



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 5

MISCELLANEOUS INCOME

CHAPTER 5

SETTLEMENTS: AMOUNTS TREATED AS INCOME OF SETTLOR

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 [^{F1}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), and
- (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).

[^{F2}(2) For the purposes of [^{F3}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 [^{F4}Income Tax Acts] would have been applied in charging it if it had arisen directly to the settlor.]

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

Textual Amendments

- F1** Word in s. 619(1)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), [reg. 186](#)
- F2** 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\(1\)](#)
- F3** 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](#))
- F4** 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](#))

[^{F5}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

- F5** 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.

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

(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) [^{F6}the Trustees of the National Heritage Memorial Fund, [^{F7}and]
- (b) the Historic Buildings and Monuments Commission for England^{F8} ...
- (c) ^{F8} ...]

Textual Amendments

F6 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](#))

F7 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.**

F8 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)

C1 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 income and capital sums to which section 619(1) applies.

622 Person liable

The person liable for any tax charged under this Chapter is the settlor.

Rules for calculating income

623 Calculation of income

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

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

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—
- (a) during the life of the settlor, and
 - (b) from property in which the settlor has an interest.
- [^{F9}(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 [^{F10}or civil partners]),
 section 627 (exceptions for certain types of income), and
 section 628 (exception for gifts to charities).

Textual Amendments

- F9** 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](#))
- F10** Words in s. 624(3) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), [reg. 187](#)

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—
- (a) is payable to the settlor or the settlor's spouse [^{F11}or civil partner] ,
 - (b) is applicable for the benefit of the settlor or the settlor's spouse [^{F11}or civil partner] , or
 - (c) will, or may, become so payable or applicable.
- (2) Subsection (1) does not apply if the only circumstances are one or more of—
- (a) the bankruptcy of a person who is, or may become, beneficially entitled to the property or any related property,
 - (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,
 - [^{F12}(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.
- [^{F13}(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—

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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 [^{F14}or civil partner]” does not include—
- (a) a spouse [^{F14}or civil partner] from whom the settlor is separated under an order of a court or a separation agreement,
 - (b) a spouse [^{F14}or civil partner] from whom the settlor is separated where the separation is likely to be permanent,
 - (c) the widow or widower [^{F15}or surviving civil partner] of the settlor, or
 - (d) a person to whom the settlor is not married but may later marry [^{F16}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

- F11** 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)**
- F12** S. 625(2)(d) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **188(3)**
- F13** S. 625(2A) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **188(4)**
- F14** 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)**
- F15** 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)**
- F16** 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)**

626 Exception for outright gifts between spouses [^{F17}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 [^{F18}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—

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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

- F17** 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)**
- F18** 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 [^{F19}or civil partnership] by way of provision for the other—
 - (i) after the dissolution or annulment of the marriage [^{F19}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 [^{F20}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
 - (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)).
- [^{F21}(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

- F19** 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**

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- F20** 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)
- F21** [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 ^{F22}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 ^{F23}must] be accumulated,
 - (b) income which is payable at the discretion of the trustees or any other person ^{F24} . . .
 - (c) income which (before being distributed) is income of any person other than the trustees.
- ^{F25}(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 ^{F22}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 ^{F26}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—
- “charity” includes
- (a) ^{F27}the Trustees of the National Heritage Memorial Fund, ^{F28}and]
 - (b) the Historic Buildings and Monuments Commission for England^{F29} . . .
 - (c) ^{F29} . . .]

^{F30} . . .

^{F31}“UK settlement” means a settlement the trustees of which are resident ^{F32} . . . in the United Kingdom.]

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

Textual Amendments

- F22** Words in s. 628 substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), **Sch. 13 para. 33(1)(5)**
- F23** 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](#))
- F24** 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](#))
- F25** 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](#))
- F26** 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**
- F27** 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](#))
- F28** 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.**
- F29** 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.**
- F30** 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](#))
- F31** Words in s. 628(6) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), **Sch. 13 para. 33(2)(5)**
- F32** 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

Income treated as income of settlor: [F³³relevant] children

Textual Amendments

- F33** 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 [F³⁴relevant] 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, [F³⁵a relevant] child of the settlor, or
 - (b) would otherwise be treated (apart from this section) as income of [F³⁵a relevant] child of the settlor.
- (2) Subsection (1) does not apply to income which is treated as income of the settlor under section 624.

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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).
- (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—
- (a) "child" includes a stepchild,
 - (b) "minor" means a person under the age of 18 years, and "minor child" is to be read accordingly,^{F36} . . .
 - (c) references to payments include payments in money's worth [^{F37}, and]
 - [^{F38}(d) "relevant child" means a minor child who is unmarried or not in a civil partnership.]
- [^{F39}(8) Subsection (1) is subject to section 28A of FA 2005.]

Textual Amendments

- F34** Word in s. 629 heading substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, [192\(4\)](#)
- F35** 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\(2\)](#)
- F36** 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\(3\)\(a\)](#)
- F37** 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\(3\)\(b\)](#)
- F38** S. 629(7)(d) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, [192\(3\)\(c\)](#)
- F39** 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.

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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.

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, [^{F40}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 [^{F41}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

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (e) applied in meeting expenses of the trustees which—
- (i) were properly chargeable to income, or
 - (ii) would have been so chargeable but for any express [^{F42}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 [^{F43}the child's total income or net income at Step 2 or 3 of the calculation in section 23 of ITA 2007].

Textual Amendments

- F40** 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)**
- F41** 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)**
- F42** 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)**
- F43** 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 [^{F44}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 [^{F45}Chapter 5 of Part 2 of those Regulations].

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

Textual Amendments

- F44** 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)**
- F45** 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.

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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
 - (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 [^{F46}or civil partner] of the settlor, or
 - (b) the settlor (or the spouse [^{F46}or civil partner] of the settlor) jointly with another person.

Textual Amendments

F46 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 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 [^{F47}trust rate] on—
 - (i) the total amount of income arising under the settlement in that year and any previous year which has not been distributed, less

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

(ii) any income of the kind mentioned in paragraph (c).

(4) See sections 636 and 637 for how to calculate amounts of undistributed income.

Textual Amendments

F47 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](#))

636 Calculation of undistributed income

- (1) For the purposes of section 635, income arising under a settlement in any tax year is treated as 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 such sums paid in the tax year to any persons by the trustees of the settlement as—
- (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 so treated if those persons were domiciled [^{F48}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 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—

$$A > B$$

where—

A is any income arising under the settlement in the tax year in respect of which exemption from tax may be granted under [^{F49}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.

[^{F50}(7) This subsection applies to the following provisions of ITA 2007—

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

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

- F48** 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\(2\)](#))
- F49** 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](#))
- F50** 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
 - (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 interest paid by the trustees of the settlement subject to subsections (3) to (7).
- (3) The whole of any 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 [^{F51}or civil partner] of the settlor.
- (4) If any sum within section 636(2) was so paid, the relevant fraction of any interest paid by the trustees of the settlement is excluded from section 636(4).
- (5) The relevant fraction is—

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

where—

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

A is the whole of the 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 [^{F52}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 [^{F53}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.
- (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

- F51** 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)**
- F52** 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)**
- F53** 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)**

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

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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.

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 [^{F54}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 [^{F54}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

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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, ^{F55} ...
- (ii) 40%, if the relevant tax year is the year 2004-05 or any subsequent tax year [^{F56}up to and including the year 2009-2010, ^{F57} ...
- (iii) 50%, if the relevant tax year is the year 2010-2011^{F58}, 2011-12 or 2012-13, and] .
- ^{F59}(iv) 45%, if the relevant year is the year 2013-14 or any subsequent tax year.]
- (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

- F54** 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](#))
- F55** 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)**
- F56** 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)**
- F57** 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)**
- F58** 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)**
- F59** 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—

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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
 - (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,

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

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 [F60 section 449 of CTA 2010]) associated with another body corporate may be treated as paid by, or made to, the other body corporate.

Textual Amendments

F60 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](#))

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 section 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

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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 [^{F61} 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
 - (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

- F61** 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 [^{F62}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.
- [^{F63}(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 [^{F64}repayment] to—

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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.
- [^{F65}(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.
- (6B) A certificate provided under subsection (6A) is conclusive evidence of the facts stated in it.]
- (7) [^{F66}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 [^{F67}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

- F62** 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\(h\)](#)
- F63** 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\(2\)](#)
- F64** 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\(3\)](#)
- F65** 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\(4\)](#)
- F66** 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\(5\)](#)
- F67** 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](#)

[^{F68}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—

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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 (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—
- “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

F68 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](#))

^{F69}647 Power to obtain information

Textual Amendments

F69 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 [^{F70} and resident] there.
- [^{F71}(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.

Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5. (See end of Document for details)

- (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

- F70** 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](#)
- F71** S. 648(2)-(5) substituted (retrospective to 21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 27 paras. 13, 15\(2\)](#)

Status:

Point in time view as at 06/04/2015.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 5.