [\(3A\)](#) or (4),

the sum is treated as bearing income tax at the rate specified for it in that subsection.”;
 - (c) in subsection (5), after “sums within this section” insert “or from aggregate income treated as bearing income tax at 0% by virtue of [subsection \(1A\)](#)”.

PART 3

RATE OF TAX CHARGED ON TRUSTEES’ FIRST SLICE OF TRUST RATE INCOME: INCOME TAX

- 13 (1) ITA 2007 is amended as follows.

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- (2) Omit Chapter 6 of Part 9 (trustees' first slice of trust rate income).
- (3) In consequence of the amendment made by [sub-paragraph \(2\)](#)—
- (a) in section 2(9)(b) (overview of Act), for “4, 5 and 6” substitute “4 and 5”;
 - (b) in section 11(2) (income charged at the default basic rate: non- individuals), for “6” substitute “5”;
 - (c) in section 14(2) (income charged at the dividend ordinary rate: other persons), for “6” substitute “5”;
 - (d) in section 15 (income charged at the trust rate and the dividend trust rate), for “6” substitute “5”;
 - (e) in section 16(2) (savings and dividend income to be treated as highest part of total income) omit paragraph (a) (and the “and” after it);
 - (f) in section 23 (the calculation of income tax liability), in Step 4, for “6” substitute “5”;
 - (g) in section 462 (overview of Part 9) omit subsection (6);
 - (h) in section 484 (trustees' expenses to be set against trustees' trust rate income) omit subsection (3);
 - (i) in section 498 (types of income tax for the purposes of section 497) omit Type 4.

PART 4

COMMENCEMENT

- 14 (1) The amendments made by this Schedule have effect as follows.
- (2) In [Part 1](#)—
- (a) the amendments made by [Chapter 1](#) have effect in relation to the tax year 2023-24 and subsequent tax years;
 - (b) the amendments made by [Chapter 2](#) have effect in relation to accounting periods beginning on or after 1 April 2023.
- (3) In [Part 2](#)—
- (a) the amendments made by [Chapter 1](#) have effect in relation to the tax year 2024-25 and subsequent tax years;
 - (b) the amendments made by [Chapter 2](#) have effect in relation to accounting periods beginning on or after 1 April 2024;
- (4) The amendments made by [Part 3](#) have effect in relation to the tax year 2024-25 and subsequent tax years.

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