



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 5

#### MISCELLANEOUS INCOME

### CHAPTER 6

#### BENEFICIARIES' INCOME FROM ESTATES IN ADMINISTRATION

##### *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 [<sup>F1</sup>in descending order, starting with the income bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate].
- (4) If some, but not all, of the aggregate income of the estate is income [<sup>F2</sup>within section 680], 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—

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- (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

- F1** Words in s. 679(3) substituted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 2 paras. 5\(a\)](#), 14(2)(a)
- F2** Words in s. 679(4) substituted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 2 paras. 5\(b\)](#), 14(2)(a)

### [<sup>F3</sup>679A Income from which sums within section 668(1)(b) are treated as paid

- (1) The part of the aggregate income of the estate from which a sum within section 668(1)(b) 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 an absolute interest in the residue of the estate, such apportionments of the aggregate income of the estate in respect of those interests are to be made as are just and reasonable for the different interests.
- (3) Assumption B is that sums are paid from the income to which a person's share of the residuary estate relates in descending order, starting with the income bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate.
- (4) If some, but not all, of the aggregate income of the estate is income within section 680, 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

- F3** S. 679A inserted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 2 paras. 2\(3\)](#), 14(2)(a)

### 680 Income treated as bearing income tax

- (1) This section has effect for the purposes of—
  - section 663 (the applicable rate for grossing up basic amounts of estate income),
  - section 670 (applicable rate for determining assumed income entitlement (UK estates)), <sup>F4</sup> ...
  - section 679 (income from which basic amounts are treated as paid) [<sup>F5</sup>, and

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section 679A (income from which sums within section 668(1)(b) are treated as paid).]

(2) If the aggregate income of the estate includes a sum within subsection [<sup>F6</sup>(2A) or]<sup>F7</sup> ... (4), the sum is treated as bearing income tax at the rate specified for it in that subsection.

<sup>F8</sup>(2A) A sum that is part of the aggregate income of the estate because of falling within section 664(2)(c) (stock dividends) or (d) (release of loans to participator in close company: loans and advances to persons who die) is treated as bearing income tax at 0%.]

<sup>F9</sup>(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 [<sup>F10</sup>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

- F4** Word in s. 680(1) omitted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by virtue of [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 2 paras. 2\(4\)\(a\)](#), 14(2)(a)
- F5** Words in s. 680(1) inserted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 2 paras. 2\(4\)\(b\)](#), 14(2)(a)
- F6** Words in s. 680(2) inserted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 2 paras. 3\(3\)\(a\)](#), 14(2)(a)
- F7** 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\(a\)](#)
- F8** S. 680(2A) inserted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 2 paras. 3\(3\)\(b\)](#), 14(2)(a)
- F9** 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\(b\)](#)
- F10** 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](#)

#### <sup>F11</sup>680A Income treated as dividend income

- (1) This section applies to estate income that—
- (a) by virtue of section 663 (applicable rate for grossing up basic amounts of estate income) is treated as bearing income tax at the ordinary dividend rate, or
  - (b) by virtue of that section and section 680(2A) (income treated as bearing income tax: dividends and loans to a participator in close company) is treated as bearing income tax at 0%.
- (2) The income is treated as being dividend income.]

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#### Textual Amendments

**F11** S. 680A substituted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 2 paras. 4\(2\)](#), 14(2)(a)

### [<sup>F12</sup>680B Income treated as savings income

- (1) This section applies to estate income relating to a person's interest in the residue of an estate so far as that interest relates to income that—
  - (a) falls within section 664(2)(a) (income of personal representatives charged to UK income tax), and
  - (b) is savings income (see section 18 of ITA 2007).
- (2) The income is treated as being savings income.]

#### Textual Amendments

**F12** S. 680B inserted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 2 paras. 4\(3\)](#), 14(2)(a)

### 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.
- (2) If subsection (1) applies—

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- (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.
- [<sup>F13</sup>(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

**F13** 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)

#### [<sup>F14</sup>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**

- F14** 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](#))

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

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

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