



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 5

MISCELLANEOUS INCOME

CHAPTER 5

SETTLEMENTS: AMOUNTS TREATED AS INCOME OF SETTLOR [F¹OR FAMILY]

Capital sums treated as income of settlor: connected bodies

641 Capital sums paid to settlor by body connected with settlement

- (1) This section applies if—
 - (a) a capital sum is paid to the settlor in a tax year by any body corporate connected with the settlement in that year, and
 - (b) an associated payment has been, or is, made directly or indirectly to the body by the trustees of the settlement.
- (2) The capital sum is, in accordance with this section, treated for the purposes of section 633 as having been paid to the settlor by the trustees of the settlement.
- (3) A capital sum to which subsection (2) applies is treated as having been paid to the settlor in the tax year in which it is paid so far as the amount of the sum falls within the total of the associated payment or payments made up to the end of the year.
- (4) A capital sum to which subsection (2) applies is treated as having been paid to the settlor in the following year so far as the amount of the sum—
 - (a) is not treated as paid to the settlor in the year mentioned in subsection (3), and

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- (b) falls within the total of the associated payment or payments made up to the end of the following year (less what was taken into account under subsection (3) in relation to the sum in the previous year).
- (5) Subsection (4) also applies for each subsequent year.
- (6) In its application to a subsequent year—
 - (a) the references to the following year are to the subsequent year,
 - (b) the reference to the year mentioned in subsection (3) is to that year and any other year before the subsequent year, and
 - (c) the reference to what was taken into account under subsection (3) in relation to the sum in the previous year is to what was taken into account under this section in relation to the sum in the previous years.
- (7) See also—
 - section 642 (exception for certain loans or repayments of loans), and
 - section 643 (interpretation of sections 641 and 642).

642 Exception for certain loans or repayments of loans

- (1) Section 641 does not apply to any sum paid to the settlor by way of loan or repayment of a loan if conditions A and B are met.
- (2) Condition A is that the whole of the loan is repaid within 12 months of the date on which it was made.
- (3) Condition B is that the period for which amounts are outstanding in respect of relevant loans in any period of 5 years is not more than 12 months.
- (4) In subsection (3) “relevant loans” means loans made—
 - (a) to the settlor by the body corporate connected with the settlement or by any other body corporate so connected, or
 - (b) by the settlor to the body corporate connected with the settlement or to any other body corporate so connected.

643 Interpretation of sections 641 and 642

- (1) Any question in section 641 or 642 whether a capital sum has been paid—
 - (a) to the settlor by a body corporate, or
 - (b) to a body corporate by the trustees,
 is determined in the same way as any question under section 633 whether a capital sum has been paid to the settlor by the trustees.
- (2) For the circumstances in which a body corporate is treated for the purposes of this Chapter as connected with a settlement, see section 637(8).
- (3) In section 641 and this section “associated payment”, in relation to any capital sum paid to the settlor by a body corporate, means—
 - (a) any capital sum paid to the body by the trustees of the settlement, and
 - (b) any other sum paid, or asset transferred, to the body by the trustees which is not paid or transferred for full consideration in money or money's worth,
 being any sum paid, or asset transferred, in the 5 years ending or beginning with the date on which the capital sum is paid to the settlor.

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- (4) For the purposes of sections 641 and 642 and this section any capital sum paid by a body corporate, and any associated payment made to a body corporate, at a time when it is (within the meaning of ^{F1}section 449 of CTA 2010) associated with another body corporate may be treated as paid by, or made to, the other body corporate.

Textual Amendments

- F1** Words in s. 643(4) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 470](#) (with [Sch. 2](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A-7D inserted by [2022 c. 3 Sch. 1 para. 3](#)
- s. 31E(4) inserted by [2022 c. 3 Sch. 1 para. 7\(3\)](#)
- s. 649(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 11\(2\)](#)
- s. 679(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(5\)\(b\)](#)
- s. 679A(3A) inserted by [2023 c. 30 Sch. 2 para. 11\(6\)\(b\)](#)
- s. 680(1A) inserted by [2023 c. 30 Sch. 2 para. 11\(7\)\(a\)](#)