



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 5

MISCELLANEOUS INCOME

CHAPTER 6

BENEFICIARIES' INCOME FROM ESTATES IN ADMINISTRATION

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

Status: Point in time view as at 06/04/2005.

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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).

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.

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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—
 - (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.

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- (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—
- (a) income charged at the higher rate were charged—
 - (i) in the case of income within section 1A(1A)(c) of ICTA (income chargeable at the lower rate instead of the starting rate or the basic rate), at the lower rate, and
 - (ii) in any other case, at the basic rate, and
 - (b) income charged at the dividend upper rate were charged at the dividend ordinary rate.
- (4) The amount of the reduction under subsection (2) is calculated as follows:

Step 1

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 the Inland Revenue, or determined in proceedings between

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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 the Inland Revenue.

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.
- (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.

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