



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 5

MISCELLANEOUS INCOME

CHAPTER 2

RECEIPTS FROM INTELLECTUAL PROPERTY

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.

Status: Point in time view as at 06/04/2005.

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- (5) In subsection (4)—
- (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.

Status:

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