

# **INCOME TAX (TRADING AND OTHER INCOME) ACT 2005**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 5: Miscellaneous income**

#### ***Chapter 5: Settlements: amounts treated as income of settlor***

#### ***Section 633: Capital sums paid to settlor by trustees of settlement***

2427. This section provides the third charge under this Chapter. It treats as income of the settlor capital sums paid or lent to the settlor by the trustees of the settlement where those payments are matched by undistributed income within the settlement. It is based on section 677 of ICTA.
2428. *Subsection (1)* and *(2)* provide the basic rule that capital payments to the settlor are treated as his or her income where there is sufficient available income within the settlement up to the end of that tax year to cover that payment.
2429. *Subsection (3)* deals with the situation where there is insufficient available income up to the end of the year in which the loan is made. One then takes into account the available income for the following year to the extent that it has not been treated as the settlor's income following a capital payment made in that year. If there is still insufficient available income one takes into account the available income for the year after that and so on.
2430. *Subsection (4)* allows the rule in subsection (3) to run for up to 10 years subsequent to the capital payment.