



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 5

MISCELLANEOUS INCOME

CHAPTER 1

INTRODUCTION

574 Overview of Part 5

- (1) This Part imposes charges to income tax under—
 - (a) Chapter 2 (receipts from intellectual property),
 - (b) Chapter 3 (films and sound recordings: non-trade businesses),
 - (c) Chapter 4 (certain telecommunication rights: non-trading income),
 - (d) Chapter 5 (settlements: amounts treated as income of settlor),
 - (e) Chapter 6 (beneficiaries' income from estates in administration),
 - (f) Chapter 7 (annual payments not otherwise charged), and
 - (g) Chapter 8 (income not otherwise charged).
- (2) Part 6 deals with exemptions from the charges under this Part.
- (3) See, in particular, any exemptions mentioned in the Chapters of this Part.
- (4) The charges under this Part apply to non-UK residents as well as UK residents but this is subject to section 577(2) (charges on non-UK residents only on UK source income).
- (5) This section needs to be read with the relevant priority rules (see sections 2, 575 and 576).

Status: Point in time view as at 15/03/2018.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

575 Provisions which must be given priority over Part 5

- (1) Any income, so far as it falls within—
 - (a) any Chapter of this Part, and
 - (b) Chapter 2 of Part 2 (receipts of a trade, profession or vocation),
 is dealt with under Part 2.
- (2) Any income, so far as it falls within—
 - (a) any Chapter of this Part, and
 - (b) Chapter 3 of Part 3 so far as the Chapter relates to a UK property business,
 is dealt with under Part 3.
- (3) Any income, so far as it falls within—
 - (a) any Chapter of this Part, and
 - (b) Chapter 2 or 3 of Part 4 (interest and dividends etc. from UK resident companies etc.),
 is dealt with under the relevant Chapter of Part 4.
- (4) Any income, so far as it falls within—
 - (a) any Chapter of this Part, and
 - (b) Part 2, 9 or 10 of ITEPA 2003 (employment income, pension income or social security income),
 is dealt with under the relevant Part of ITEPA 2003.

576 Priority between Chapters within Part 5

Any income, so far as it falls within Chapter 2 (receipts from intellectual property) and Chapter 3 (films and sound recordings: non-trade businesses), is dealt with under Chapter 3.

577 Territorial scope of Part 5 charges

- (1) Income arising to a UK resident is chargeable to tax under this Part whether or not it is from a source in the United Kingdom.
- (2) Income arising to a non-UK resident is chargeable to tax under this Part only if it is from a source in the United Kingdom.

[^{F1}(2A) If income arising to an individual who is UK resident arises in the overseas part of a split year, it is to be treated for the purposes of this section as arising to a non-UK resident.]

- (3) References in this section to income which is from a source in the United Kingdom include, in the case of any income which does not have a source, references to income which has a comparable connection to the United Kingdom.
- (4) This section is subject to any express or implied provision to the contrary in this Part (or elsewhere in the Income Tax Acts).

[^{F2}(5) See also section 577A (territorial scope of Part 5 charges: receipts from intellectual property).]

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Textual Amendments

- F1** S. 577(2A) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 89](#)
- F2** S. 577(5) inserted (with effect in accordance with s. 42(3) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 42\(1\)](#)

[^{F3}577A Territorial scope of Part 5 charges: receipts from intellectual property

- (1) References in section 577 to income which is from a source in the United Kingdom include income arising where—
 - (a) a royalty or other sum is paid in respect of intellectual property by a person who is non-UK resident, and
 - (b) the payment is made in connection with a trade carried on by that person through a permanent establishment in the United Kingdom.
- (2) Subsection (3) applies where a royalty or other sum is paid in respect of intellectual property by a person who is non-UK resident in connection with a trade carried on by that person only in part through a permanent establishment in the United Kingdom.
- (3) The payment referred to in subsection (2) is to be regarded for the purposes of subsection (1)(b) as made in connection with a trade carried on through a permanent establishment in the United Kingdom to such extent as is just and reasonable, having regard to all the circumstances.
- (4) In determining for the purposes of section 577 whether income arising is from a source in the United Kingdom, no regard is to be had to arrangements the main purpose of which, or one of the main purposes of which, is to avoid the effect of the rule in subsection (1).
- (5) In this section—

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

“intellectual property” has the same meaning as in section 579;

“permanent establishment”—

 - (a) in relation to a company, is to be read (by virtue of section 1007A of ITA 2007) in accordance with Chapter 2 of Part 24 of CTA 2010, and
 - (b) in relation to any other person, is to be read in accordance with that Chapter but as if references in that Chapter to a company were references to that person.]

Textual Amendments

- F3** S. 577A inserted (with effect in accordance with s. 42(3) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 42\(2\)](#) (with [s. 42\(4\)\(5\)](#))

Status: Point in time view as at 15/03/2018.

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CHAPTER 2

RECEIPTS FROM INTELLECTUAL PROPERTY

Introduction

578 Contents of Chapter

- (1) This Chapter imposes charges to income tax under—
 - (a) section 579 (royalties and other income from intellectual property),
 - (b) section 583 (income from disposals of know-how), and
 - (c) section 587 (income from sales of patent rights).
- (2) For exemptions from the charge under section 579, see, in particular, sections 727 (certain annual payments by individuals) and 758 (certain interest and royalty payments).
- (3) This Chapter also provides for relief from income tax on patent income (see section 600).

Charge to tax on non-trading income from intellectual property

579 Charge to tax on royalties and other income from intellectual property

- (1) Income tax is charged on royalties and other income from intellectual property.
- (2) In this section “intellectual property” means—
 - (a) any patent, trade mark, registered design, copyright, design right, performer's right or plant breeder's right,
 - (b) any rights under the law of any part of the United Kingdom which are similar to rights within paragraph (a),
 - (c) any rights under the law of any territory outside the United Kingdom which correspond or are similar to rights within paragraph (a), and
 - (d) any idea, information or technique not protected by a right within paragraph (a), (b) or (c).

580 Income charged under section 579

- (1) Tax is charged under section 579 on the full amount of the income arising in the tax year.
- (2) Subsection (1) is subject to Part 8 (foreign income: special rules).
- (3) See section 582 for provision about the calculation of the amount of income charged under section 579.
- (4) This section needs to be read with section 527 of ICTA (spreading of patent royalties etc. over several years).

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581 Person liable for tax under section 579

The person liable for any tax charged under section 579 is the person receiving or entitled to the income.

582 Deductions in calculating certain income charged under section 579

- (1) This section applies for calculating the amount of income charged under section 579 other than annual payments.
- (2) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.
- (3) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.
- (4) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.
- (5) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.
- (6) The relief given under section 600 (relief for expenses: patent income) is additional to the relief under this section.
- (7) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of subsection (1).

Disposals of know-how

583 Charge to tax on income from disposals of know-how

- (1) Income tax is charged on profits arising where consideration is received by a person—
 - (a) for the disposal of know-how, or
 - (b) for giving, or wholly or partly fulfilling, an undertaking which—
 - (i) is given in connection with a disposal of know-how, and
 - (ii) restricts or is designed to restrict any person's activities in any way.
- (2) For the purposes of subsection (1)(b), it does not matter whether or not the undertaking is legally enforceable.
- (3) Subsection (1) is subject to the exceptions in section 584.
- (4) In this Chapter “know-how” means any industrial information or techniques likely to assist in—
 - (a) manufacturing or processing goods or materials,
 - (b) working a source of mineral deposits (including searching for, discovering or testing mineral deposits or obtaining access to them), or
 - (c) carrying out any agricultural, forestry or fishing operations.
- (5) In subsection (4)—

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- (a) “mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth and for this purpose geothermal energy is treated as a natural deposit, and
- (b) “source of mineral deposits” includes a mine, an oil well and a source of geothermal energy.

584 Exceptions to charge under section 583

- (1) Section 583 does not apply in the following cases.
- (2) Case A is if the consideration is brought into account under—
 - (a) section 579 (charge to tax on royalties etc.), or
 - (b) section 462 of CAA 2001 (disposal values).
- (3) Case B is if the consideration is dealt with in relation to the person receiving it as a capital receipt for goodwill under section 194(2) (disposal of know-how as part of disposal of all or part of a trade).
- (4) Case C is if the disposal of the know-how is by way of a sale and—
 - (a) the buyer is a body of persons over which the seller has control,
 - (b) the seller is a body of persons over which the buyer has control, or
 - (c) the buyer and the seller are both bodies of persons and another person has control over both of them.
- (5) In subsection (4) “body of persons” includes a firm.
- (6) See also Chapter 14 of Part 2 and section 575 (disposals of know-how used in a trade dealt with by Part 2).

585 Income charged under section 583

- (1) Tax is charged under section 583 on the full amount of the profits arising in the tax year.
- (2) The profits charged under section 583 are—
 - (a) the amount of the consideration, less
 - (b) any expenditure incurred by the recipient wholly and exclusively in the acquisition or disposal of the know-how.
- (3) Such expenditure may not be taken into account more than once, whether under this section or otherwise.
- (4) This section needs to be read with section 603 (contributions to expenditure).

586 Person liable for tax under section 583

The person liable for any tax charged under section 583 is the person receiving the consideration.

Sales of patent rights

587 Charge to tax on income from sales of patent rights

- (1) Income tax is charged on profits from sales of the whole or part of any patent rights.

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- (2) The tax is charged if—
 - (a) the seller is a UK resident, or
 - (b) the seller is a non-UK resident and the patent is granted under the laws of the United Kingdom.
- (3) Where the seller is a non-UK resident company, tax is not charged if the seller is chargeable to corporation tax in respect of the proceeds of the sale.
- (4) In this Chapter “patent rights” means the right to do or authorise the doing of anything which, but for the right, would be an infringement of a patent.

588 Income charged under section 587

- (1) A seller's profits from the sale of the whole or part of patent rights are—
 - (a) any capital sum comprised in the proceeds of the sale, less
 - (b) the deductible costs.
- (2) The deductible costs are—
 - (a) the capital cost (if any) of the rights sold, and
 - (b) any incidental expenses incurred by the seller in connection with the sale.
- (3) If—
 - (a) the seller acquired the rights sold, or the rights out of which they were granted, by purchase,
 - (b) the seller has previously sold part of the purchased rights, and
 - (c) the proceeds of that sale, after deducting any incidental expenses, consisted wholly or partly of a capital sum,the capital cost is reduced by that capital sum.
- (4) References in this Chapter to the capital cost of patent rights are to any capital sum included in any price paid by the seller to purchase—
 - (a) the rights, or
 - (b) the rights out of which they were granted.
- (5) This section needs to be read with sections 600 (relief for expenses: patent income) and 603 (contributions to expenditure).

589 Person liable for tax under section 587

The person liable for any tax charged under section 587 is the seller of the patent rights.

590 UK resident sellers: spreading rules

- (1) This section applies if the person liable under section 587 is a UK resident.
- (2) If the person does not receive the proceeds of sale in instalments, one-sixth of the amount chargeable is taxed in the tax year in which the person receives the proceeds of the sale and in each of the next 5 tax years.
- (3) The person may elect to be taxed instead on the whole of the amount chargeable under section 587 in the tax year in which the person receives the proceeds of sale.

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- (4) If the person receives the proceeds of sale in instalments, one-sixth of the amount chargeable in respect of each instalment is taxed in the tax year in which the person receives the instalment and in each of the next 5 tax years.
- (5) The person may elect to be taxed instead on the whole of any instalment in the tax year in which the person receives it.
- (6) An election under subsection (3) or (5) must be made on or before the first anniversary of the normal self-assessment filing date for that tax year.

591 Non-UK resident sellers: election for spreading

- (1) If the person liable under section 587—
 - (a) is a non-UK resident, and
 - (b) does not receive the proceeds of sale in instalments,
 the whole amount chargeable is taxed in the tax year in which the person receives the proceeds.
- (2) The person may elect to be taxed instead on one-sixth of the amount chargeable in the tax year in which the person receives the proceeds of sale and in each of the next 5 tax years.
- (3) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the proceeds of sale are received.
- (4) Such repayments and assessments are to be made for each of the tax years affected as are necessary to give effect to the election.
- (5) Subsection (4) is subject to the qualifications in section 596 (adjustments where tax has been deducted).

592 Further provision about elections for spreading: instalments

- (1) If the person liable under section 587—
 - (a) is a non-UK resident, and
 - (b) receives the proceeds of sale in instalments,
 the amount chargeable in respect of each instalment is taxed in the tax year in which the person receives the instalment.
- (2) The person may, for any instalment, elect to be taxed instead on one-sixth of the amount chargeable in respect of the instalment in the tax year in which the person receives it and in each of the next 5 tax years.
- (3) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the instalment is received.
- (4) Such repayments and assessments are to be made for each of the tax years affected as are necessary to give effect to the election.
- (5) Subsection (4) is subject to the qualifications in section 596 (adjustments where tax has been deducted).

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593 Death of seller

- (1) If a seller who is liable to income tax under section 587 dies, any amounts which would have been chargeable in later tax years under—
 - (a) section 590(2) or (4) (UK resident sellers: spreading rules), or
 - (b) section 591(2) or 592(2) (non-UK resident sellers: elections for spreading),are taxed in the tax year in which the seller dies.
- (2) The personal representatives may elect that the tax payable by reason of subsection (1) be reduced to the total amount of income tax that the seller and the estate would have been liable to pay if the amounts chargeable by reason of that subsection had been taxed in equal parts in each of the lifetime tax years.
- (3) In subsection (2) “the lifetime tax years” means—
 - (a) the tax year in which the seller received the proceeds or, as the case may be, the instalment, and
 - (b) each of the next tax years up to and including that in which the seller died.
- (4) An election under subsection (2) must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the death occurs.

594 Winding up of a body corporate

- (1) If a body corporate which is liable to income tax under section 587 commences to be wound up, any amounts falling within subsection (2) are taxed in the year in which the winding up commences.
- (2) The amounts are—
 - (a) any amounts which would have been chargeable in later tax years under section 591(2) or 592(2), and
 - (b) any amounts (arising to the body in a fiduciary or representative capacity) which would have been chargeable in later tax years under section 590(2) or (4).

595 Deduction of tax from payments to non-UK residents

- (1) This section applies if a person who is a non-UK resident is liable to tax under section 587 on profits from the sale of the whole or part of any patent rights.
- (2) The rules in section 588 allowing the capital cost (if any) of the rights sold to be deducted in calculating the profits from the sale do not affect the amount of income tax which [^{F4}is to be deducted under section 910 of ITA 2007]
- (3) No election made by the seller under section 591(2) or 592(2) (election for spreading) in relation to the proceeds of sale or any instalment affects the amount of income tax which [^{F5}is to be deducted under section 910 of ITA 2007]
 - (a) deducted from the proceeds of sale or instalment under section 349(1) of ICTA, and
 - (b) assessed under section 350 of that Act.

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Textual Amendments

- F4** Words in s. 595(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 546\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F5** Words in s. 595(3) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 546\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

596 Adjustments where tax has been deducted

- (1) Where any sum has been deducted from a payment by virtue of section 595(2), any adjustment necessary—
 - (a) because of section 595(2), or
 - (b) because of an election under section 591(2) or 592(2),
 must be made by way of repayment of tax.
- (2) Adjustments necessary to give effect to an election under section 591(2) or 592(2) must be made year by year, treating one-sixth of the sum deducted from the proceeds of sale or instalment as income tax paid for each of the 6 years.
- (3) No repayment is to be made of any tax treated under subsection (2) as income tax paid for a particular year unless and until it is ascertained that the income tax ultimately falling to be paid for that year is less than the amount which was paid for that year.

597 Licences connected with patents

- (1) The acquisition of a licence in respect of a patent is treated for the purposes of sections 587 to 596 as a purchase of patent rights.
- (2) The grant of a licence in respect of a patent is treated for the purposes of sections 587 to 596 as a sale of part of patent rights.
- (3) But the grant by a person entitled to patent rights of an exclusive licence is treated for the purposes of sections 587 to 596 as a sale of the whole of those rights.
- (4) In subsection (3) “exclusive licence” means a licence to exercise the rights to the exclusion of the grantor and all other persons for the period remaining until the rights come to an end.

Modifications etc. (not altering text)

- C1** Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883(1), [Sch. 1 para. 149](#) (with [Sch. 2](#)))
- Ss. 597-599 applied (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. [910\(4\)](#), 1034 (with transitional provisions and savings in [Sch. 2](#))

598 Rights to acquire future patent rights

- (1) If a sum is paid to obtain a right to acquire future patent rights, then for the purposes of sections 587 to 596—

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- (a) the payer is treated as purchasing patent rights for that sum, and
 - (b) the recipient is treated as selling patent rights for that sum.
- (2) If a person—
- (a) pays a sum to obtain a right to acquire future patent rights, and
 - (b) subsequently acquires those rights,
- the expenditure is to be treated for the purposes of sections 587 to 596 as having been expenditure on the purchase of those rights.
- (3) In this section “a right to acquire future patent rights” means a right to acquire in the future patent rights relating to an invention in respect of which the patent has not yet been granted.

Modifications etc. (not altering text)

- C2** Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883(1), [Sch. 1 para. 149](#) (with [Sch. 2](#)))
Ss. 597-599 applied (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 910\(4\)](#), 1034 (with transitional provisions and savings in [Sch. 2](#))

599 Sums paid for Crown use etc. treated as paid under licence

- (1) This section applies if an invention which is the subject of a patent is used by or for the service of—
- (a) the Crown under sections 55 to 59 of the Patents Act 1977 (c. 37), or
 - (b) the government of a country outside the United Kingdom under corresponding provisions of the law of that country.
- (2) The use is treated for the purposes of sections 587 to 596 as having taken place under a licence.
- (3) Sums paid in respect of the use are treated for the purposes of sections 587 to 596 as having been paid under a licence.

Modifications etc. (not altering text)

- C3** Ss. 597-599 applied (6.4.2005) by 1988 c. 1, s. 349ZA(4) (as inserted by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883(1), [Sch. 1 para. 149](#) (with [Sch. 2](#)))
Ss. 597-599 applied (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 910\(4\)](#), 1034 (with transitional provisions and savings in [Sch. 2](#))

Relief from income tax on patent income

600 Relief for expenses: patent income

- (1) Relief may be claimed under this section for—
- (a) inventor's expenses, and
 - (b) patent application and maintenance expenses.
- (2) In this section “inventor's expenses” means expenses which—

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- (a) have been incurred by an individual who, alone or jointly, devised an invention for which a patent has been granted, and
 - (b) are attributable to devising it.
- (3) In this section “patent application and maintenance expenses” means expenses incurred by a person in connection with—
- (a) the grant or maintenance of a patent,
 - (b) the extension of the term of a patent, or
 - (c) a rejected or abandoned application for a patent,
- but not incurred for the purposes of any trade carried on by the person.
- (4) Relief may not be claimed under this section for patent application and maintenance expenses unless they are expenses which would, if incurred for the purposes of a trade, have been allowable as a deduction in calculating the profits of the trade.
- (5) Relief may not be claimed under this section for any expenses if relief for them is given under—
- (a) section 582 (calculation of income for the purposes of the charge to tax on royalties etc.), or
 - (b) any other provision of the Tax Acts.
- (6) This section needs to be read with section 603 (contributions to expenditure).

601 How relief is given under section 600

- (1) This section sets out how relief for expenses is given where a person makes a claim under section 600.
- (2) The amount of the expenses must be deducted from or set off against the person's income from patents for the tax year in which the expenses were incurred.
- [^{F6}(2A) The deduction or set-off is given effect at Step 2 of the calculation in section 23 of ITA 2007.]
- (3) If the amount to be allowed is greater than the amount of the person's income from patents for that tax year, the excess must be deducted from or set off against the person's income from patents for the next tax year, and so on for subsequent tax years, without the need for a further claim.
- (4) In this section “income from patents” means—
- (a) royalties or other sums paid in respect of the use of a patent (whether chargeable under this Chapter or otherwise),
 - (b) amounts on which tax is payable under section 587, 593 or 594, and
 - (c) amounts on which tax is payable under—
 - (i) section 472(5) of CAA 2001 (patent allowances: balancing charges),
or
 - (ii) paragraph 100 of Schedule 3 to that Act (balancing charges in respect of pre-1st April 1986 expenditure on the purchase of patent rights).
- (5) In this section references to a person's income from patents are to the income after any allowance has been deducted from or set off against it under section 479 of CAA 2001 (certain allowances against income from patents).

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Textual Amendments

- F6** S. 601(2A) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 547](#) (with transitional provisions and savings in [Sch. 2](#))

Payments received after deduction of tax

602 Payments received after deduction of tax

[^{F7}In accordance with section 848 of ITA 2007, a sum representing income tax deducted under either of the following Chapters] from a payment of royalties or other income within this Chapter is treated as income tax paid by the recipient [^{F8}—

Chapter 6 of Part 15 of ITA 2007 (deduction from annual payments and patent royalties), and

Chapter 7 of that Part (deduction from other payments connected with intellectual property).]

Textual Amendments

- F7** Words in s. 602 substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 548\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F8** Words in s. 602 substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 548\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

Supplementary

603 Contributions to expenditure

- (1) For the purposes of sections 585, 588 and 600, the general rule is that a person (“A”) is to be regarded as not having incurred expenditure so far as it has been, or is to be, met (directly or indirectly) by—
 - (a) a public body, or
 - (b) a person other than A.
- (2) In this Chapter “public body” means the Crown or any government, local authority or other public authority (whether in the United Kingdom or elsewhere).
- (3) The general rule does not apply to the expenses mentioned in section 588(2)(b) (incidental expenses incurred by a seller of patent rights).
- (4) The general rule is subject to the exception in section 604.

604 Contributions not made by public bodies nor eligible for tax relief

- (1) A person (“A”) is to be regarded as having incurred expenditure (despite section 603(1)) so far as the requirements in subsections (2) and (3) are met in relation to the expenditure.

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- (2) The first requirement is that the person meeting A's expenditure ("B") is not a public body.
- (3) The second requirement is that—
 - (a) no allowance can be made under Chapter 2 of Part 11 of CAA 2001 (contribution allowances) in respect of B's expenditure, and
 - (b) the expenditure is not allowed to be deducted in calculating the profits of a trade, profession or vocation carried on by B.
- (4) When determining for the purposes of subsection (3)(a) whether such an allowance can be made, assume that B is within the charge to tax.

605 Exchanges

- (1) In this Chapter references to the sale of property include the exchange of property.
- (2) In this section—
 - references to property include know-how, and
 - references to the sale of property include the disposal of know-how.
- (3) For the purposes of subsection (1), any provision of this Chapter referring to a sale has effect with the necessary modifications, including, in particular, those in subsections (4) and (5).
- (4) References to the proceeds of sale and to the price include the consideration for the exchange.
- (5) References to capital sums included in the proceeds of sale include references to so much of the consideration for the exchange as would have been a capital sum if it had been a money payment.

606 Apportionment where property sold together

- (1) Any reference in this Chapter to the sale of property includes the sale of that property together with other property.
- (2) In this section—
 - references to property include know-how, and
 - references to the sale of property include the disposal of know-how.
- (3) For the purposes of subsection (1), all property sold as a result of one bargain is to be treated as sold together even though—
 - (a) separate prices are, or purport to be, agreed for separate items of that property, or
 - (b) there are, or purport to be, separate sales of separate items of that property.
- (4) If an item of property is sold together with other property, then, for the purposes of the charges under sections 583 and 587—
 - (a) the net proceeds of the sale of that item are treated as being so much of the net proceeds of the sale of all the property as, on a just and reasonable apportionment, is attributable to that item, and

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- (b) the expenditure incurred on the provision or purchase of that item is treated as being so much of the consideration given for all the property as, on a just and reasonable apportionment, is attributable to that item.

607 Questions about apportionments affecting two or more persons

- (1) Any question about the way in which a sum is to be apportioned under section 606 must be determined in accordance with section 563(2) to (6) of CAA 2001 (procedure for determining certain questions affecting two or more persons) if it materially affects two or more taxpayers.
- (2) For the purposes of subsection (1) a question materially affects two or more taxpayers if at the time when the question falls to be determined it appears that the determination is material to the liability to tax (for whatever period) of two or more persons.

608 Meaning of “capital sums” etc.

Section 4 of CAA 2001 (meaning of “capital sums” etc.) applies in relation to this Chapter as it applies in relation to that Act.

CHAPTER 3

FILMS AND SOUND RECORDINGS: NON-TRADE BUSINESSES

609 Charge to tax on films and sound recordings businesses

- (1) Income tax is charged on income from a business involving the exploitation of films or sound recordings where the activities carried on do not amount to a trade.
- Such a business is referred to in this Chapter as a “non-trade business”.
- (2) Expressions which are used in this Chapter and in Chapter 9 of Part 2 (trade profits: films and sound recordings) have the same meaning in this Chapter as they do in that Chapter.

610 Income charged

- (1) Tax is charged under this Chapter on the full amount of the income arising in the tax year.
- (2) See sections 612 and 613 for provision about the calculation of the amount of income charged under this Chapter.
- (3) This section is subject to Part 8 (foreign income: special rules).

611 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

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612 Calculation of income

- (1) This section applies for calculating the amount of income charged under this Chapter.
- (2) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.
- (3) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.
- (4) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.
- (5) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.
- (6) Any relief given as a result of section 613 is additional to the relief under this section.

613 Application of trading income rules to non-trade businesses

The provisions of Chapter 9 of Part 2 apply in relation to non-trade businesses as they apply in relation to trades but as if—

- (a) references to a basis period were to a tax year, and
- (b) references to anything not constituting trading stock of a trade were omitted.

CHAPTER 4

CERTAIN TELECOMMUNICATION RIGHTS: NON-TRADING INCOME

614 Charge to tax on certain telecommunication rights of a non-trader

- (1) Income tax is charged on income derived from a relevant telecommunication right that is not used or held for the purposes of a trade, profession or vocation.
- (2) “Relevant telecommunication right” has the same meaning as in Chapter 10 of Part 2 (see section 146).

615 Income charged

- (1) Tax is charged under this Chapter on the full amount of the income arising in the tax year.
- (2) See section 617 for provision about the calculation of the amount of certain income charged under this Chapter.
- (3) This section is subject to Part 8 (foreign income: special rules).

616 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

Status: Point in time view as at 15/03/2018.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

617 Deductions in calculating certain income charged

- (1) This section applies for calculating the amount of income charged under this Chapter other than annual payments.
- (2) The following sections apply as they apply for the purpose of calculating the profits of a trade, profession or vocation—
 - (a) section 147 (expenditure and receipts in respect of relevant telecommunication rights treated as revenue in nature), and
 - (b) section 148 (credits or debits arising from revaluation in respect of relevant telecommunication rights).
- (3) Expenses wholly and exclusively incurred for the purpose of generating the income are deductible.
- (4) If an expense is incurred for more than one purpose, a deduction may be made for any identifiable part or identifiable proportion of the expense which is incurred wholly and exclusively for the purpose of generating the income.
- (5) Expenses which would not have been allowable as a deduction in calculating the profits of a trade, if they had been incurred for its purposes, are not deductible under this section.
- (6) Expenses for which any kind of relief is given under any other provision of the Income Tax Acts are not deductible under this section.
- (7) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of this Chapter.

618 Payments received after deduction of tax

[^{F9}In accordance with section 848 of ITA 2007, a sum representing income tax deducted under Chapter 6 of Part 15 of that Act] from an annual payment within this Chapter is treated as income tax paid by the recipient.

F10

Textual Amendments

F9 Words in s. 618 substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 549\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))

F10 Words in s. 618 repealed (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, [Sch. 1 para. 549\(3\)](#) {Sch. 3 Pt. 1} (with transitional provisions and savings in [Sch. 2](#))

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CHAPTER 5

SETTLEMENTS: AMOUNTS TREATED AS INCOME OF SETTLOR ^[F11]OR FAMILY]

Textual Amendments

- F11** Words in Pt. 5 Ch. 5 heading inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 3(2)**

Charge to tax under Chapter 5

619 Charge to tax under Chapter 5

(1) Income tax is charged on—

- (a) income which is treated as income of a settlor as a result of section 624 (income where settlor retains an interest),
- (b) income which is treated as income of a settlor as a result of section 629 (income paid to ^[F12]relevant] children of settlor),
- (c) capital sums which are treated as income of a settlor as a result of section 633 (capital sums paid to settlor by trustees of settlement), ^{F13}...
- (d) capital sums which are treated as income of a settlor as a result of section 641 (capital sums paid to settlor by body connected with settlement).
- ^[F14](e) benefits whose amount or value is treated as income of the settlor or a close family member as a result of section 643A (benefits provided out of protected foreign-source income), and
- (f) amounts treated as income of the settlor or a close family member by section 643J or 643L (gifts provided out of benefits).]

^[F15](2) For the purposes of ^[F16]Chapter 2 of Part 2 of ITA 2007 (rates at which income tax is charged)], where income of another person is treated as income of the settlor and is charged to tax under subsection (1)(a) or (b) above, it shall be charged in accordance with whichever provisions of the ^[F17]Income Tax Acts] would have been applied in charging it if it had arisen directly to the settlor.]

Textual Amendments

- F12** Word in s. 619(1)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **reg. 186**
- F13** Word in s. 619(1)(c) omitted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 4(a)**
- F14** S. 619(1)(e)(f) inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 4(b)**
- F15** S. 619(2) substituted (19.7.2006 with effect as mentioned in [Sch. 13 para. 5\(2\)](#) of the amending Act) for s. 619(2)-(4) by [Finance Act 2006 \(c. 25\)](#), s. 89, **Sch. 13 para. 5(1)**
- F16** Words in s. 619(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, **Sch. 1 para. 550(a)** (with transitional provisions and savings in [Sch. 2](#))
- F17** Words in s. 619(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, **Sch. 1 para. 550(b)** (with transitional provisions and savings in [Sch. 2](#))

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[^{F18}619A Income treated as highest part of settlor's total income

- (1) This section applies to income which is treated as income of a settlor as a result of section 624 (income where settlor retains an interest) or 629 (income paid to unmarried minor children of settlor).
- (2) The income is treated as the highest part of the settlor's total income for the purposes of section 619 (so far as it relates to the income).
- (3) See section 1012 of ITA 2007 (relationship between highest part rules) for the relationship between—
 - (a) the rule in subsection (2), and
 - (b) other rules requiring particular income to be treated as the highest part of a person's total income.]

Textual Amendments

F18 S. 619A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 551](#) (with transitional provisions and savings in [Sch. 2](#))

620 Meaning of “settlement” and “settlor”

- (1) In this Chapter—

“settlement” includes any disposition, trust, covenant, agreement, arrangement or transfer of assets (except that it does not include a charitable loan arrangement), and

“settlor”, in relation to a settlement, means any person by whom the settlement was made.
- (2) A person is treated for the purposes of this Chapter as having made a settlement if the person has made or entered into the settlement directly or indirectly.
- (3) A person is, in particular, treated as having made a settlement if the person—
 - (a) has provided funds directly or indirectly for the purpose of the settlement,
 - (b) has undertaken to provide funds directly or indirectly for the purpose of the settlement, or
 - (c) has made a reciprocal arrangement with another person for the other person to make or enter into the settlement.
- (4) This Chapter applies to settlements wherever made.
- (5) In this section—

“charitable loan arrangement” means any arrangement so far as it consists of a loan of money made by an individual to a charity either—

 - (a) for no consideration, or
 - (b) for a consideration which consists only of interest, and

“charity” includes

 - (a) [^{F19}the Trustees of the National Heritage Memorial Fund, [^{F20}and]
 - (b) the Historic Buildings and Monuments Commission for England^{F21} ...
 - (c) ^{F21} ...]

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Textual Amendments

- F19** Words in s. 620(5) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, **Sch. 1 para. 552** (with transitional provisions and savings in Sch. 2)
- F20** Word in s. 620(5) inserted (1.4.2012) by [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\)](#), arts. 1(2), 3(1), **Sch.**
- F21** Words in s. 620(5) omitted (1.4.2012) by virtue of [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\)](#), arts. 1(2), 3(1), **Sch.**

Modifications etc. (not altering text)

- C4** S. 620 applied (with effect in accordance with Sch. 23 para. 65 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 23 paras. 26(2)65(1)(a)** (with Sch. 23 paras. 5065(1)(b))

Income charged and person liable

621 Income charged

Tax is charged under this Chapter on all [^{F22}income, capital sums and benefits] to which section 619(1) applies.

Textual Amendments

- F22** Words in s. 621 substituted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 5**

622 Person liable

The person liable for any tax charged under this Chapter is the settlor [^{F23}, but this is subject to sections 643A and 643I to 643M.]

Textual Amendments

- F23** Words in s. 622 inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 6**

Rules for calculating income

623 Calculation of income

- (1) This section applies for the purpose of calculating the liability to tax of [^{F24}an individual] charged under this Chapter.
- (2) The same deductions and reliefs are allowed as would have been allowed if the amount treated as [^{F25}the individual's] income as a result of this Chapter had been received by [^{F25}the individual] as income.

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Textual Amendments

- F24** Words in s. 623 substituted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 7(a)**
- F25** Words in s. 623 substituted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 7(b)**

Income treated as income of settlor: retained interests

624 Income where settlor retains an interest

- (1) Income which arises under a settlement is treated for income tax purposes as the income of the settlor and of the settlor alone if it arises—
- during the life of the settlor, and
 - from property in which the settlor has an interest.

[^{F26}(1A) If the settlement is a trust, expenses of the trustees are not to be used to reduce the income of the settlor.]

(2) For more on a settlor having an interest in property, see section 625.

(3) For exceptions to the rule in subsection (1), see—
section 626 (exception for outright gifts between spouses [^{F27} or civil partners]),
section 627 (exceptions for certain types of income), ^{F28} ...
section 628 (exception for gifts to charities) [^{F29}], and
section 628A (exception for protected foreign-source income).]

Textual Amendments

- F26** S. 624(1A) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, **Sch. 1 para. 553** (with transitional provisions and savings in Sch. 2)
- F27** Words in s. 624(3) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **reg. 187**
- F28** Words in s. 624(3) omitted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 8 para. 21(a)**
- F29** Words in s. 624(3) inserted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 8 para. 21(b)**

625 Settlor's retained interest

- (1) A settlor is treated for the purposes of section 624 as having an interest in property if there are any circumstances in which the property or any related property—
- is payable to the settlor or the settlor's spouse [^{F30} or civil partner],
 - is applicable for the benefit of the settlor or the settlor's spouse [^{F30} or civil partner], or
 - will, or may, become so payable or applicable.
- (2) Subsection (1) does not apply if the only circumstances are one or more of—
- the bankruptcy of a person who is, or may become, beneficially entitled to the property or any related property,

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- (b) the assignment of the property or any related property by such a person,
 - (c) the charging of (or, in Scotland, the granting of a right in security over) the property or any related property by such a person,
 - [^{F31}(d) in the case of a marriage settlement or civil partnership settlement, the death of both parties to the marriage or civil partnership and of all or any of the children of the family of the parties to the marriage or civil partnership, and]
 - (e) the death of a child of the settlor who had become beneficially entitled to the property or any related property at not more than 25 years old.
- [^{F32}(2A) In subsection (2) “child of the family”, in relation to parties to a marriage or civil partnership, means a child of one or both of them.]
- (3) Subsection (1) does not apply if—
- (a) there are no circumstances in which the property or any related property can become payable or applicable as mentioned in that subsection during the life of a person other than—
 - (i) the bankruptcy of the person, or
 - (ii) the assignment or charging of the person's interest in the property or any related property, and
 - (b) the person is alive and under 25 years old.
- (4) In subsection (1) “the settlor's spouse [^{F33}or civil partner]” does not include—
- (a) a spouse [^{F33}or civil partner] from whom the settlor is separated under an order of a court or a separation agreement,
 - (b) a spouse [^{F33}or civil partner] from whom the settlor is separated where the separation is likely to be permanent,
 - (c) the widow or widower [^{F34}or surviving civil partner] of the settlor, or
 - (d) a person to whom the settlor is not married but may later marry [^{F35}or a person of whom the settlor is not a civil partner but of whom the settlor may later be a civil partner] .
- (5) In this section “related property”, in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or of income from, that property or income from it.

Textual Amendments

- F30** Words in s. 625(1) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **188(2)**
- F31** S. 625(2)(d) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **188(3)**
- F32** S. 625(2A) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **188(4)**
- F33** Words in s. 625(4) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **188(5)(a)**
- F34** Words in s. 625(4)(c) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **188(5)(b)**
- F35** Words in s. 625(4)(d) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **188(5)(c)**

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626 Exception for outright gifts between spouses [^{F36}or civil partners]

- (1) The rule in section 624(1) does not apply in respect of an outright gift—
 - (a) of property from which income arises,
 - (b) made by one spouse to the other [^{F37}or one civil partner to the other] , and
 - (c) meeting conditions A and B.
- (2) Condition A is that the gift carries a right to the whole of the income.
- (3) Condition B is that the property is not wholly or substantially a right to income.
- (4) A gift is not an outright gift for the purposes of this section if—
 - (a) it is subject to conditions, or
 - (b) there are any circumstances in which the property, or any related property—
 - (i) is payable to the giver,
 - (ii) is applicable for the benefit of the giver, or
 - (iii) will, or may become, so payable or applicable.
- (5) “Related property” has the same meaning in this section as in section 625.

Textual Amendments

- F36** Words in s. 626 heading inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **189(3)**
- F37** Words in s. 626(1)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **189(2)**

627 Exceptions for certain types of income

- (1) The rule in section 624(1) does not apply to income which—
 - (a) arises under a settlement made by one party to a marriage [^{F38}or civil partnership] by way of provision for the other—
 - (i) after the dissolution or annulment of the marriage [^{F38}or civil partnership] , or
 - (ii) while they are separated under an order of a court, or under a separation agreement, or where the separation is likely to be permanent, and
 - (b) is payable to, or applicable for the benefit of, the other party.
- (2) The rule in section 624(1) does not apply to income which consists of—
 - (a) annual payments made by an individual for commercial reasons in connection with the individual's trade, profession or vocation,
 - (b) qualifying donations for the purposes of [^{F39}Chapter 2 of Part 8 of ITA 2007 (gift aid)] , or
 - (c) a benefit under a relevant pension scheme.
- (3) In subsection (2)(c) “relevant pension scheme” means—
 - (a) a registered pension scheme,
 - (b) a pension scheme established by a government outside the United Kingdom for the benefit, or primarily for the benefit, of its employees (or an annuity acquired using funds held for the purposes of such a pension scheme), or

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- (c) any pension arrangements of any description prescribed by regulations made under section 11(2)(h) of the Welfare Reform and Pensions Act 1999 (c. 30) or Article 12(2)(h) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).

[^{F40}(4) The rule in section 624(1) does not apply in relation to income which—

- (a) arises under a settlement, and
 (b) originates from any settlor who was not an individual.]

Textual Amendments

- F38** Words in s. 627(1)(a) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **190**
- F39** Words in s. 627(2)(b) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, **Sch. 1 para. 554** (with transitional provisions and savings in Sch. 2)
- F40** S. 627(4) inserted (with effect in accordance with s. 12(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), s. **12(2)**

628 Exception for gifts to charities

- (1) The rule in section 624(1) does not apply to any qualifying income which arises under a [^{F41}UK settlement] if—
- (a) it is given by the trustees to a charity in the tax year in which it arises, or
 (b) it is income to which a charity is entitled under the terms of the trust.
- (2) In this section “qualifying income” means—
- (a) income which [^{F42}must] be accumulated,
 (b) income which is payable at the discretion of the trustees or any other person
^{F43}
 (c) income which (before being distributed) is income of any person other than the trustees.

[^{F44}(2A) The cases covered by subsection (2)(b) include cases where the trustees have, or any other person has, any discretion over one or more of the following matters—

- (a) whether, or the extent to which, the income is to be accumulated,
 (b) the persons to whom the income is to be paid, and
 (c) how much of the income is to be paid to any person.]

- (3) Subsection (4) applies if in any tax year qualifying income which arises under a [^{F41}UK settlement] from different sources exceeds the total of—
- (a) the amount of that income which falls within subsection (1), and
 (b) the amount of that income which falls within section 630(1) (comparable exception for income of [^{F45}relevant] children of settlor).

(4) The amount of the qualifying income from different sources which falls within subsection (1) above is rateably apportioned between those sources.

(5) This does not affect the operation of any requirement that the whole, or any specified part, of the income from a particular source is to be given to a charity.

(6) In this section—

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“charity” includes

- (a) ^{F46}the Trustees of the National Heritage Memorial Fund, ^{F47}and]
- (b) the Historic Buildings and Monuments Commission for England^{F48} ...
- (c) ^{F48}...

^{F49}

.....
^{F50}“UK settlement” means a settlement the trustees of which are resident
^{F51}... in the United Kingdom.]

Textual Amendments

- F41** Words in s. 628 substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), **Sch. 13 para. 33(1)(5)**
- F42** Words in s. 628(2)(a) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 1027, 1034](#), **Sch. 1 para. 555(2)(a)** (with transitional provisions and savings in [Sch. 2](#))
- F43** Words in s. 628(2)(b) repealed (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 1027, 1031, 1034](#), [Sch. 1 para. 555\(2\)\(b\)](#), **Sch. 3 Pt. 1** (with transitional provisions and savings in [Sch. 2](#))
- F44** S. 628(2A) inserted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 1027, 1034](#), **Sch. 1 para. 555(3)** (with transitional provisions and savings in [Sch. 2](#))
- F45** Word in s. 628(3)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **regs. 1, 191**
- F46** S. 628(6): words in definition of 'charity' substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 1027, 1034](#) {[Sch. 1 para. 555\(4\)\(a\)](#)} (with transitional provisions and savings in [Sch. 2](#))
- F47** Word in s. 628(6) inserted (1.4.2012) by [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\)](#), [arts. 1\(2\), 3\(1\)](#), **Sch.**
- F48** Words in s. 628(6) omitted (1.4.2012) by virtue of [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\)](#), [arts. 1\(2\), 3\(1\)](#), **Sch.**
- F49** S. 628(6): definition of 'resident' and subsequent word repealed (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 1027, 1031, 1034](#), [Sch. 1 para. 555\(4\)\(b\)](#), **Sch. 3 Pt. 1** (with transitional provisions and savings in [Sch. 2](#))
- F50** Words in s. 628(6) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), **Sch. 13 para. 33(2)(5)**
- F51** Words in s. 628(6) omitted (6.4.2015) by virtue of [The Income Tax \(Removal of Ordinary Residence\) Order 2014 \(S.I. 2014/3062\)](#), [arts. 1\(1\), 2](#)

^{F52}628A Exception for protected foreign-source income

- (1) The rule in section 624(1) does not apply to income which arises under a settlement if it is protected foreign-source income for a tax year.
- (2) For this purpose, income arising under a settlement in a tax year is “protected foreign-source income” for the tax year if Conditions A to F are met.
- (3) Condition A is that the income would be relevant foreign income if it were income of a UK resident individual.

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- (4) Condition B is that the income is from property originating from the settlor (see section 645).
- (5) Condition C is that when the settlement is created the settlor—
 - (a) is not domiciled in the United Kingdom, and
 - (b) if the settlement is created on or after 6 April 2017, is not deemed domiciled in the United Kingdom.
- (6) Condition D is that there is no time in the tax year when the settlor is—
 - (a) domiciled in the United Kingdom, or
 - (b) deemed domiciled in the United Kingdom by virtue of Condition A in section 835BA of ITA 2007.
- (7) Condition E is that the trustees of the settlement are not UK resident for the tax year.
- (8) Condition F is that no property or income is provided directly or indirectly for the purposes of the settlement by the settlor, or by the trustees of any other settlement of which the settlor is a beneficiary or settlor, at a time in the relevant period when the settlor is—
 - (a) domiciled in the United Kingdom, or
 - (b) deemed domiciled in the United Kingdom.
- (9) In subsection (8) “relevant period” means the period—
 - (a) beginning with the start of 6 April 2017 or, if later, the creation of the settlement, and
 - (b) ending with the end of the tax year.
- (10) For the purposes of Condition F, the addition of value to property comprised in the settlement is to be treated as the direct provision of property for the purposes of the settlement.
- (11) Section 628B (tainting) contains further provision for the purposes of Condition F.
- (12) In this section “deemed domiciled” means regarded for the purposes of section 809(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect.
- (13) Section 648(3) to (5) (relevant foreign income treated as arising under settlement only if and when remitted) do not apply for the purposes of this section.

Textual Amendments

F52 Ss. 628A-628C inserted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 8 para. 22**

Modifications etc. (not altering text)

C5 S. 628A excluded (16.11.2017) by 2004 c. 12, Sch. 15 para. 8(4) (as inserted (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 8 para. 19**)

628B Section 628A: tainting

- (1) This section applies for the purposes of Condition F in section 628A.

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(2) Ignore—

- (a) property or income provided under a transaction, other than a loan, where the transaction is entered into on arm's length terms,
- (b) property or income provided, otherwise than under a loan, without any intention by the person providing it to confer a gratuitous benefit on any person,
- (c) the principal of a loan which is made to the trustees of the settlement on arm's length terms,
- (d) the payment of interest to the trustees of the settlement under a loan made by them on arm's length terms,
- (e) repayment to the trustees of the settlement of the principal of a loan made by them,
- (f) property or income provided in pursuance of a liability incurred by any person before 6 April 2017, and
- (g) where the settlement's expenses relating to taxation and administration for a tax year exceed its income for that year, property or income provided towards meeting that excess if the value of any such property and income is not greater than the amount of—
 - (i) the excess, or
 - (ii) if greater, the amount by which such expenses exceed the amount of such expenses which may be paid out of the settlement's income.

(3) Where—

- (a) a loan is made to the trustees of the settlement by the settlor or the trustees of a settlement connected with the settlor, and
- (b) the loan is on arm's length terms, but
- (c) a relevant event occurs,

the principal of the loan is to be regarded as having been provided to the trustees at the time of that event (despite subsection (2)).

(4) In subsection (3) “relevant event” means—

- (a) capitalisation of interest payable under the loan,
- (b) any other failure to pay interest in accordance with the terms of the loan, or
- (c) variation of the terms of the loan such that they cease to be arm's length terms.

(5) Subsection (6) applies (subject to subsection (7)) where—

- (a) the settlor becomes deemed domiciled in the United Kingdom on or after 6 April 2017,
- (b) before the date on which the settlor becomes deemed domiciled in the United Kingdom (“the deemed domicile date”), a loan has been made to the trustees of the settlement by—
 - (i) the settlor, or
 - (ii) the trustees of a settlement connected with the settlor,
- (c) the loan is not entered into on arm's length terms, and
- (d) any amount that is outstanding under the loan on the deemed domicile date (“the outstanding amount”) is payable or repayable on demand on or after that date.

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- (6) Where this subsection applies, the outstanding amount is to be regarded as property directly provided on the deemed domicile date by the lender for the purposes of the settlement (despite subsection (2)).
- (7) But if the deemed domicile date is 6 April 2017, subsection (6) does not apply if—
- (a) the principal of the loan is repaid, and all interest payable under the loan is paid, before 6 April 2018, or
 - (b) the loan becomes a loan on arm's length terms before 6 April 2018 and—
 - (i) before that date interest is paid to the lender in respect of the period beginning with 6 April 2017 and ending with 5 April 2018 as if those arm's length terms had been terms of the loan in relation to that period, and
 - (ii) interest continues to be payable from 6 April 2018 in accordance with those terms.
- (8) For the purposes of this section, a loan is on “arm's length terms”—
- (a) in the case of a loan made to the trustees of a settlement, only if interest at the official rate or more is payable at least annually under the loan;
 - (b) in the case of a loan made by the trustees of a settlement, only if any interest payable under the loan is payable at no more than the official rate.
- (9) For the purposes of this section—
- a settlement is “connected” with a person if the person is the settlor or a beneficiary of it;
- “deemed domiciled” has the same meaning as in section 628A;
- “official rate”, in relation to interest, means the rate of interest applicable from time to time under section 178 of FA 1989 for the purposes of Chapter 7 of Part 3 of ITEPA 2003.

Textual Amendments

F52 Ss. 628A-628C inserted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 22](#)

628C Foreign income arising before, but remitted on or after, 6 April 2017

- (1) For the purposes of applying section 809L of ITA 2007 (meaning of remitted to the UK) in relation to transitional trust income, “relevant person” in that section does not include the trustees of the settlement concerned.
- (2) “Transitional trust income” means income—
- (a) that arises under a settlement in the period beginning with the tax year 2008-09 and ending with the tax year 2016-17 (“the protection period”),
 - (b) that would be protected foreign-source income for the purposes of section 628A(1) if section 628A(2)—
 - (i) had effect for the protection period, and
 - (ii) so had effect with a reference to conditions A to E (instead of A to F),
 - (c) that prior to 6 April 2017 has neither been distributed by the trustees of the settlement nor treated under section 624(1) as income of the settlor, and

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- (d) that would for the tax year in which it arose under the settlement have been treated under section 624(1) as income of the settlor if the settlor had been domiciled in the United Kingdom for that year.
- (3) Section 648(3) to (5) (relevant foreign income treated as arising under settlement only if and when remitted), and corresponding earlier enactments, do not apply for the purposes of subsection (2)(a) and (d).]

Textual Amendments

F52 Ss. 628A-628C inserted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 22](#)

Income treated as income of settlor: [^{F53}relevant] children

Textual Amendments

F53 Word in cross-heading substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), [regs. 1, 192\(5\)](#)

629 Income paid to [^{F54}relevant] children of settlor

- (1) Income which arises under a settlement is treated for income tax purposes as the income of the settlor and of the settlor alone for a tax year if, in that year and during the life of the settlor, it—
- (a) is paid to, or for the benefit of, [^{F55}a relevant] child of the settlor, or
 - (b) would otherwise be treated (apart from this section) as income of [^{F55}a relevant] child of the settlor.
- (2) Subsection (1) does not apply to income which is treated as income of the settlor under section 624.
- (3) Subsection (1) does not apply in relation to a child's relevant settlement income in any tax year if, in that year, the total amount of that income does not exceed £100.
- (4) In subsection (3) a child's "relevant settlement income" means income—
- (a) which is paid to or for the benefit of, or otherwise treated as income of, the child, and
 - (b) which (apart from subsection (3)) would be treated as income of the settlor under subsection (1).
- (5) Subsection (1) does not apply so far as provided by section 630 (exception for gifts to charities) [^{F56}or section 630A (exception for protected foreign-source income)].
- (6) See—
- section 631 for the treatment for the purposes of subsection (1) of retained or accumulated income, and
 - section 632 for the treatment for the purposes of this section and section 631 of certain deemed income connected to offshore income gains.
- (7) In this section and sections 631 and 632—

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- (a) “child” includes a stepchild,
- (b) “minor” means a person under the age of 18 years, and “minor child” is to be read accordingly,^{F57} . . .
- (c) references to payments include payments in money's worth [^{F58}, and]
- [^{F59}(d) “relevant child” means a minor child who is unmarried or not in a civil partnership.]

[^{F60}(8) Subsection (1) is subject to section 28A of FA 2005.]

Textual Amendments

- F54** Word in s. 629 heading substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **192(4)**
- F55** Words in s. 629(1)(a)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **192(2)**
- F56** Words in s. 629(5) inserted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 8 para. 23(1)**
- F57** Word in s. 629(7)(b) omitted (5.12.2005) by virtue of [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **192(3)(a)**
- F58** Word in s. 629(7)(c) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **192(3)(b)**
- F59** S. 629(7)(d) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **192(3)(c)**
- F60** S. 629(8) inserted (with effect in accordance with [Sch. 13 para. 34\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 13 para. 34(1)**

630 Exception for gifts to charities

- (1) The rule in section 629(1) does not apply to any qualifying income which arises under a UK trust if—
 - (a) it is given by the trustees to a charity in the tax year in which it arises, or
 - (b) it is income to which a charity is entitled under the terms of the trust.
- (2) Subsection (3) applies if in any tax year qualifying income which arises under a UK trust from different sources exceeds the total of—
 - (a) the amount of that income which falls within subsection (1), and
 - (b) the amount of that income which falls within section 628(1) (comparable exception for income where settlor retains an interest).
- (3) The amount of the qualifying income from different sources which falls within subsection (1) above is rateably apportioned between those sources.
- (4) This does not affect the operation of any requirement that the whole, or any specified part, of the income from a particular source is to be given to a charity.
- (5) In this section “charity”, “qualifying income” and “UK trust” have the same meaning as in section 628.

[^{F61}630A Exception for protected foreign-source income

- (1) The rule in section 629(1) does not apply to income which arises under a settlement if it is protected foreign-source income for a tax year.

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- (2) Sections 628A(2) to (12) and 628B (meaning of “protected foreign-source income”) have effect also for this purpose.
- (3) Section 648(3) to (5) (relevant foreign income treated as arising under settlement only if and when remitted) do not apply for the purposes of this section.]

Textual Amendments

- F61** S. 630A inserted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 8 para. 23(2)**

631 Retained and accumulated income

- (1) This section applies if—
 - (a) the trustees of a settlement retain or accumulate income arising under the settlement, and
 - (b) a payment is subsequently made in connection with the settlement to, or for the benefit of, [^{F62}a child of the settlor who is unmarried or not in a civil partnership].
- (2) The payment is treated for the purposes of section 629(1) as a payment of income, but only so far as there is retained or accumulated income available.
- (3) For the purposes of subsection (1) a payment is made in connection with a settlement if it is made by virtue of or in consequence of—
 - (a) the settlement, or
 - (b) any enactment relating to the settlement.
- (4) For the purposes of subsection (2) retained or accumulated income is available at any time when—

$$A > B$$

where—

A is the total amount of the income which has arisen under the settlement since it was made, and

B is the total amount of disregarded income.

- (5) In subsection (4) “disregarded income” means any income arising under the settlement since it was made which has been—
 - (a) treated as income of the settlor,
 - (b) paid (whether as income or capital) to, or for the benefit of, a beneficiary other than [^{F63}a relevant] child of the settlor,
 - (c) otherwise treated as the income of such a beneficiary,
 - (d) treated as income of an unmarried minor child of the settlor, and subject to income tax, in any of the tax years 1995-96, 1996-97 and 1997-98, or
 - (e) applied in meeting expenses of the trustees which—
 - (i) were properly chargeable to income, or

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- (ii) would have been so chargeable but for any express [^{F64}terms of the settlement].
- (6) For the purposes of subsection (5)(d), income arising under the settlement that is treated as income of the child is subject to income tax so far as it does not exceed the taxable amount.
- (7) In subsection (6) “the taxable amount”, in relation to a tax year, means the amount by which—

$$TI > TAD$$

where—

TI is the child's total income for income tax purposes, and

TAD is the total amount of allowances and deductions that may be set against the [^{F65}the child's total income or net income at Step 2 or 3 of the calculation in section 23 of ITA 2007].

Textual Amendments

- F62** Words in s. 631(1)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **193(2)**
- F63** Words in s. 631(5)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **193(3)**
- F64** Words in s. 631(5)(e)(ii) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), **Sch. 13 para. 33(4)(5)**
- F65** Words in s. 631(7) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, **Sch. 1 para. 556** (with transitional provisions and savings in Sch. 2)

632 Offshore income gains

- (1) This section applies if—
- (a) an offshore income gain accrues in respect of a disposal by a trustee of assets held by the trustee for a minor, and
 - (b) the minor would be absolutely entitled as against the trustee but for being a minor.
- (2) The income which, under [^{F66}regulation 17 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) (charge to tax)], is treated as arising by reference to that gain is treated for the purposes of sections 629 and 631 as paid to the minor.
- (3) In this section “offshore income gain” has the same meaning as in [^{F67}Chapter 5 of Part 2 of those Regulations].

Textual Amendments

- F66** Words in s. 632(2) substituted (1.12.2009) (with effect in accordance with art. 1(2)(3) of, Sch. 1 to the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), regs. 1(1), **128(3)(a)**

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F67 Words in s. 632(3) substituted (1.12.2009) (with effect in accordance with art. 1(2)(3) of, Sch. 1 to the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), regs. 1(1), **128(3)(b)**

Capital sums treated as income of settlor: trustees' payments

633 Capital sums paid to settlor by trustees of settlement

- (1) Any capital sum paid directly or indirectly in any tax year by the trustees of a settlement to the settlor is treated for income tax purposes as follows.
- (2) The sum is treated as the income of the settlor for the tax year so far as the amount of the sum falls within the amount of income available up to the end of the year.
- (3) The sum is treated as the income of the settlor for the following year so far as the amount of the sum—
 - (a) is not treated under subsection (2) as the settlor's income for the tax year in which it is paid, and
 - (b) falls within the amount of the income available up to the end of the following year.
- (4) Subsection (3) also applies for each subsequent year up to a maximum of 10 years subsequent to the tax year in which the sum is paid.
- (5) For this purpose the reference in subsection (3)(a) to being treated under subsection (2) as the settlor's income for the tax year in which the capital sum is paid is a reference to being treated under subsection (2) or (3) as the settlor's income for that year and any other year before the subsequent year in question.
- (6) For the meaning of certain expressions used in this section, see—
 - section 634 (meaning of “capital sum” and “sums paid to settlor”),
 - section 635 (amount of available income),
 - section 636 (calculation of undistributed income), and
 - section 637 (qualifications to section 636).
- (7) For other provisions, see—
 - section 638 (capital sums paid by way of loan or repayment of loan),
 - section 639 (loans to participators in close companies), and
 - section 640 (grossing-up of deemed income).

634 Meaning of “capital sum” and “sums paid to settlor”

- (1) In this Chapter “capital sum” means—
 - (a) any sum paid by way of loan or repayment of a loan, and
 - (b) any other sum which—
 - (i) is paid otherwise than as income, and
 - (ii) is not paid for full consideration in money or money's worth.
- (2) But this is subject to subsections (3) to (6).
- (3) It does not include any sum which could not have become payable to the settlor except—
 - (a) in one of the circumstances mentioned in subsection (2) of section 625, or

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- (b) on the death under the age of 25 of any person of the kind mentioned in subsection (3) of that section.
- (4) It does include a sum treated as a capital sum by subsection (5) below.
- (5) Any sum which—
 - (a) is paid by the trustees of a settlement to a third party—
 - (i) at the settlor's direction, or
 - (ii) as a result of the assignment by the settlor of the settlor's right to receive the sum, or
 - (b) is otherwise paid, or applied by, the trustees for the benefit of the settlor, is treated as a capital sum paid to the settlor by the trustees.
- (6) Subsection (5) does not apply to any sum which would, apart from that subsection, be treated as a capital sum paid to the settlor.
- (7) References in sections 633 to 638 to sums paid to the settlor include references to sums paid to—
 - (a) the spouse [^{F68}or civil partner] of the settlor, or
 - (b) the settlor (or the spouse [^{F68}or civil partner] of the settlor) jointly with another person.

Textual Amendments

F68 Words in s. 634(7) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **194**

635 Amount of available income

- (1) For the purposes of section 633 the amount of income available up to the end of any tax year is, in relation to any capital sum paid as mentioned in subsection (1) of that section by the trustees of a settlement, calculated as follows.
- (2) Add together the amount of [^{F69}unprotected] income arising under the settlement in that year and any previous year which has not been distributed.
- (3) Deduct from that figure—
 - (a) the amount of that income taken into account under section 633 in relation to that sum in any previous year or years,
 - (b) the amount of that income taken into account under section 633 in relation to any other capital sums paid to the settlor in any year before that sum was paid,
 - (c) any income arising under the settlement in that year or any previous year which has been treated as income of the settlor under section 624 or 629, and
 - (d) an amount equal to the sum of tax at the [^{F70}trust rate] on—
 - (i) the total amount of [^{F71}unprotected] income arising under the settlement in that year and any previous year which has not been distributed, less
 - (ii) any income of the kind mentioned in paragraph (c).
- (4) See sections 636 and 637 for how to calculate amounts of undistributed income.

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[^{F72}(5) In [^{F73}this section and sections 636 and 637] “unprotected income” means income which is not protected foreign-source income, and sections 628A(2) to (13) and 628B (meaning of “protected foreign-source income”) have effect also for this purpose.]

Textual Amendments

- F69** Word in s. 635(2) inserted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 24\(2\)](#)
- F70** Words in s. 635(3)(d) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 557](#) (with transitional provisions and savings in Sch. 2)
- F71** Word in s. 635(3)(d)(i) inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 8\(a\)](#)
- F72** S. 635(5) inserted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 24\(3\)](#)
- F73** Words in s. 635(5) substituted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 8\(b\)](#)

636 Calculation of undistributed income

- (1) For the purposes of section 635, [^{F74}unprotected] income arising under a settlement in any tax year is treated as [^{F74}unprotected] income which has not been distributed so far as it exceeds the total amount of—
 - (a) the sums to which subsection (2) applies,
 - (b) the expenses to which subsection (4) applies, and
 - (c) if the trustees of the settlement are trustees for charitable purposes, the amount to which subsection (6) applies.
- (2) This subsection applies to ^{F75}... sums paid in the tax year to any persons by the trustees of the settlement [^{F76}that are payments of unprotected income, or sums treated as representing unprotected income, and that]—
 - (a) are treated in that year (otherwise than under section 633) as the income of those persons for income tax purposes, or
 - (b) would be [^{F77}treated as mentioned in paragraph (a)] if those persons were domiciled [^{F78}and resident] in the United Kingdom and the sums had been paid to them there.
- (3) Subsection (2) is subject to section 637(1).
- (4) This subsection applies to any expenses of the trustees of the settlement paid in the tax year which, in the absence of any express provision of the settlement, would be properly chargeable to [^{F79}unprotected] income.
- (5) Subsection (4)—
 - (a) does not apply to expenses so far as they are included in the sums mentioned in subsection (2), and
 - (b) is subject to section 637(2) to (7).
- (6) This subsection applies to the amount by which—

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$A > B$

where—

A is any [^{F80}unprotected] income arising under the settlement in the tax year in respect of which exemption from tax may be granted under [^{F81}any provision to which subsection (7) applies], and

B is the total amount of any such sums or expenses as are mentioned in subsections (2) and (4) paid in that year which are properly chargeable to the income.

[^{F82}(7) This subsection applies to the following provisions of ITA 2007—
 section 521(4) (gifts entitling donor to gift-aid relief),
 section 522(5) (gifts of money from companies),
 section 523(5) (payments from other charities),
 section 524 (profits etc of charitable trades),
 section 529 (profits from fund-raising events),
 section 530 (profits from lotteries),
 section 531 (property income etc),
 section 532 (savings and investment income),
 section 533 (public revenue dividends),
 section 536 (miscellaneous income), and
 section 537 (income from estates in administration).]

Textual Amendments

- F74** Word in s. 636(1) inserted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 25](#)
- F75** Word in s. 636(2) omitted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 9\(a\)\(i\)](#)
- F76** Words in s. 636(2) substituted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 9\(a\)\(ii\)](#)
- F77** Words in s. 636(2)(b) substituted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 9\(a\)\(iii\)](#)
- F78** Words in s. 636(2)(b) substituted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 48\(1\)](#) (with [Sch. 46 para. 48\(2\)](#))
- F79** Word in s. 636(4) inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 9\(b\)](#)
- F80** Word in s. 636(6) inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 9\(c\)](#)
- F81** Words in s. 636(6) substituted (with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 558\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F82** S. 636(7) inserted (with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 558\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

637 Qualifications to section 636

(1) Section 636(2) does not apply—

- (a) to any interest paid by the trustees of the settlement, or

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- (b) to any sums paid to—
- (i) a body corporate connected with the settlement, or
 - (ii) the trustees of another settlement made by the settlor or by the trustees of the settlement.
- (2) Section 636(4) applies to any [^{F83}relevant] interest paid by the trustees of the settlement subject to subsections (3) to (7).
- (3) The whole of any [^{F84}relevant] interest paid by the trustees of the settlement is excluded from subsection (4) of section 636 if no sums within subsection (2) of that section were paid to any person other than the settlor or the spouse [^{F85}or civil partner] of the settlor.
- (4) If any sum within section 636(2) was so paid, the relevant fraction of any [^{F86}relevant] interest paid by the trustees of the settlement is excluded from section 636(4).
- (5) The relevant fraction is—

$$\frac{A - B}{A}$$

where—

A is the whole of the [^{F87}unprotected] income arising under the settlement in the tax year, less the sums referred to in subsection (4) of section 636 apart from subsections (2), (3) and (6) of this section, and

B is so much of the sums within subsection (2) of that section as is paid to persons other than the settlor or the spouse [^{F88}or civil partner] of the settlor.

- (6) Subsections (2) to (5) do not apply to—
- (a) interest in respect of which relief from tax is allowable under any provision of the Income Tax Acts, or
 - (b) interest payable to the settlor or the spouse [^{F89}or civil partner] of the settlor if living with the settlor.
- (7) Nothing in subsections (2) to (6) affects the liability to tax of the person receiving or entitled to the interest.
- [^{F90}(7A) In this section “relevant interest” means interest which, in the absence of any express provision of the settlement, would be properly chargeable to unprotected income.]
- (8) For the purposes of this Chapter, a body corporate is treated as connected with a settlement in any tax year if at any time in that year—
- (a) it is a close company (or only is not a close company because it is non-UK resident) and the participators then include the trustees of the settlement, or
 - (b) it is controlled by a company falling within paragraph (a).

Textual Amendments

F83 Word in s. 637(2) inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by Finance Act 2018 (c. 3), **Sch. 10 para. 10(a)**

F84 Word in s. 637(3) inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by Finance Act 2018 (c. 3), **Sch. 10 para. 10(a)**

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- F85** Words in s. 637(3) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **195(2)**
- F86** Word in s. 637(4) inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 10(a)**
- F87** Word in s. 637(5) inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 10(b)**
- F88** Words in s. 637(5) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **195(3)**
- F89** Words in s. 637(6)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **195(4)**
- F90** [S. 637\(7A\)](#) inserted (with effect in accordance with Sch. 10 para. 21 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 10 para. 10(c)**

Trustees' payments: further provisions

638 Capital sums paid by way of loan or repayment of loan

- (1) No part of a capital sum which is paid to a settlor by way of loan is treated under section 633 as the settlor's income for any tax year after the tax year in which the whole of the sum is repaid.
- (2) Subsection (3) applies if—
 - (a) a capital sum is paid to the settlor by way of loan, and
 - (b) one or more capital sums have previously been paid to the settlor by way of loan and wholly repaid.
- (3) The amount of the capital sum mentioned in subsection (2)(a) is treated for the purposes of section 633 as equal to the amount (if any) by which it exceeds so much of the capital sum or sums previously paid as has already been treated as the settlor's income under that section.
- (4) Subsection (5) applies if—
 - (a) a capital sum is paid to the settlor by way of complete repayment of a loan, and
 - (b) an amount not less than the capital sum is subsequently lent by the settlor to the trustees of the settlement.
- (5) No part of the capital sum is treated under section 633 as the settlor's income for any tax year after that in which the further loan is made.

639 Loans to participators in close companies

- (1) This section applies if any amount has been included in a person's income under Chapter 6 of Part 4 (release of loan to participator in close company) in respect of any loan or advance.
- (2) There is a corresponding reduction in the amount (if any) afterwards falling to be so included under section 633 in respect of the loan or advance.

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640 Grossing-up of deemed income

- (1) The whole or any part of a capital sum which is treated under section 633 as income of the settlor for any tax year is treated as income of an amount equal to the sum or the part of the sum, grossed up by reference to the [^{F91}trust rate] for that year.
- (2) The deductible amount is to be set off against the amount of tax charged on any amount treated under section 633 as income of the settlor for any year.
- (3) In subsection (2) the “deductible amount” is an amount equal to—
 - (a) tax at the [^{F91}trust rate] for the year on the amount treated under section 633 as the settlor's income,
 - (b) so much of the amount of tax at that rate as is equal to the tax charged, or
 - (c) the amount of tax paid by the trustees on the grossed-up amount of so much of the amount of income available up to the end of the year, in relation to the capital sum, as is taken into account under section 633 in relation to that sum in that year (see subsections (4) to (7) below),whichever is the least.
- (4) For the purposes of subsection (3)(c)—
 - (a) any reduction falling to be made under section 635(3)(d) is treated as made against income arising under the settlement in an earlier tax year before income arising under the settlement in a later tax year, and
 - (b) income arising under the settlement in an earlier tax year is treated as taken into account under section 633 before income arising under the settlement in a later tax year.
- (5) For the purposes of subsection (3)(c)—
 - (a) the grossed-up amount of any sum is an amount equal to the sum, grossed up by reference to the appropriate rate for each part of the sum, and
 - (b) the amount of tax paid by the trustees on that grossed-up amount is the difference between the grossed-up amount and the sum in question.
- (6) For the purposes of subsection (5)—
 - (a) the appropriate rate for any part of a sum is 0% if—
 - (i) the income that falls to be treated in accordance with subsection (4) as representing that part of the sum is income from a source outside the United Kingdom, and
 - (ii) the trustees were non-UK resident for the relevant tax year, and
 - (b) the appropriate rate for any part of a sum in relation to which paragraph (a) does not apply is—
 - (i) 34%, if the relevant tax year is the year 2003-04 or any earlier tax year, ^{F92}...
 - (ii) 40%, if the relevant tax year is the year 2004-05 or any subsequent tax year [^{F93}up to and including the year 2009-2010, ^{F94}...
 - (iii) 50%, if the relevant tax year is the year 2010-2011 [^{F95}, 2011-12 or 2012-13, and] .
 - ^{F96}(iv) 45%, if the relevant year is the year 2013-14 or any subsequent tax year.]

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- (7) In subsection (6) “the relevant tax year”, in relation to any part of a sum, means the tax year in which the income treated in accordance with subsection (4) as representing that part of the sum arose under the settlement.

Textual Amendments

- F91** Words in s. 640(1)(3)(a) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 559](#) (with transitional provisions and savings in [Sch. 2](#))
- F92** Word in s. 640(6)(b)(i) omitted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 20\(a\)](#)
- F93** Words in s. 640(6)(b) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 20\(b\)](#)
- F94** Word in s. 640(6)(b)(ii) omitted (with effect in accordance with s. 1(6) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [s. 1\(5\)\(a\)](#)
- F95** Words in s. 640(6)(b)(iii) substituted (with effect in accordance with s. 1(6) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 1\(5\)\(b\)](#)
- F96** S. 640(6)(b)(iv) inserted (with effect in accordance with s. 1(6) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 1\(5\)\(c\)](#)

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
 - (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

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- (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.
- (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 [F97]section 449 of CTA 2010) associated with another body corporate may be treated as paid by, or made to, the other body corporate.

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Textual Amendments

F97 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](#))

[^{F98}Benefits matched with protected foreign-source income

Textual Amendments

F98 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](#))

643A Deemed income because of benefits for settlor or close family member

- (1) If an individual has an untaxed benefits total for a settlement for a tax year (see section 643B), an amount equal to so much of that total as does not exceed the settlement's available protected income up to the end of the year (see section 643C) is—
- (a) where the individual is UK resident for the year, treated for income tax purposes as income of the individual for the year, subject to subsections (2) to (5), and
 - (b) where the individual is non-UK resident for the year, treated for the purposes of subsection (2) and sections 643I to 643L (but no other purpose) as income of the individual for the year, subject to subsection (5).
- (2) Subsections (3) and (4) apply if—
- (a) an amount (“the deemed income”) is treated by subsection (1), before the application of subsections (3) and (4), as income of an individual for a tax year,
 - (b) the individual is not the settlor,
 - (c) either—
 - (i) the individual is non-UK resident for the year, or
 - (ii) the individual is UK resident for the year and one of sections 809B, 809D and 809E of ITA 2007 (remittance basis) applies to the individual for the year,
 - (d) the settlor is UK resident for the year,
 - (e) there is no time in the year when the settlor is domiciled in the United Kingdom, and
 - (f) there is no time in the year when the settlor is regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.
- (3) If the case is one—
- (a) where the condition in subsection (2)(c)(i) is met, or
 - (b) where the condition in subsection (2)(c)(ii) is met and none of the deemed income is remitted to the United Kingdom in the year,
- the deemed income is to be treated for income tax purposes as income of the settlor for the year and, in a case within paragraph (b), not as income of the individual for the year.

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- (4) If the case is one—
- (a) where the condition in subsection (2)(c)(ii) is met, and
 - (b) part only of the deemed income is remitted to the United Kingdom in the year, the remainder of the deemed income is to be treated for income tax purposes not as income of the individual for the year but as income of the settlor for the year.
- (5) If there is a choice about the individuals in whose case income is to be treated as arising by subsection (1) (before the application of subsections (3) and (4))—
- (a) income is to be treated as arising to such one or more of them as appears to an officer of Revenue and Customs to be just and reasonable, and
 - (b) if more than one, in such respective proportions as appears to the officer to be just and reasonable.
- (6) Sections 809L to 809Z6 of ITA 2007 (remittance basis: rules about when income is remitted) apply for the purposes of this section.
- (7) If—
- (a) an enactment other than this section contains a reference (however expressed) to—
 - (i) income treated as arising by this section, or
 - (ii) an amount treated as income by this section, and
 - (b) the reference mentions this section without mentioning any particular provision of this section,
- the reference is (in accordance with subsection (1)(b)) to be read as not including amounts treated as income by subsection (1)(b) except so far as they are treated as income of the settlor of a settlement by subsection (3) or (4).

643B Meaning of “untaxed benefits total” in section 643A

- (1) For the purposes of section 643A, whether an individual has an untaxed benefits total for a settlement for a tax year (“the current year”), and (if so) its amount, are determined as follows—
- Step 1* If the individual is the settlor, identify each benefit provided by the trustees to the individual at a time—
- (a) when the individual is not relevantly domiciled, and
 - (b) in a tax year that is the current year or an earlier tax year.
- If the individual is not the settlor, identify each benefit provided by the trustees to the individual at a time—
- (a) when the individual is a close member of the settlor's family (see section 643H), and
 - (b) in a tax year that is the current year or an earlier tax year.
- Step 2* Identify the amount or value of each benefit identified in the individual's case at Step 1, and calculate the total of those amounts and values.
- Step 3* Take the total calculated at Step 2 and deduct from it the following—
- (a) any part of it on which the individual is liable to income tax otherwise than under section 643A,
 - (b) any income treated by section 643A, 643J or 643L as arising, to a person for a tax year earlier than the current year, by reference to any of the benefits identified in the individual's case at Step 1,

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- (c) where the whole or part of a benefit identified in the individual's case at Step 1 is taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007, the amount or value of so much of the benefit as is taken into account in doing that, and
- (d) any amount required to be deducted by section 643D(2) (gains treated as accruing in a year before the current year).

Step 4 If the result of the calculation at Step 3 is an amount greater than nil, that amount is the individual's untaxed benefits total for the settlement for the current year.

- (2) For the purposes of Step 1 in subsection (1), an individual is “relevantly domiciled” at any time if at that time—
 - (a) the individual is domiciled in the United Kingdom, or
 - (b) the individual is regarded for the purposes of section 809(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.
- (3) Sections 742C to 742E of ITA 2007 (value of certain benefits) apply for the purpose of calculating the value of a benefit for the purposes of this section as they apply for the purpose of calculating an income tax charge under Chapter 2 of Part 13 of ITA 2007.
- (4) In this section and sections 643C to 643M, a reference to a benefit provided by trustees of a settlement is to—
 - (a) a benefit treated by subsection (6) as provided by the trustees, or
 - (b) any other benefit if it is provided by the trustees directly, or indirectly, out of—
 - (i) property comprised in the settlement, or
 - (ii) income arising under the settlement.
- (5) In this section and sections 643C to 643M, a reference to a benefit provided by trustees of a settlement to an individual is to—
 - (a) a benefit treated by subsection (6) as provided by the trustees to the individual, or
 - (b) any other benefit if it is provided by the trustees to the individual directly, or indirectly, out of—
 - (i) property comprised in the settlement, or
 - (ii) income arising under the settlement.
- (6) Where—
 - (a) income arises under a settlement, and
 - (b) the income, before being distributed, is the income of a person other than the trustees,
 a benefit is for the purposes of subsection (4)(a) treated as provided by the trustees and is for the purposes of subsection (5)(a) treated as provided by the trustees to the person.
- (7) A benefit treated as provided by subsection (6) is treated—
 - (a) as consisting of the income mentioned in that subsection, but after any reduction in accordance with Chapter 8 of Part 9 of ITA 2007 for trustees' expenses, and
 - (b) as provided at the time that income arises.

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643C Meaning of “available protected income” in section 643A

- (1) For the purposes of the application of section 643A(1) in the case of an individual and a settlement, the settlement has available protected income up to the end of a tax year if—

$$\text{PFSI} - \text{TOAA} > \text{TI}$$

and, if the settlement has available protected income up to the end of a tax year, its amount is given by—

$$\text{PFSI} - \text{TOAA} - \text{TI}$$

- (2) In this section—

PFSI is the total of—

- (a) any protected foreign-source income—
- (i) arising under the settlement in the year or in any earlier tax year,
 - (ii) that would be treated under section 624 as income of the settlor but for section 628A,
 - (iii) that can be used directly or indirectly to provide benefits for the individual, and
 - (iv) on which the individual is not liable to income tax (ignoring for this purpose any liability under section 643A), and
- (b) any protected foreign-source income—
- (i) arising under the settlement in the year or in any earlier tax year,
 - (ii) that would be treated under section 629 as income of the settlor but for section 630A, and
 - (iii) on which the relevant child concerned (see section 629) is not liable to income tax (ignoring for this purpose any liability under section 643A),

TOAA is so much of PFSI as is, in respect of benefits provided by the trustees in the year or in an earlier tax year, taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) for the year or any earlier tax year, and

TI is the total of—

- (a) so much of PFSI as is, by reference to benefits provided by the trustees to the individual, treated by section 643A, 643J or 643L as income for any earlier tax year, and
- (b) so much of PFSI as is, by reference to benefits provided by the trustees to other individuals, treated by section 643A, 643J or 643L as income for the year or any earlier tax year.

- (3) As regards the definition of PFSI in subsection (2)—

- (a) section 648(3) to (5) (relevant foreign income treated as arising under settlement only if and when remitted) do not apply for the purposes of that definition,
- (b) that definition has effect as if section 648(3) to (5) do not apply for the purposes of sections 624 and 629, and
- (c) in that definition “protected foreign-source income” has the meaning given by sections 628A(2) to (13) and 628B.

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643D Reduction in section 643A income: previous capital gains tax charge

- (1) Subsection (2) applies if—
 - (a) in the case of a settlement, benefits provided to an individual as mentioned at Step 1 in section 643B(1) are received in a tax year, and
 - (b) chargeable gains are treated by section 87, 87K, 87L or 89(2) of, or paragraph 8 of Schedule 4C to, TCGA 1992 as accruing to a person in that or a subsequent tax year by reference (direct or indirect) to the whole or part of any benefits so provided.
- (2) In the calculation under section 643B of the individual's untaxed benefits total for the settlement for any tax year after the one in which such chargeable gains are so treated, the amounts to be deducted at Step 3(d) of that calculation include the amount of those gains.
- (3) References in this section to chargeable gains treated as accruing to an individual include offshore gains treated as arising to the individual (see regulations 20 and 22 to 24 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001)).

643E Reimbursement of tax paid by settlor because of section 643A

- (1) Where any tax for which the settlor of a settlement is liable as a result of section 643A(3) or (4) is paid, the settlor is entitled to recover the amount of the tax from the individual concerned.
- (2) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
 - (a) the amount of the income concerned, and
 - (b) the amount of tax paid,
 and any such certificate is conclusive evidence of the facts stated in it.

643F Income attributed by section 643A to user of remittance basis

- (1) This section applies where—
 - (a) in the case of a settlement, income (“the deemed income”) is treated by section 643A as arising to an individual for a tax year, and
 - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.
- (2) The deemed income is treated as relevant foreign income of the individual.
- (3) In the application of section 832 to the deemed income, subsection (2) of that section has effect with the omission of paragraph (b).
- (4) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) treat a benefit, or any protected income, that relates to any part of the deemed income as deriving from that part of the deemed income.
- (5) In subsection (4) “relates” has the meaning given by section 643G.
- (6) In this section and section 643G—

“protected income” means the income that forms PFSI in the calculation of the settlement's available protected income in the case of the relevant individual for the year, and

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“the relevant individual”—

- (a) where the deemed income is treated as income of an individual by section 643A(1)(a) both before and after the application of section 643A(3) and (4), means that individual, and
- (b) where the deemed income is treated as income of the settlor by section 643A(3) or (4) after having been treated as income of another individual by section 643A(1), means that other individual.

643G Section 643F(4): benefits and income “relating” to deemed income

(1) In this section—

- (a) references to a step are to a step under section 643B(1) as it applies in the case of the settlement, the year and the relevant individual,
- (b) “protected income” and “the relevant individual” have the meaning given by section 643F(6), and
- (c) “the settlement” and “the year” mean, respectively, the settlement and tax year mentioned in section 643F.

(2) For the purposes of section 643F(4)—

- (a) place the benefits identified at Step 1 in the order in which they were received by the relevant individual (starting with the earliest benefit received),
- (b) where a deduction is allowed by any of paragraphs (a), (c) and (d) of Step 3 by reference to the whole or part of any of those benefits, reduce the benefit by the amount of the deduction,
- (c) place the protected income in the order in which it arose (starting with the earliest income to arise),
- (d) where the whole or part of an item of the protected income is, in respect of benefits provided by the trustees in the year or in any earlier tax year, taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) for the year or any earlier tax year, reduce the item by so much of itself as is so taken into account,
- (e) where the whole or part of an item of the protected income is, by reference to benefits provided by the trustees to individuals other than the relevant individual, treated by section 643A or 643J or 643L as income for the year or any earlier tax year, reduce the item by so much of itself as is so treated,”
- (f) place the income treated by section 643A(1) (before the application of section 643A(3) and (4)) as arising to the relevant individual in respect of the benefits referred to in paragraph (a) in the order in which it is treated as arising (starting with the earliest income treated as having arisen), and
- (g) treat the income mentioned in paragraph (f) as related to—
 - (i) the benefits referred to in paragraph (a), and
 - (ii) the protected income,

by matching the income mentioned in paragraph (f) with those benefits and the protected income (in the orders mentioned in paragraphs (a), (c) and (f)).

(3) For the purposes of subsection (2)(d), the whole or part of an item of the protected income is to be treated as taken into account in respect of a benefit so far as the item or part—

- (a) is matched under section 735A of ITA 2007 with notional income with which the benefit is matched under that section, or

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(b) would be matched under that section (if it applied also for this purpose) with notional income with which the benefit would be matched under that section (if it applied also for this purpose),
 and here “notional income” means income which is treated as arising under section 732 of ITA 2007.

643H Meaning of close member of settlor's family in sections 643B to 643M

- (1) For the purposes of sections 643B to 643M, a person is a close member of the family of the settlor of a settlement at any time if the settlor is living at that time and—
- (a) the person is the settlor's spouse or civil partner at that time, or
 - (b) the person—
 - (i) is a child of the settlor, or of a person who at that time is the settlor's spouse or civil partner, and
 - (ii) at that time has not reached the age of 18.
- (2) For the purposes of subsection (1)—
- (a) two people living together as if they were spouses of each other are treated as if they were spouses of each other, and
 - (b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other.

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,
 - (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,

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- (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 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).

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- (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
 - (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.

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643J Cases where income treated as arising to recipient of onward gift

- (1) Subsection (3) applies if—
 - (a) this section applies (see section 643I(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) none of sections 809B, 809D and 809E of ITA 2007 (remittance basis) applies to the subsequent recipient for the charging year.
- (2) Subsection (3) also applies if—
 - (a) this section applies (see section 643I(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year, and
 - (e) the whole, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (3) For income tax purposes, an amount of income—
 - (a) equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 643I(1)(e), or
 - (b) where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of that part,is treated as income of the subsequent recipient for the charging year, subject to subsection (4).
- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows—
 - (a) deduct any part of the amount on which the subsequent recipient is liable to income tax otherwise than under this section, and
 - (b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 643I(1)(a), deduct the excess.

643K Cases where deemed income attributed to recipient of onward gift

- (1) Subsection (3) applies if this section applies (see section 643I(1)) and—
 - (a) the subsequent recipient is non-UK resident for the gift year, or
 - (b) the matching year is later than the gift year and the subsequent recipient is UK resident for the gift year but non-UK resident for the matching year.
- (2) Subsection (3) also applies if—
 - (a) this section applies (see section 643I(1)), and
 - (b) the subsequent recipient is UK resident for the gift year, and
 - (c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and
 - (d) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year, and

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- (e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year.
- (3) Section 643I(1)(a) has effect—
- (a) as if the subsequent recipient were an individual to whom, in the case of the settlement, income is treated by section 643A(1)(a), both before and after the application of section 643A(3) and (4), as arising for the charging year, and
 - (b) as if, subject to subsection (4), the amount of that income—
 - (i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 643I(1)(e) and is not treated as arising to the settlor as a result of the operation of section 643L, or
 - (ii) were, where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment.
- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows: if that amount exceeds the amount mentioned in section 643I(1)(a) in the case of the original beneficiary, deduct the excess.
- (5) Where the amount mentioned in section 643I(1)(a) is treated as arising by this section in connection with the operation of section 643I and this section on a previous occasion, section 643I(1) has effect—
- (a) with the omission of its paragraphs (b) and (c),
 - (b) as if the references in its paragraph (d) to the benefit mentioned in its paragraph (b) were, instead, to what was the onward payment on that previous occasion,
 - (c) as if the references in its paragraph (d) to when that benefit is provided were, instead, to when that onward payment was made, and
 - (d) as if the references in its paragraph (e) to that benefit were, instead, to so much of that onward payment as was on that previous occasion within any of sub-paragraphs (i) to (iii) of that paragraph.

643L Cases where settlor liable following onward gift

- (1) Subsection (3) applies if—
- (a) this section applies (see section 643I(1)),
 - (b) the subsequent recipient is a close member of the settlor's family (see section 643H) when the onward payment is made,
 - (c) the subsequent recipient is UK resident for the charging year,
 - (d) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year,
 - (e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year,
 - (f) there is a time in the charging year when the settlor is UK resident,
 - (g) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and
 - (h) there is no time in the charging year when the settlor is regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United

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Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.

- (2) Subsection (3) also applies if—
- (a) this section applies (see section 643I(1)),
 - (b) the subsequent recipient is a close member of the settlor's family when the onward payment is made,
 - (c) the subsequent recipient is non-UK resident for the charging year,
 - (d) there is a time in the charging year when the settlor is UK resident,
 - (e) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and
 - (f) there is no time in the charging year when the settlor is regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.
- (3) For income tax purposes, an amount of income—
- (a) equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 643I(1)(e), or
 - (b) where this subsection applies because of subsection (1) in a case where part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment,
- is treated as arising to the settlor for the charging year, subject to subsection (4).
- (4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows—
- (a) deduct any part of the amount on which the settlor is liable to income tax otherwise than under this section, and
 - (b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 643I(1)(a), deduct the excess.
- (5) Where any tax for which the settlor is liable as a result of subsections (3) and (4) is paid, the settlor is entitled to recover the amount of the tax from the subsequent recipient.
- (6) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
- (a) the amount of the income concerned, and
 - (b) the amount of tax paid,
- and any such certificate is conclusive evidence of the facts stated in it.

643M Onward gift to settlor or close family member by other recipient

- (1) Subsection (3) applies if—
- (a) the trustees of a settlement provide a benefit (“the original benefit”) to an individual (“the original recipient”),
 - (b) the original recipient is not the settlor,
 - (c) at the time the original benefit is provided, the original recipient is not a close member of the settlor's family (see section 643H),
 - (d) the original recipient is not taxed on the original benefit (see subsection (7)),
 - (e) at the time the original benefit is provided—

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- (i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole, or part, of the original benefit to another person, and
 - (ii) it is reasonable to expect that, in the event of the whole or part of the original 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,
 - (f) the original recipient makes, directly or indirectly, a gift (“the onward payment”) to a person (“the subsequent recipient”)—
 - (i) at the time the original benefit is provided to the original recipient, or at any later time in the 3 years beginning with the day containing that time, or
 - (ii) at any time before the original benefit is provided to the original recipient and, it is reasonable to assume, in anticipation of the original benefit being provided,
 - (g) the gift is of or includes—
 - (i) the whole or part of the original benefit,
 - (ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of the original benefit, or
 - (iii) any other property, but only if the original 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, and
 - (h) the subsequent recipient—
 - (i) is the settlor, or
 - (ii) is a close member of the settlor's family 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—
 - (a) there is a series of two or more gifts,
 - (b) the first gift in the series is made, directly or indirectly, by the original recipient—
 - (i) at the time the original benefit is provided, or at any later time in the 3 years beginning with the day containing that time, or
 - (ii) at any time before the original benefit is provided and, it is reasonable to assume, in anticipation of the original benefit being provided,
 - (c) the recipient of a gift in the series is the person who makes, directly or indirectly, the next gift in the series,
 - (d) the recipient of the last gift in the series is the settlor or, at the time that last gift is made, is a close member of the settlor's family,
 - (e) as regards any earlier gift in the series, its recipient—
 - (i) is not the settlor, and
 - (ii) is not, at the time that earlier gift is made, a close member of the settlor's family, and
 - (f) the condition in subsection (1)(g) is met in relation to each gift in the series, the last gift in the series is to be treated for the purposes of subsection (1)(f) as if its maker were the original recipient (and not its actual maker).

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- (3) So much of the onward payment as is within any of sub-paragraphs (i) to (iii) of subsection (1)(g) is treated for the purposes of Step 1 in section 643B(1) as a benefit provided by the trustees to the subsequent recipient at the time the onward payment is made.
- (4) Where the onward payment is made as mentioned in subsection (1)(f)(ii), the onward payment is to be treated, for the purposes of subsections (1)(h) and (3), as made immediately after, and in the tax year in which, the original benefit is provided to the original recipient.
- (5) Where subsection (1)(f) to (h) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(e) is also met in that case.
- (6) Where the benefit mentioned in section 643I(1)(b) is one that subsection (3) of this section treats as provided, section 643I(1) has effect with the omission of its paragraph (c).
- (7) For the purposes of subsection (1)(d), the original recipient is taxed on the original benefit if the original recipient is liable to income tax, or capital gains tax, by reference to the amount or value of the original benefit; and where the original recipient is so liable by reference to the amount or value of part only of the original benefit, this section applies as if the two parts of the original benefit were separate benefits.
- (8) In this section—
 - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
 - “gift” includes any benefit, and
 - “make”, in relation to a gift that is a benefit, means confer,and see also section 643B(4) to (7) (interpretation of references to provision of benefits by trustees).

643N Person liable under section 643J or 643L and remittance basis applies

- (1) This section applies in relation to income if—
 - (a) the income is treated as arising to an individual for a tax year—
 - (i) by section 643J(3) and (4) where section 643J(3) applies because of section 643J(2), or
 - (ii) by section 643L, and
 - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.
- (2) The income is treated as relevant foreign income of the individual.
- (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) treat the onward payment, or (as the case may be) the part of it whose amount or value is equal to the amount of the income, as deriving from the income.
- (4) In the application of section 832 in relation to the income, subsection (2) of that section has effect with the omission of its paragraph (b).]

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Settlements by two or more settlors

644 Application to settlements by two or more settlors

- (1) In the case of a settlement where there is more than one settlor, this Chapter has effect in relation to each settlor as if that settlor were the only settlor.
- (2) This works as follows.
- (3) In this Chapter, in relation to a settlor—
 - (a) references to the property comprised in a settlement include only property originating from the settlor, and
 - (b) references to income arising under the settlement include only income originating from the settlor.
- (4) For the purposes of sections 629, 631 and 632 only the following are taken into account in relation to a child of the settlor—
 - (a) income originating from the settlor, and
 - (b) in a case in which section 631 applies, payments which under that section (as adapted by subsection (5) below) are treated as payments of income.
- (5) In applying section 631 to a settlor—
 - (a) the reference to income arising under the settlement includes only income originating from the settlor, and
 - (b) the reference to any payment made in connection with the settlement includes only a payment made out of property originating from the settlor or income originating from the settlor.
- (6) See section 645 for the meaning of references in this section to property or income originating from a settlor.

645 Property or income originating from settlor

- (1) References in [^{F99}sections 628A and] 644 to property originating from a settlor are references to—
 - (a) property which the settlor has provided directly or indirectly for the purposes of the settlement,
 - (b) property representing property so provided, and
 - (c) so much of any property which represents both property so provided and other property as, on a just and reasonable apportionment, represents the property so provided.
- (2) References in [^{F100}sections 627 and 644] to income originating from a settlor are references to—
 - (a) income from property originating from the settlor, and
 - (b) income provided directly or indirectly by the settlor.
- (3) In this section references to property or income which a settlor has provided directly or indirectly—
 - (a) include references to property or income which has been provided directly or indirectly by another person under reciprocal arrangements with the settlor, but

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- (b) do not include references to property or income which the settlor has provided directly or indirectly under reciprocal arrangements with another person.
- (4) In this section references to property which represents other property include references to property which represents accumulated income from the other property.

Textual Amendments

F99 Words in s. 645(1) substituted (16.11.2017) (with effect in accordance with Sch. 8 para. 39 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 8 para. 26](#)

F100 Words in s. 645(2) substituted (with effect in accordance with s. 12(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 12\(3\)](#)

Other supplementary provisions

646 Adjustments between settlor and trustees etc.

- (1) A settlor is entitled to recover from—
 - (a) any trustee, or
 - (b) any other person to whom the income is payable in connection with the settlement,the amount of any tax paid by the settlor which became chargeable on the settlor under section 624 or 629.
- (2) For this purpose, the settlor may require [^{F101}an officer of Revenue and Customs] to provide the settlor with a certificate specifying—
 - (a) the amount of income in respect of which the settlor has so paid tax, and
 - (b) the amount of tax so paid.
- (3) A certificate provided under subsection (2) is conclusive evidence of the facts stated in it.
- [^{F102}(4) Subsection (5) applies if a settlor chargeable to tax under section 624 or 629 obtains a repayment by reason of the payment of the tax by—
 - (a) any trustee, or
 - (b) any other person to whom the income is payable by virtue of or as a result of the settlement.]
- (5) The settlor must pay an amount equal to the [^{F103}repayment] to—
 - (a) the trustee, or
 - (b) the other person to whom the income is payable by virtue of or as a result of the settlement.
- (6) If there are two or more such persons, the amount must be apportioned among them as the case may require.
- [^{F104}(6A) For the purpose of subsection (5), the settlor may require an officer of Revenue and Customs to provide the settlor with a certificate specifying—
 - (a) that the settlor has obtained a repayment as mentioned in subsection (4), and
 - (b) the amount of the repayment.

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- (6B) A certificate provided under subsection (6A) is conclusive evidence of the facts stated in it.]
- (7) [^{F105}Subject to subsections (6A) and (6B), any] question as to—
- (a) the amount of a payment under subsection (5), or
 - (b) an apportionment to be made under subsection (6),
- is to be decided by the [^{F106}tribunal and, notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal is final].
- (8) Nothing in sections 624 to 632 is to be read as excluding a charge to tax on the trustees as persons by whom any income is received.

Textual Amendments

- F101** Words in s. 646(2) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 ss. 50, 53(1), {Sch. 4 para. 132(1)}; [S.I. 2005/1126, art. 2\(h\)](#)
- F102** S. 646(4) substituted (16.12.2010) (with effect in accordance with s. 7(6) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 7\(2\)](#)
- F103** Word in s. 646(5) substituted (16.12.2010) (with effect in accordance with s. 7(6) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 7\(3\)](#)
- F104** S. 646(6A)(6B) inserted (16.12.2010) (with effect in accordance with s. 7(6) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 7\(4\)](#)
- F105** Words in s. 646(7) substituted (16.12.2010) (with effect in accordance with s. 7(6) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 7\(5\)](#)
- F106** Words in s. 646(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 441](#)

[^{F107}646A] Trustees' expenses to be rateably apportioned

- (1) This section applies if—
 - (a) in a tax year qualifying income arises under a UK settlement, and
 - (b) the qualifying income consists of charitable income and non-charitable income.
- (2) If expenses of the trustees are to be set against the charitable income by virtue of section 484 of ITA 2007, the amount of those expenses which can be used for that purpose is limited to the amount allocated to the charitable income.
- (3) If—
 - (a) Chapter 8 of Part 9 of ITA 2007 applies in relation to the charitable income, and
 - (b) expenses of the trustees are to be used to reduce the charitable income for income tax purposes,
 the amount of those expenses which can be used for that purpose is limited to the amount allocated to the charitable income.
- (4) For the purposes of subsections (2) and (3) the amount of the expenses allocated to the charitable income is determined by apportioning them rateably between the charitable income and the non-charitable income.
- (5) In this section—

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“charitable income” means income within section 628(1) or 630(1),
“non-charitable income” means income which is not charitable income, and
“qualifying income” and “UK settlement” have the same meaning as in
section 628.]

Textual Amendments

F107 S. 646A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 560](#) (with transitional provisions and savings in [Sch. 2](#))

^{F108} 647 Power to obtain information

.....

Textual Amendments

F108 S. 647 omitted (with effect in accordance with Sch. 23 para. 65 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 23 paras. 57\(3\), 65\(1\)\(a\)](#) (with [Sch. 23 paras. 50, 65\(1\)\(b\)](#))

648 Income arising under a settlement

- (1) References in this Chapter to income arising under a settlement include—
- (a) any income chargeable to income tax by deduction or otherwise, and
 - (b) any income which would have been so chargeable if it had been received in the United Kingdom by a person domiciled [^{F109} and resident] there.

[^{F110}(2) But if, in a tax year, the settlor is not UK resident, references in this Chapter to income arising under a settlement do not include income arising under the settlement in that tax year in respect of which the settlor, if actually entitled to it, would not be chargeable to income tax by deduction or otherwise because of not being UK resident.

- (3) And if, for a tax year, section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the settlor, references in this Chapter to income arising under a settlement include in relation to any relevant foreign income arising under the settlement in that tax year only such of it as is remitted to the United Kingdom (in that tax year or any subsequent tax year) in circumstances such that, if the settlor remitted it, the settlor would be chargeable to income tax.
- (4) See Chapter A1 of Part 14 of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.
- (5) Where subsection (3) applies the remitted income is treated for the purposes of this Chapter as arising under the settlement in the tax year in which it is remitted.]

Textual Amendments

F109 Words in s. 648(1)(b) substituted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 49](#)

F110 S. 648(2)-(5) substituted (retrospective to 21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 13, 15\(2\)](#)

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CHAPTER 6

BENEFICIARIES' INCOME FROM ESTATES IN ADMINISTRATION

Charge to tax on estate income

649 Charge to tax on estate income

- (1) Income tax is charged on estate income.
- (2) In this Chapter—
 - “estate income” means the income treated under this Chapter as arising from an absolute, limited or discretionary interest in the whole or part of the residue of an estate, and
 - “estate” means the estate of a deceased person (whether a UK estate or a foreign estate).
- (3) Estate income is treated as income for income tax purposes.
- (4) If different parts of an estate are subject to different residuary dispositions, those parts are treated for the purposes of this Chapter as if they were separate estates.

650 Absolute, limited and discretionary interests

- (1) A person has an absolute interest in the whole or part of the residue of an estate for the purposes of this Chapter if—
 - (a) the capital of the residue or that part is properly payable to the person, or
 - (b) it would be so payable, if the residue had been ascertained.
- (2) A person has a limited interest in the whole or part of the residue of an estate during any period for the purposes of this Chapter if—
 - (a) the person does not have an absolute interest in it, and
 - (b) the income from it would be properly payable to the person if the residue had been ascertained at the beginning of that period.
- (3) A person has a discretionary interest in the whole or part of the residue of an estate for the purposes of this Chapter if—
 - (a) a discretion may be exercised in the person's favour, and
 - (b) on its exercise in the person's favour any of the income of the residue during the whole or part of the administration period (see section 653) would be properly payable to the person if the residue had been ascertained at the beginning of that period.
- (4) For the purposes of this section, an amount is only treated as properly payable to a person if it is properly payable to the person, or to another in the person's right, for the person's benefit, except where subsection (5) applies.
- (5) The personal representatives of a deceased person (“A”) are to be treated as having an absolute or limited interest in the whole or part of the residue of the estate of another deceased person (“B”) if—
 - (a) they have a right in their capacity as A's personal representatives, and
 - (b) were the right vested in them for their own benefit, they would have that interest in B's estate.

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- (6) For the purposes of subsection (4), it does not matter whether the amount is payable directly by the personal representatives or through a trustee or other person.

Modifications etc. (not altering text)

- C6** S. 650(1) applied (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **ss. 952(6)**, 1329(1) (with [Sch. 2 Pts. 1, 2](#))

651 Meaning of “UK estate” and “foreign estate”

- (1) In this Chapter—

“UK estate”, in relation to a tax year, means an estate which meets conditions A and B, or condition C, for that year, and

“foreign estate”, in relation to a tax year, means an estate which is not a UK estate in relation to that year.

- (2) Condition A is that all the income of the estate either—

- (a) has borne United Kingdom income tax by deduction, or
- (b) is income in respect of which the personal representatives are directly assessable to United Kingdom income tax for the tax year.

- (3) Condition B is that none of the income of the estate is income for which the personal representatives are not liable to United Kingdom income tax for the tax year because they are not UK resident ^{F111}....

- (4) For the purposes of conditions A and B sums within section [^{F112}664(2)(c) or (d) or 680(4) (sums not liable to tax and sums] treated as bearing tax) are ignored.

- (5) Condition C is that the aggregate income of the estate for the tax year consists only of sums within section [^{F113}664(2)(c) or (d) or 680(4)].

Textual Amendments

F111 Words in s. 651(3) omitted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 46 para. 50**

F112 Words in s. 651(4) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 20(a)**

F113 Words in s. 651(5) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 20(b)**

Types of estate income

652 Estate income: absolute interests in residue

- (1) Income is treated as arising in a tax year from a person's absolute interest in the whole or part of the residue of an estate if—
- (a) the person has an assumed income entitlement for the tax year in respect of the interest (see sections 665 to 670), and
 - (b) condition A or B is met.

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- (2) Condition A is that a payment is made in respect of the interest in the tax year and before the end of the administration period (see section 653).
- (3) Condition B is that the tax year is the final tax year (see section 653).
- (4) Income treated as arising as a result of this section is estate income for the purposes of this Chapter.

653 Meaning of “the administration period” and “the final tax year”

- (1) In this Chapter “the administration period”, in relation to the estate of a deceased person, means the period beginning with the deceased's death and ending with the completion of the administration of the estate.
- (2) In the application of subsection (1) to Scotland, the reference to the completion of the administration is to be taken as a reference to the date at which, after discharge of, or provision for, liabilities falling to be met out of the deceased's estate, the free balance held in trust for the residuary legatees or for the persons with the right to the intestate estate has been ascertained.
- (3) In this Chapter “the final tax year” means the tax year in which the administration period ends.

654 Estate income: limited interests in residue

- (1) Income is treated as arising in a tax year from a person's limited interest in the whole or part of the residue of an estate in cases A, B and C.
- (2) Case A is where—
 - (a) the interest has not ceased before the beginning of the tax year, and
 - (b) a sum is paid in respect of the interest in that year and before the end of the administration period.
- (3) Case B is where—
 - (a) the tax year is the final tax year,
 - (b) the interest has not ceased before the beginning of that year, and
 - (c) a sum remains payable in respect of the interest at the end of the administration period.
- (4) Case C is where—
 - (a) the tax year is a year before the final tax year,
 - (b) the interest ceases in the tax year, and
 - (c) a sum is paid in respect of the interest in a later tax year but before the end of the administration period, or remains payable in respect of it at the end of that period.
- (5) This section does not apply to limited interests to which section 674 (successive interests: holders of limited interests) applies.
- (6) Income treated as arising as a result of this section or section 674 is estate income for the purposes of this Chapter.

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655 Estate income: discretionary interests in residue

- (1) Income is treated as arising in a tax year from a person's discretionary interest in the whole or part of the residue of an estate if a payment is made in the tax year in exercise of the discretion in that person's favour.
- (2) Income treated as arising as a result of this section is estate income for the purposes of this Chapter.

Income charged and person liable

656 Income charged: UK estates

- (1) In the case of a UK estate, tax is charged under section 649 on the amount of estate income treated as arising in the tax year.
- (2) That amount is the basic amount of that income for the tax year (see subsection (4)) grossed up by reference to the applicable rate for that year (see section 663).
- (3) The gross amount is treated as having borne income tax at that rate.
- (4) In this Chapter “the basic amount”, in relation to estate income, has the meaning given by—
 - (a) section 660 (basic amount of estate income: absolute interests),
 - (b) section 661 (basic amount of estate income: limited interests),
 - (c) section 662 (basic amount of estate income: discretionary interests), and
 - (d) section 675 (basic amount of estate income: successive limited interests).

657 Income charged: foreign estates

- (1) In the case of a foreign estate, tax is charged under section 649 on the full amount of estate income treated as arising in the tax year.
- (2) That amount depends on whether the estate income arising in the tax year is paid from sums within section [F114680(4)] (sums treated as bearing income tax).
- (3) So far as the estate income is paid from such sums, that amount is the basic amount of that income for the tax year grossed up by reference to the applicable rate for that year (see section 663).
- (4) That gross amount is treated as having borne income tax at that rate.
- (5) So far as the estate income is not paid from sums within section [F114680(4)], the amount of estate income treated as arising in the tax year is the basic amount of that income for that year.

Textual Amendments

F114 Word in s. 657 substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 21](#)

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658 Special rules for foreign income

- (1) The charge to tax under section 649 on the amount of income arising in a tax year is subject to Part 8 (foreign income: special rules).
- (2) For the purposes of section 830(1) (meaning of “relevant foreign income”) amounts charged to tax under section 649—
 - (a) are treated as arising from a source outside the United Kingdom if the estate is a foreign estate, and
 - (b) are treated as not arising from such a source if the estate is a UK estate.

659 Person liable

- (1) If the estate income is from a person's absolute interest or limited interest, that person is liable for any tax charged under section 649 unless subsection (3) or (4) provides that another person is liable.
- (2) If the estate income is from a discretionary interest, the person in whose favour the discretion is exercised in making the payment in question is liable for any tax charged under section 649.
- (3) If, in a case where the estate income is from an absolute interest—
 - (a) section 671 (successive absolute interests) applies, or
 - (b) section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest) applies and the income is treated as arising because of that section,
 the person by reference to whose assumed income entitlement the estate income is determined is liable for any tax charged under section 649.
- (4) If, in a case where the estate income is from a limited interest—
 - (a) section 673(1) applies and the income is treated as arising because of section 673(2) (payment in respect of a previous limited interest), or
 - (b) section 674 (successive interests: holders of limited interests) applies,
 the person entitled to receive the payment in question is liable for any tax charged under section 649.

Basic amount of estate income: general calculation rules

660 Basic amount of estate income: absolute interests

- (1) The basic amount of estate income relating to a person's absolute interest in the whole or part of the residue of an estate for a tax year before the final tax year is the lower of—
 - (a) the total of all sums paid in the tax year in respect of that interest, and
 - (b) the amount of the person's assumed income entitlement for the tax year in respect of it.
- (2) The basic amount for the final tax year is equal to the amount of the person's assumed income entitlement for that year in respect of that interest.
- (3) But if the residuary income of the estate for the final tax year is nil because the allowable estate deductions exceed the aggregate income of the estate, the basic amount for that year is reduced—

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- (a) where the person has an absolute interest in the whole of the residue of the estate, by an amount equal to the excess, and
 - (b) in any other case, by an amount equal to such part of the excess as is just and reasonable.
- (4) See sections 665 to 670 for the meaning of references to assumed income entitlement and residuary income of an estate.
- (5) See sections 664 and 666(2) for the meaning of aggregate income of an estate and allowable estate deductions respectively.
- (6) This section is subject to sections 671 to 673 (successive interests).

661 Basic amount of estate income: limited interests

- (1) The basic amount of estate income relating to a person's limited interest in the whole or part of the residue of an estate for a tax year is the total of the sums within section 654(2)(b), (3)(c) and (4)(c) for that year.
- (2) This does not apply, and section 675 applies instead, if the limited interest is one to which section 674 (successive interests: holders of limited interests) applies.

662 Basic amount of estate income: discretionary interests

The basic amount of estate income relating to a person's discretionary interest in the whole or part of the residue of an estate for a tax year is the total of the payments made in the tax year in exercise of the discretion in favour of the person.

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 is borne for the tax year by the aggregate income of the estate.
- (2) If the aggregate income of the estate all bears income tax at the same rate, the applicable rate is that rate.
- (3) If—
- (a) different parts of the aggregate income of the estate bear income tax at different rates, and
 - (b) the same rate applies to all the income from which section 679 treats the basic amount as having been paid,
- the applicable rate is that rate.
- (4) If—
- (a) different parts of the aggregate income of the estate bear income tax at different rates, and
 - (b) different rates apply to 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.

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[^{F115}(5) The aggregate income of the estate, so far as it consists of income within section 664(2) (c) or (d), is treated for the purposes of this section as bearing income tax at 0%.]

Textual Amendments

F115 S. 663(5) inserted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 22](#)

664 The aggregate income of the estate

- (1) For the purposes of this Chapter the aggregate income of the estate for a tax year is the total of the income and amounts specified in subsection (2), but excluding the income specified in subsection (5).
- (2) The income and amounts are—
 - (a) the income of the deceased's personal representatives in that capacity which is charged to United Kingdom income tax for the tax year,
 - (b) the income of the deceased's personal representatives in that capacity on which such tax would have been charged for the tax year if—
 - (i) it was income of a UK resident ^{F116}..., and
 - (ii) it was income from a source in the United Kingdom,
 - (c) any amount of income treated as arising to the personal representatives under section 410(4) (stock dividends) that would be charged to income tax under Chapter 5 of Part 4 if income arising to personal representatives were so charged (see section 411),
 - (d) in a case where section 419(2) applies (release of loans to participator in close company: loans and advances to persons who die), the amount that would be charged to income tax under Chapter 6 of Part 4 apart from that section, and
 - (e) any amount that would have been treated as income of the personal representatives in that capacity under section 466 if the condition in section 466(2) had been met (gains from contracts for life insurance).
- (3) In calculating the amount of the income within subsection (2)(a), any allowable deductions are to be taken into account.
- (4) In calculating the amount of the income within subsection (2)(b), any deductions which would be allowable if the income had been charged to United Kingdom income tax are to be deducted from the full amount of the income actually arising in the tax year.
- (5) The excluded income is—
 - (a) income to which any person is or may become entitled under a specific disposition, and
 - (b) income from property devolving on the personal representatives otherwise than as assets for payment of the deceased's debts.
- (6) In subsection (5)(a) “specific disposition” means a gift of specific property under a will, including—
 - (a) the disposition of personal chattels by section 46 of the Administration of Estates Act 1925 (c. 23) (succession on intestacy), and

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- (b) any disposition which under the law of another country has a similar effect to a gift of specific property by will under the law of England and Wales, but excluding real property included in a residuary gift made by will by a specific or general description of it or, in Scotland, heritable estate included in such a gift.

Textual Amendments

F116 Words in s. 664(2)(b)(i) omitted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 51](#)

Further provisions for calculating estate income relating to absolute interests

665 Assumed income entitlement

- (1) Whether a person has an assumed income entitlement for a tax year in respect of an absolute interest in the whole or part of the residue of an estate depends on the results of the following steps.

Step 1

Find the amount of the person's share of the residuary income of the estate that is attributable to that interest for that tax year and each previous tax year during which the person had that interest (see sections 666 to 669).

Step 2

If the estate is a UK estate in relation to any tax year for which an amount has been found under step 1, deduct from that amount income tax on that amount at the applicable rate for that year (see section 670).

Step 3

Add together the amounts found under step 1 after making any deductions necessary under step 2.

Step 4

Add together the basic amounts relating to the person's absolute interest in respect of which the person was liable for income tax for all previous tax years (or would have been so liable if the person had been a person liable for income tax for those years).

- (2) For the purposes of this Chapter the person has an assumed income entitlement for the tax year if the amount resulting from step 3 exceeds the amount resulting from step 4.
- (3) The assumed income entitlement is equal to the excess.
- (4) This section is subject to—
section 671 (successive absolute interests), and
section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest).

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Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

666 The residuary income of the estate

- (1) For the purposes of this Chapter the residuary income of an estate for a tax year is the aggregate income of the estate for that year, less the allowable estate deductions for that year.

This is subject to section 669 (reduction in residuary income: inheritance tax on accrued income).

- (2) The allowable estate deductions for a tax year are—
- (a) all interest paid in that year by the personal representatives in that capacity (but see section 233 of IHTA 1984: exclusion of interest on unpaid inheritance tax),
 - (b) all annual payments for that year which are properly payable out of residue,
 - (c) all payments made in that year in respect of expenses incurred by the personal representatives in that capacity in the management of the assets of the estate, and
 - (d) any excess deductions from the previous tax year.

This is subject to subsections (3) to (5).

- (3) No sum is to be treated as an allowable estate deduction if it is allowable in calculating the aggregate income of the estate.
- (4) No sum is to be counted twice as an allowable estate deduction.
- (5) Payments in respect of expenses are only allowable estate deductions if they are properly chargeable to income (ignoring any specific direction in a will).
- (6) In this section “excess deductions from the previous tax year” means so much of the allowable deductions for the previous tax year as exceeded the aggregate income of the estate for that year.

667 Shares of residuary income of estate

- (1) In the case of a person who has an absolute interest in the whole of the residue of an estate for a whole tax year, the person's share of the residuary income of the estate in respect of that interest for that year is equal to the whole of that income for that year.

- (2) In the case of a person who—
- (a) has an absolute interest in the whole of the residue of an estate for part of the tax year, or
 - (b) an absolute interest in part of the residue of an estate for the whole or part of the tax year,

the person's share of the residuary income of the estate is a proportionate part of that income for that year.

- (3) This section is subject to section 668 (reduction in share of residuary income of estate).

668 Reduction in share of residuary income of estate

- (1) This section applies if a person has an absolute interest in the whole or part of the residue of an estate at the end of the administration period and—

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- (a) the total of the person's shares of the residuary income of the estate in respect of that interest for all tax years (apart from this section), exceeds
 - (b) the total of all sums paid during or payable at the end of the administration period in respect of that interest to any person (grossed up where subsection (5) applies).
- (2) In the final tax year the person's share of the residuary income of the estate is to be reduced by that excess.
- (3) If that excess is greater than the person's share of that income for the final tax year, that person's share of that income for the previous tax year is to be reduced, and so on.
- (4) If subsection (3) applies all necessary adjustments and repayments of income tax are to be made.
- (5) For the purposes of calculating the total mentioned in subsection (1)(b)—
 - (a) if the estate is a UK estate in relation to a tax year in which a sum is paid, the sum is to be grossed up by reference to the basic rate for that year, and
 - (b) if the estate is a UK estate in relation to the final tax year, a sum payable at the end of the administration period is to be grossed up by reference to the basic rate for that year.
- (6) For the application of this section where two or more absolute interests in the whole or the same part of the residue are held successively by different persons, see section 671(5) and (6).

669 Reduction in residuary income: inheritance tax on accrued income

- (1) This section applies if on the death of a person (“D”) income which accrued before D's death (“pre-death income”) is taken into account both—
 - (a) in determining the value of D's estate for the purposes of inheritance tax charged on D's death, and
 - (b) in calculating the residuary income of D's estate for a tax year.
 - (2) A reduction is made in the residuary income of D's estate for that tax year in ascertaining the extra liability, if any, of a person with an absolute interest in the whole or part of the residue of D's estate or any other estate to which that residuary income is relevant.
 - (3) A person's extra liability is the amount by which the person's liability to income tax exceeds the amount it would be if—
 - ^[F117](a) income charged at the ^[F118]applicable rate] were charged at the basic rate, and
 - (b) income charged at the dividend additional rate or the dividend upper rate were charged at the dividend ordinary rate.]
- ^[F119](3A) For the purposes of subsection (3), the “applicable rate” means—
- (a) the additional rate,
 - (b) the higher rate, or
 - (c) in the case of a Scottish taxpayer, any Scottish rate above the Scottish basic rate.]
- (4) The amount of the reduction under subsection (2) is calculated as follows:

Step 1

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Calculate the net pre-death income by subtracting from the pre-death income any liabilities which have been taken account both—

- (a) in determining the value of D's estate for the purposes of inheritance tax, and
- (b) in calculating the residuary income of D's estate for the tax year.

Step 2

Calculate the inheritance tax attributable to net pre-death income by multiplying the inheritance tax to be charged by—

$$\frac{\text{NPDI}}{\text{VE}}$$

where—

NPDI is the net pre-death income, and

VE is the value of D's estate.

Step 3

Gross up the inheritance tax attributable to net pre-death income by reference to the basic rate for the tax year.

- (5) The amount of pre-death income taken into account in determining the value of D's estate is taken to be the actual amount of income accruing before D's death, less income tax at the basic rate for the tax year in which D died.
- (6) Subsection (5) applies even if the income so accruing was not valued separately or its amount was not known at the date of D's death.
- (7) For the purposes of this section, the amounts agreed between the persons liable for inheritance tax and [^{F120}an officer of Revenue and Customs], or determined in proceedings between them, as the value of the estate and the amount of inheritance tax to be charged are conclusive.
- (8) Evidence of those amounts and of any facts relevant to their calculation may be given by the production of a document that appears to be a certificate from [^{F120}an officer of Revenue and Customs]

Textual Amendments

- F117** S. 669(3)(a)(b) substituted (with effect in accordance with s. 4(18) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 4\(13\)](#)
- F118** Words in s. 669(3)(a) substituted (24.3.2017) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Scotland Act 2016 \(Income Tax Consequential Amendments\) Regulations 2017 \(S.I. 2017/468\), regs. 1\(1\), 8\(2\)](#)
- F119** S. 669(3A) inserted (24.3.2017) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Scotland Act 2016 \(Income Tax Consequential Amendments\) Regulations 2017 \(S.I. 2017/468\), regs. 1\(1\), 8\(3\)](#)
- F120** Words in s. 669(7)(8) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 ss. 50, 53(1), Sch. 4 para. 132(1); [S.I. 2005/1126, art. 2\(h\)](#)

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670 Applicable rate for determining assumed income entitlement (UK estates)

- (1) The applicable rate by reference to which income tax on a person's share of the residuary income of the estate for a tax year is calculated for the purposes of step 2 of the calculation in section 665(1) depends on the rate at which income tax is borne by the aggregate income of the estate for the year.
 - (2) If the aggregate income of the estate all bears income tax at the same rate, the applicable rate is that rate.
 - (3) If different parts of the aggregate income of the estate bear income tax at different rates, the applicable rate is the rate that applies to the income to which the person's share of the residuary income of the estate relates.
 - (4) If different rates apply to different parts of that income, each of those rates is the applicable rate that applies to the corresponding part of the income to which the person's share of the residuary income of the estate relates.
- [^{F121}(4A) The aggregate income of the estate, so far as it consists of income within section 664(2) (c) or (d), is treated for the purposes of this section as bearing income tax at 0%.]
- (5) For the purposes of this section, if there is more than one person with an absolute interest in the residue of the estate, such apportionments of parts of the aggregate income of the estate bearing income tax at different rates are to be made as are just and reasonable for their different interests.

Textual Amendments

F121 S. 670(4A) inserted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 23](#)

Special rules for successive interests

671 Successive absolute interests

- (1) This section applies if two or more absolute interests in the whole or the same part of the residue of an estate are held successively during the administration period by different persons.
- (2) In determining whether a person with a later such interest (“the later holder”) has an assumed income entitlement in respect of that interest and, if so, its amount—
 - (a) the later holder's share of the residuary income of the estate in respect of that interest for any tax year is to be treated as including the share of any person with a previous such interest (“a previous holder”), and
 - (b) the basic amounts relating to the later holder's interest are to be treated as including the basic amounts relating to any previous such interest.
- (3) In applying subsection (2), all determinations under that subsection or section 672(2) that fall to be made in relation to a person with an earlier interest are to be made before determinations under those provisions relating to a person with a later interest.
- (4) A person who is a previous holder in the final tax year is to be taxed in that year, in relation to the interest as to which that person is a previous holder, as if that year were not the final tax year, and the later holder's assumed income entitlement in that

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year is to be calculated accordingly [^{F122}(or, where the previous holder is a company chargeable to corporation tax, having regard to the application of section 954(4) of CTA 2009 to the previous holder)].

- (5) The calculation under section 668(1)(a) and (b) (amount of reduction in the share of the residuary income of the person with an absolute interest at the end of the administration period) is to be made by reference to all the absolute interests taken together.
- (6) If the amount resulting from that calculation is greater than the total amount of the reductions which can be made under section 668(2) and (3), the share of the residuary income of the estate of the last previous holder of the interest for the last tax year in which that last holder had that interest is to be reduced, and so on [^{F123}(but, in a case where the last previous holder or any earlier previous holder is a company chargeable to corporation tax, having regard to the application of section 954(6) of CTA 2009 to the previous holder)].
- (7) For the purposes of this section and sections 672 to 676, two interests are held successively even where one is not held immediately before or after the other.
- (8) It is assumed for those purposes that each of the persons holding the interests in question is a person liable to income tax.

Textual Amendments

F122 Words in s. 671(4) added (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 634(a)** (with Sch. 2 Pts. 1, 2)

F123 Words in s. 671(6) added (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 634(b)** (with Sch. 2 Pts. 1, 2)

672 Successive interests: assumed income entitlement of holder of absolute interest following limited interest

- (1) This section applies if—
 - (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
 - (b) each later interest arises or is created on the cessation of the previous interest otherwise than by death,
 - (c) at least one of the interests is an absolute interest, and
 - (d) at least one of the interests preceding that interest is a limited interest.
- (2) Rules A and B apply to determine in relation to such an absolute interest—
 - (a) whether the person with the interest has an assumed income entitlement in respect of the interest, and
 - (b) if so, its amount.
- (3) Rule A is that the person's share of the residuary income of the estate in respect of the absolute interest for any tax year is treated as including any amount which would be included in it if—
 - (a) the interest had subsisted throughout the period when any such limited interest subsisted, and
 - (b) no such limited interest had ever subsisted.

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- (4) Rule B is that the basic amounts relating to the absolute interest are treated as including the basic amounts relating to any such limited interest.

673 Successive interests: payments in respect of limited interests followed by absolute interests

- (1) This section applies if—
- (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
 - (b) each later interest arises or is created on the cessation of the previous interest otherwise than by death,
 - (c) at least one of the interests is an absolute interest, and
 - (d) at least one of the interests preceding that interest is a limited interest.
- (2) A sum to which a person (“P”) with such an absolute interest is entitled in respect of any such limited interest which is paid while P has the absolute interest is treated as paid in respect of the absolute interest (and not the limited interest).
- (3) Subsection (4) applies if—
- (a) P's absolute interest ceases during the administration period, and
 - (b) a sum to which P is entitled in respect of any such limited interest—
 - (i) is paid after the absolute interest ceases but before the end of the administration period, or
 - (ii) remains payable at the end of it.
- (4) This Chapter applies as respects any such sum as if the limited interest had continued to subsist while that absolute interest subsisted and had been held by P.
- (5) Subsection (4) is subject to subsection (6).
- (6) For the purposes only of section 668 (reduction in share of residuary income of estate), any such sum is treated as paid or payable in respect of the absolute interest.

674 Successive interests: holders of limited interests

- (1) This section applies if—
- (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
 - (b) the earlier or, if there are more than two, the earliest of the interests is a limited interest, and
 - (c) each later interest arises or is created on the cessation of the previous interest otherwise than by death.
- (2) Income is treated as arising from a limited interest in the whole or part of the residue of the estate in a tax year in cases A, B and C.
- (3) Case A is where—
- (a) one of the successive interests subsists at the beginning of the tax year,
 - (b) a sum is paid in respect of one of the interests in that year and before the end of the administration period, and
 - (c) a person who has or has had one of the interests which is a limited interest (“a limited holder”) is entitled to receive the payment.

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- (4) Case B is where—
- (a) the tax year is the final tax year,
 - (b) one of the successive interests subsists at the beginning of that year,
 - (c) a sum remains payable in respect of one of the interests at the end of the administration period, and
 - (d) a limited holder is entitled to receive the payment.
- (5) Case C is where—
- (a) the tax year is a year before the final tax year,
 - (b) the last of the successive interests ceases in the tax year,
 - (c) a sum is either—
 - (i) paid in respect of one of the interests in a later tax year but before the end of the administration period, or
 - (ii) remains payable in respect of it at the end of that period, and
 - (d) a limited holder is entitled to receive the payment.

675 Basic amount of estate income: successive limited interests

The basic amount of estate income relating to a limited interest within section 674 for a tax year is the total of the sums within section 674(3)(b), (4)(c) and (5)(c) for that year.

676 Apportionments

- (1) Such apportionments as are just and reasonable are to be made for the purposes of this Chapter if—
- (a) the part of a residuary estate in which an interest within any of the provisions specified in subsection (2) subsists does not wholly correspond with the part in which another such interest held successively subsists, or
 - (b) one of those interests is in the whole of the residuary estate and the other is only in part of it.
- (2) The provisions are—
- section 671 (successive absolute interests),
 - section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest),
 - section 673 (successive interests: payments in respect of limited interests followed by absolute interests),
 - section 674 (successive interests: holders of limited interest), and
 - section 675 (basic amount of estate income: successive limited interests).

Relief where foreign estates have borne UK income tax

677 Relief where UK income tax borne by foreign estate: absolute interests

- (1) This section applies if—
- (a) an estate is a foreign estate in relation to a tax year,
 - (b) United Kingdom income tax has been charged on a person for the tax year on estate income treated as arising from the estate under section 652 (estate income: absolute interests in residue), and

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- (c) United Kingdom income tax has already been borne by part of the aggregate income of the estate for the tax year.
- (2) If the person makes a claim under this section, the income tax charged on the person on that estate income is to be reduced by an amount equal to—

$$T \times \frac{A}{B}$$

where—

T is the income tax charged on the person,

A is so much of the aggregate income of the estate as has already borne United Kingdom income tax for the tax year, and

B is the aggregate income of the estate for the tax year.

- [^{F124}(3) The tax reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007.]

Textual Amendments

F124 S. 677(3) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 562](#) (with transitional provisions and savings in [Sch. 2](#))

678 Relief where UK income tax borne by foreign estate: limited and discretionary interests

- (1) This section applies if—
- an estate is a foreign estate in relation to a tax year,
 - United Kingdom income tax has been charged on a person for the tax year on estate income from the estate treated as arising under—
 - section 654 (estate income: limited interests in residue), or
 - section 655 (estate income: discretionary interests in residue), and
 - United Kingdom income tax has already been borne by part of the aggregate income of the estate for the tax year.
- (2) If the person makes a claim under this section, the income tax charged on the person on that estate income is to be reduced by an amount equal to—

$$T \times \frac{A - C}{B - C}$$

where—

T is the income tax charged on the person,

A is so much of the aggregate income of the estate as has already borne United Kingdom income tax for the tax year,

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B is the aggregate income of the estate for the tax year, and

C is the amount of United Kingdom income tax already borne by the aggregate income of the estate for the tax year.

[^{F125}(3) The tax reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007.]

Textual Amendments

F125 S. 678(3) inserted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 563](#) (with transitional provisions and savings in [Sch. 2](#))

General

679 Income from which basic amounts are treated as paid

- (1) The part of the aggregate income of the estate from which a basic amount 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 interests in the residue of the estate, payments in respect of their basic amounts are paid out of the different parts of the aggregate income of the estate in such proportions as are just and reasonable for their different interests.
- (3) Assumption B is that payments are made from those parts in the following order—
 - (a) income bearing income tax at the basic rate,
 - ^{F126}(b)and
 - (c) income bearing income tax at the dividend ordinary rate.
- (4) If some, but not all, of the aggregate income of the estate is income treated under section 680 as bearing income tax, 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.

Textual Amendments

F126 S. 679(3)(b) omitted (with effect in accordance with [Sch. 1 para. 65](#) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 60](#)

680 Income treated as bearing income tax

- (1) This section has effect for the purposes of—

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section 663 (the applicable rate for grossing up basic amounts of estate income),
section 670 (applicable rate for determining assumed income entitlement (UK
estates)), and
section 679 (income from which basic amounts are treated as paid).

(2) If the aggregate income of the estate includes a sum within subsection ^{F127}... (4), the
sum is treated as bearing income tax at the rate specified for it in that subsection.

^{F128}(3)

(4) A sum that is part of the aggregate income of the estate because of falling within
section 664(2)(e) (gains from life insurance contracts etc.) is treated as bearing income
tax at the [^{F129} basic rate] .

(5) Income tax treated as borne under section 656(3) or 657(4) (gross amount of estate
income treated as bearing tax at the applicable rate) is not repayable so far as the basic
amount of the estate income in question is paid from sums within this section.

Textual Amendments

F127 Words in s. 680(2) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by
virtue of Finance Act 2016 (c. 24), **Sch. 1 para. 24(a)**

F128 S. 680(3) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of
Finance Act 2016 (c. 24), **Sch. 1 para. 24(b)**

F129 Words in s. 680(4) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by
Finance Act 2008 (c. 9), **Sch. 1 para. 61**

[^{F130} 680A] Income treated as ^{F131}... dividend income

(1) [^{F132} Subsection (3) applies] to income if it—
(a) is treated under section 656(3) or 657(4) (gross amount of estate income
treated as bearing tax at the applicable rate) as bearing tax at ^{F133}... the dividend
ordinary rate [^{F134} or as bearing tax at 0% because of section 663(5)], and
(b) is not paid through a trustee.

^{F135}(2)

(3) [^{F136} The income] is treated as dividend income.

(4) [^{F137} Subsection (6) applies] to income if it—
(a) is treated by section 662, read with section 656(3) or 657(4), as bearing tax
at ^{F138}... the dividend ordinary rate [^{F139} or as bearing tax at 0% because of
section 663(5)], and
(b) is paid through a trustee.

^{F140}(5)

(6) [^{F141} The income] is treated as dividend income of the trustee.]

Textual Amendments

F130 S. 680A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act
2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 566** (with transitional provisions and savings in Sch. 2)

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- F131** Words in s. 680A heading omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 62\(8\)](#)
- F132** Words in s. 680A(1) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 62\(2\)\(a\)](#)
- F133** Words in s. 680A(1) omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 62\(2\)\(b\)](#)
- F134** Words in s. 680A(1)(a) inserted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 25](#)
- F135** S. 680A(2) omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 62\(3\)](#)
- F136** Words in s. 680A(3) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 62\(4\)](#)
- F137** Words in s. 680A(4) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 62\(5\)\(a\)](#)
- F138** Words in s. 680A(4) omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 62\(5\)\(b\)](#)
- F139** Words in s. 680A(4)(a) inserted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 25](#)
- F140** S. 680A(5) omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 62\(6\)](#)
- F141** Words in s. 680A(6) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 62\(7\)](#)

681 Transfers of assets etc. treated as payments

- (1) For the purposes of this Chapter—
 - (a) a transfer of assets, or
 - (b) the appropriation of assets by personal representatives to themselves,
 is treated as the payment of an amount equal to the assets' value at the date of transfer or appropriation.
- (2) The set off or release of a debt is treated for the purposes of this Chapter as the payment of an amount equal to it.
- (3) If at the end of the administration period—
 - (a) there is an obligation to transfer assets to any person, or
 - (b) personal representatives are entitled to appropriate assets to themselves,
 an amount equal to the assets' value at that time is treated as payable then for the purposes of this Chapter.
- (4) If at the end of the administration period—
 - (a) there is an obligation to release or set off a debt owed by any person, or
 - (b) personal representatives are entitled to release or set off a debt in their own favour,
 a sum equal to the debt is treated as payable then for the purposes of this Chapter.

682 Assessments, adjustments and claims after the administration period

- (1) This subsection applies if after the administration period ends it is apparent that a person is liable for income tax on estate income for any tax year who previously appeared not to be so liable or to be liable for tax on a lesser amount.

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- (2) If subsection (1) applies—
 - (a) the person may be assessed and taxed for the tax year, and
 - (b) any relief or additional relief to which the person may be entitled for the tax year is to be allowed if a claim is made.
 - (3) This subsection applies if after the administration period ends it is apparent that a person who previously appeared to be liable for income tax on estate income for any tax year is not so liable or is liable for tax on a lesser amount.
 - (4) If subsection (3) applies—
 - (a) all necessary adjustments and repayments of income tax for the tax year are to be made, and
 - (b) if the person has been allowed relief which exceeds the relief that could have been given by reference to the amount actually charged for the tax year, income tax is charged on the person for that year under this subsection on the excess.
- [^{F142}(4A) The excess charged under subsection (4)(b) is treated as an amount of income for income tax purposes, except so far as it represents a tax reduction given effect at Step 6 of the calculation in section 23 of ITA 2007.]
- (5) An assessment or adjustment made for the purposes of this Chapter or a claim made as a result of this Chapter may be made after the end of the period otherwise allowed if it is made on or before the third anniversary of the normal self-assessment filing date for the tax year in which the administration period ends.

Textual Amendments

F142 S. 682(4A) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034. {Sch. 1 para. 567} (with transitional provisions and savings in Sch. 2)

[^{F143}682A] Statements relating to estate income

- (1) If a person within subsection (2) requests it in writing, a personal representative of a deceased person must provide the person with a statement showing—
 - (a) the amount treated as estate income arising from the person's interest in the whole or part of the deceased person's estate for which the person is liable to income tax for a tax year, and
 - (b) the amount of any tax at the applicable rate which any such amount is treated as having borne.
- (2) A person is within this subsection if—
 - (a) the person has or has had an absolute or limited interest in the whole or part of the residue of the estate, or
 - (b) estate income has arisen to the person from a discretionary interest the person has or has had in the whole or part of the residue of the estate.
- (3) A statement under subsection (1) must be in writing.
- (4) The duty to comply with a request under this section is enforceable by the person who made it.]

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Textual Amendments

F143 S. 682A inserted (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 7 para. 47](#) (with [Sch. 9 paras. 1-9, 22](#))

CHAPTER 7

ANNUAL PAYMENTS NOT OTHERWISE CHARGED

683 Charge to tax on annual payments not otherwise charged

- (1) Income tax is charged under this Chapter on annual payments that are not charged to income tax under or as a result of any other provision of this Act or any other Act.
- (2) Subsection (1) does not apply to annual payments that would be charged to income tax under or as a result of another provision but for an exemption.
- (3) The frequency with which payments are made is ignored in determining whether they are annual payments for the purposes of this Chapter.
- (4) For exemptions, see in particular—
 - (a) sections 727 to 730 (certain annual payments by individuals),
 - (b) section 731 (periodical payments of personal injury damages),
 - (c) section 732 (compensation awards),
 - (d) section 734 (payments from trusts for injured persons),
 - (e) sections 735 to 743 (health and employment insurance payments),
 - (f) sections 744 to 747 (payments to adopters),
 - ^{F144}(g)
 - (h) sections 757 to 767 (interest and royalty payments), and
 - (i) section 776 (scholarship income).

Textual Amendments

F144 S. 683(4)(g) repealed (with effect in accordance with Sch. 39 para. 21(3) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 39 para. 21\(2\)](#)

684 Income charged

- (1) Tax is charged under this Chapter on the full amount of the annual payments arising in the tax year.
- (2) Subsection (1) is subject to Part 8 (foreign income: special rules).
- (3) The amount charged under this Chapter in the case of certain payments made by trustees in the exercise of a discretion is subject to ^{F145}section 494 of ITA 2007[(grossing up of discretionary payments from trusts)].

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Textual Amendments

F145 Words in s. 684(3) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 568](#) (with transitional provisions and savings in [Sch. 2](#))

685 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the annual payments.

[^{F146}685A] Settlor-interested settlements

- (1) This section applies if—
 - (a) a person receives an annual payment in respect of income from the trustees of a settlement,
 - (b) the payment is made in the exercise of a discretion (whether of the trustees of the settlement or any other person), and
 - (c) a settlor is charged to tax under section 619(1) on the income arising to the trustees of the settlement (whether in the current year of assessment or in a previous year of assessment) out of which the annual payment is made.
- (2) This section applies only in respect of that proportion of the annual payment which corresponds to the proportion of the total income arising to the trustees of the settlement in respect of which a settlor is chargeable to tax under section 619(1).
- (3) If and in so far as this section applies, the recipient of the annual payment shall be treated for the purposes of this Chapter as having paid income tax at the [^{F147}additional rate]^{F148} or, in the case of a Scottish taxpayer, at [^{F149}the highest Scottish rate]] in respect of the annual payment.
- (4) But—
 - (a) tax which the recipient is treated by virtue of this section as having paid is not repayable,
 - (b) tax which the recipient is treated by virtue of this section as having paid may not be taken into account in relation to a tax liability of the recipient in respect of any other income of his, ^{F150} . . .
 - (c) ^{F150}
- (5) If the recipient of the annual payment is a settlor in relation to the settlement, if and in so far as this section applies the annual payment shall not be treated as his income for the purposes of the Income Tax Acts (and subsection (3) does not apply).

[If the recipient of the annual payment is treated by subsection (3) as having paid ^{F151}(5A) income tax in respect of the annual payment, the amount of the payment is treated as the highest part of the recipient's total income for all income tax purposes except the purposes of sections 535 to 537 (gains from contracts for life insurance etc: top slicing relief).

- (5B) See section 1012 of ITA 2007 (relationship between highest part rules) for the relationship between—
- (a) the rule in subsection (5A), and

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- (b) other rules requiring particular income to be treated as the highest part of a person's income.]
- (6) [^{F152}Sections 494 and 495 of ITA 2007] shall not apply in relation to an annual payment if and in so far as this section applies.]

Textual Amendments

- F146** S. 685A inserted (19.7.2006 with effect as mentioned in [Sch. 13 para. 6\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 89, [Sch. 13 para. 6\(1\)](#)
- F147** Words in s. 685A(3) substituted (with effect in accordance with [Sch. 2 para. 25](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 22](#)
- F148** Words in s. 685A(3) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), [11](#)
- F149** Words in s. 685A(3) substituted (24.3.2017) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Scotland Act 2016 \(Income Tax Consequential Amendments\) Regulations 2017 \(S.I. 2017/468\)](#), regs. 1(1), [8\(4\)](#)
- F150** S. 685A(4)(c) and preceding word repealed (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, [Sch. 1 para. 569\(2\)](#), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))
- F151** S. 685A(5A)(5B) inserted (with effect in accordance with s. 67(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), s. [67\(1\)](#)
- F152** Words in s. 685A(6) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 569\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

686 Payments received after deduction of tax

- (1) [^{F153}In accordance with section 848 of ITA 2007, a sum representing income tax deducted under Chapter 6 of Part 15 of that Act] from an annual payment within this Chapter is treated as income tax paid by the recipient ^{F154} . . .
- (2) See also [^{F155}section 494(3) of ITA 2007](sum treated as deducted from payments made under a discretionary trust treated as income tax paid by the person to whom the payment is made or the settlor).

Textual Amendments

- F153** Words in s. 686(1) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 570\(2\)\(a\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F154** Words in s. 686(1) repealed (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, [Sch. 1 para. 570\(2\)\(b\)](#), [Sch. 3 Pt. 1](#), (with transitional provisions and savings in [Sch. 2](#))
- F155** Words in s. 686(2) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, [Sch. 1 para. 570\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))

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CHAPTER 8

INCOME NOT OTHERWISE CHARGED

Modifications etc. (not altering text)

- C7** Pt. 5 Ch. 8 applied in part (1.12.2009) (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), regs. 1(1), **97(2)**
- C8** Pt. 5 Ch. 8 applied in part (1.12.2009) (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), regs. 1(1), **96(3)(b)**

687 Charge to tax on income not otherwise charged

- (1) Income tax is charged under this Chapter on income from any source that is not charged to income tax under or as a result of any other provision of this Act or any other Act.
- (2) Subsection (1) does not apply to annual payments [^{F156}or to income falling within Chapter 2A of Part 4].
- (3) Subsection (1) does not apply to income that would be charged to income tax under or as a result of another provision but for an exemption.
- (4) The definition of “income” in section 878(1) does not apply for the purposes of this section.
- (5) For exemptions from the charge under this Chapter, see in particular—
section 768 (commercial occupation of woodlands), and
section 779 (gains on commodity and financial futures).

Textual Amendments

- F156** Words in s. 687(2) inserted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 12 para. 13(3)**

688 Income charged

- (1) Tax is charged under this Chapter on the ^{F157}... amount of the income arising in the tax year.
- (2) Subsection (1) is subject to—
 - ^{F158}(za) Chapter 1 of Part 6A (which gives relief on relevant income which may consist of or include income chargeable under this Chapter: see, in particular, sections 783AB, 783AC, 783AG and 783AJ),
 - (a) Chapter 1 of Part 7 (which provides relief on income from the use of furnished accommodation in an individual's only or main residence: see, in particular, sections 794 and 798),
 - (b) Chapter 2 of that Part (which provides relief on income from the provision by an individual of [^{F159}qualifying care]: see, in particular, sections 814 and 817), and
 - (c) Part 8 (foreign income: special rules).

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Textual Amendments

- F157** Word in s. 688(1) omitted (with effect in accordance with s. 34(2) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 12 para. 22**
- F158** S. 688(2)(za) inserted (16.11.2017) (with effect in accordance with Sch. 3 para. 13 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 3 para. 9**
- F159** Words in s. 688(2)(b) substituted (16.12.2010) (with effect in accordance with Sch. 1 para. 36 of the amending Act) by Finance (No. 3) Act 2010 (c. 33), **Sch. 1 para. 33** (with Sch. 1 para. 37)

Modifications etc. (not altering text)

- C9** S. 688(1) excluded (1.12.2009) (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by The Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), regs. 1(1), **18(3)**

689 Person liable

The person liable for any tax charged under this Chapter is the person receiving or entitled to the income.

Modifications etc. (not altering text)

- C10** S. 689 excluded (1.12.2009) (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by The Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), regs. 1(1), **18(3)**

[^{F160}689A] Temporary non-residents

- (1) This section applies if an individual is temporarily non-resident.
- (2) Distributions within subsection (3) are to be treated for the purposes of this Chapter as if they had been received by the individual, or as if the individual had become entitled to them, in the period of return.
- (3) A distribution is within this subsection if—
 - (a) the individual receives or becomes entitled to it in the temporary period of non-residence,
 - (b) it is a distribution of a company that is a close company or that would be a close company if the company were UK resident,
 - (c) the individual receives or becomes entitled to the distribution by virtue of being at a relevant time—
 - (i) a material participator in the company, or
 - (ii) an associate of a material participator in the company, and
 - (d) ignoring this section, the individual—
 - (i) is not liable for tax under this Chapter in respect of the distribution, but
 - (ii) would have been so liable if the individual had received the distribution, or become entitled to it, in the period of return.
- (4) For the purposes of subsection (3)—
 - (a) “associate” and “participator” have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454),

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- (b) a “material participator” is a participator who has a material interest in the company, as defined in section 457 of that Act,
 - (c) “relevant time” means—
 - (i) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or
 - (ii) any time in one or more of the 3 tax years preceding that year, and
 - (d) paragraph (d)(i) includes a case where the individual could be relieved of liability on the making of a claim under section 6 of TIOPA 2010 (double taxation relief), even if no claim is in fact made.
- (5) If section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the year of return, any distribution within subsection (3) that is relevant foreign income and is remitted to the United Kingdom in the temporary period of non-residence is to be treated as remitted to the United Kingdom in the period of return.
- (6) In this section, “remitted to the United Kingdom” has the meaning given in Chapter A1 of Part 14 of ITA 2007.]

Textual Amendments

F160 S. 689A inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 137](#)

Status:

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Changes to legislation:

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