



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 5

MISCELLANEOUS INCOME

CHAPTER 2

RECEIPTS FROM INTELLECTUAL PROPERTY

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.
- (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

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- (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.
- (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,

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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).

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

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(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 [^{F1}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 [^{F2}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.

Textual Amendments

F1 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](#))

F2 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.

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- (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—
 - (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](#)))

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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](#))

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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\(7\)\(a\)](#)