



Finance Act 1981

1981 CHAPTER 35

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

42 Sums paid to settlor otherwise than as income

- (1) Section 451 of the Taxes Act (sums paid to settlor otherwise than as income) shall be amended as follows.
- (2) In subsection (1)—
 - (a) in paragraph (b) for the words " exceeds the amount of income available up to the end of that year but" there shall be substituted the words " is not by virtue of this subsection treated as his income for that year and "; and
 - (b) after the words " and so on " there shall be inserted the words " for each subsequent year, taking the reference in paragraph (b) to the year mentioned in paragraph (a) as a reference to that and any other year before the subsequent year in question. ";
 - (c) in paragraph (b) for the words "the next following year" there shall be inserted the words " the next following eleven years. "
- (3) In subsection (2)—
 - (a) before paragraph (a) there shall be inserted—
 - “(aa) the amount of that income taken into account under subsection (1) above in relation to that sum in any previous year or years, and”;
 - (b) in paragraph (b) after " 448 above " there shall be inserted " or section 457 below ";
 - (c) after paragraph (d) there shall be inserted—

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- “(dd) any sums paid by virtue or in consequence of the settlement in that year or any previous year which have been treated as the income of the settlor by virtue of section 438(2)(b) above, and
 - “(ddd) any sums included in the income arising under the settlement as amounts which have been or could have been apportioned to a beneficiary as mentioned in section 454(1)(b) below, and”;
 - (d) in paragraph (e)(ii) for " and (d)" there shall be substituted " , (d), (dd) and (ddd) "
- (4) After subsection (3) there shall be inserted—
- “(3A) Where the capital sum paid to the settlor is a sum paid by way of loan, then—
- (a) if the whole of it is repaid, no part of that sum shall by virtue of subsection (1) above be treated as the settlor's income for any year of assessment after that in which the repayment occurs; and
 - (b) if one or more capital sums have previously been paid to him by way of loan and wholly repaid, the amount of that capital sum shall be treated as equal to its excess (if any) over so much of the sum or sums previously paid as has already fallen to be treated as his income by virtue of that subsection.
- (3B) Where the capital sum paid to the settlor is a sum paid by way of complete repayment of a loan, then, if an amount not less than that sum is thereafter lent by the settlor to the trustees of the settlement, no part of that sum shall by virtue of subsection (1) above be treated as his income for any year of assessment after that in which the further loan is made.”
- (5) At the end of subsection (6) there shall be inserted the words " and there shall be set off against the tax charged on any amount treated by virtue of this section as income of the settlor for any year an amount equal to—
- (a) the sum of tax at the basic rate and tax at the additional rate for that year on the amount so treated as his income; or
 - (b) so much of that sum as is equal to the tax charged,
- whichever is the less.
- (6) In subsection (8) (interpretation)—
- (a) for the words "' capital sum' means " there shall be substituted the words " ' capital sum ' means, subject to subsection (9) below ";
 - (b) at the end there shall be inserted the words " or to the settlor (or the husband or wife of the settlor) jointly with another person ".
- (7) After subsection (8) there shall be inserted—
- “(9) For the purposes of this section there shall be treated as a capital sum paid to the settlor by the trustees of the settlement any sum which—
- (a) is paid by them to a third party at the settlor's direction or by virtue of the assignment by him of his right to receive it; or
 - (b) is otherwise paid or applied by them for the benefit of the settlor,
- and which would not apart from this subsection be treated as a capital sum paid to him.”

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- (8) This section has effect in relation to any capital sum paid to the settlor on or after 6th April 1981 and section 451 (9)(a) as inserted by subsection (7) above shall not apply to any direction or assignment given or made before that date.