



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 5

#### MISCELLANEOUS INCOME

### CHAPTER 6

#### BENEFICIARIES' INCOME FROM ESTATES IN ADMINISTRATION

##### *Charge to tax on estate income*

#### **649 Charge to tax on estate income**

- (1) Income tax is charged on estate income.
- (2) In this Chapter—
  - “estate income” means the income treated under this Chapter as arising from an absolute, limited or discretionary interest in the whole or part of the residue of an estate, and
  - “estate” means the estate of a deceased person (whether a UK estate or a foreign estate).
- (3) Estate income is treated as income for income tax purposes.
- (4) If different parts of an estate are subject to different residuary dispositions, those parts are treated for the purposes of this Chapter as if they were separate estates.

#### **650 Absolute, limited and discretionary interests**

- (1) A person has an absolute interest in the whole or part of the residue of an estate for the purposes of this Chapter if—

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- (a) the capital of the residue or that part is properly payable to the person, or
  - (b) it would be so payable, if the residue had been ascertained.
- (2) A person has a limited interest in the whole or part of the residue of an estate during any period for the purposes of this Chapter if—
- (a) the person does not have an absolute interest in it, and
  - (b) the income from it would be properly payable to the person if the residue had been ascertained at the beginning of that period.
- (3) A person has a discretionary interest in the whole or part of the residue of an estate for the purposes of this Chapter if—
- (a) a discretion may be exercised in the person's favour, and
  - (b) on its exercise in the person's favour any of the income of the residue during the whole or part of the administration period (see section 653) would be properly payable to the person if the residue had been ascertained at the beginning of that period.
- (4) For the purposes of this section, an amount is only treated as properly payable to a person if it is properly payable to the person, or to another in the person's right, for the person's benefit, except where subsection (5) applies.
- (5) The personal representatives of a deceased person (“A”) are to be treated as having an absolute or limited interest in the whole or part of the residue of the estate of another deceased person (“B”) if—
- (a) they have a right in their capacity as A's personal representatives, and
  - (b) were the right vested in them for their own benefit, they would have that interest in B's estate.
- (6) For the purposes of subsection (4), it does not matter whether the amount is payable directly by the personal representatives or through a trustee or other person.

**Modifications etc. (not altering text)**

**C1** S. 650(1) applied (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [ss. 952\(6\), 1329\(1\)](#) (with [Sch. 2 Pts. 1, 2](#))

**651 Meaning of “UK estate” and “foreign estate”**

- (1) In this Chapter—
- “UK estate”, in relation to a tax year, means an estate which meets conditions A and B, or condition C, for that year, and
  - “foreign estate”, in relation to a tax year, means an estate which is not a UK estate in relation to that year.
- (2) Condition A is that all the income of the estate either—
- (a) has borne United Kingdom income tax by deduction, or
  - (b) is income in respect of which the personal representatives are directly assessable to United Kingdom income tax for the tax year.
- (3) Condition B is that none of the income of the estate is income for which the personal representatives are not liable to United Kingdom income tax for the tax year because they are not UK resident <sup>F1</sup>....

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- (4) For the purposes of conditions A and B sums within section [<sup>F2</sup>664(2)(c) or (d) or 680(4) (sums not liable to tax and sums] treated as bearing tax) are ignored.
- (5) Condition C is that the aggregate income of the estate for the tax year consists only of sums within section [<sup>F3</sup>664(2)(c) or (d) or 680(4)].

#### Textual Amendments

- F1** Words in s. 651(3) omitted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 46 para. 50
- F2** Words in s. 651(4) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by Finance Act 2016 (c. 24), Sch. 1 para. 20(a)
- F3** Words in s. 651(5) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by Finance Act 2016 (c. 24), Sch. 1 para. 20(b)

### *Types of estate income*

#### **652 Estate income: absolute interests in residue**

- (1) Income is treated as arising in a tax year from a person's absolute interest in the whole or part of the residue of an estate if—
  - (a) the person has an assumed income entitlement for the tax year in respect of the interest (see sections 665 to 670), and
  - (b) condition A or B is met.
- (2) Condition A is that a payment is made in respect of the interest in the tax year and before the end of the administration period (see section 653).
- (3) Condition B is that the tax year is the final tax year (see section 653).
- (4) Income treated as arising as a result of this section is estate income for the purposes of this Chapter.

#### **653 Meaning of “the administration period” and “the final tax year”**

- (1) In this Chapter “the administration period”, in relation to the estate of a deceased person, means the period beginning with the deceased's death and ending with the completion of the administration of the estate.
- (2) In the application of subsection (1) to Scotland, the reference to the completion of the administration is to be taken as a reference to the date at which, after discharge of, or provision for, liabilities falling to be met out of the deceased's estate, the free balance held in trust for the residuary legatees or for the persons with the right to the intestate estate has been ascertained.
- (3) In this Chapter “the final tax year” means the tax year in which the administration period ends.

#### **654 Estate income: limited interests in residue**

- (1) Income is treated as arising in a tax year from a person's limited interest in the whole or part of the residue of an estate in cases A, B and C.

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- (2) Case A is where—
- (a) the interest has not ceased before the beginning of the tax year, and
  - (b) a sum is paid in respect of the interest in that year and before the end of the administration period.
- (3) Case B is where—
- (a) the tax year is the final tax year,
  - (b) the interest has not ceased before the beginning of that year, and
  - (c) a sum remains payable in respect of the interest at the end of the administration period.
- (4) Case C is where—
- (a) the tax year is a year before the final tax year,
  - (b) the interest ceases in the tax year, and
  - (c) a sum is paid in respect of the interest in a later tax year but before the end of the administration period, or remains payable in respect of it at the end of that period.
- (5) This section does not apply to limited interests to which section 674 (successive interests: holders of limited interests) applies.
- (6) Income treated as arising as a result of this section or section 674 is estate income for the purposes of this Chapter.

**655 Estate income: discretionary interests in residue**

- (1) Income is treated as arising in a tax year from a person's discretionary interest in the whole or part of the residue of an estate if a payment is made in the tax year in exercise of the discretion in that person's favour.
- (2) Income treated as arising as a result of this section is estate income for the purposes of this Chapter.

*Income charged and person liable*

**656 Income charged: UK estates**

- (1) In the case of a UK estate, tax is charged under section 649 on the amount of estate income treated as arising in the tax year.
- (2) That amount is the basic amount of that income for the tax year (see subsection (4)) grossed up by reference to the applicable rate <sup>F4</sup>... (see section 663).
- (3) The gross amount is treated as having borne income tax at that rate.
- (4) In this Chapter “the basic amount”, in relation to estate income, has the meaning given by—
  - (a) section 660 (basic amount of estate income: absolute interests),
  - (b) section 661 (basic amount of estate income: limited interests),
  - (c) section 662 (basic amount of estate income: discretionary interests), and
  - (d) section 675 (basic amount of estate income: successive limited interests).

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#### Textual Amendments

- F4** Words in s. 656(2) 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. 1\(2\)](#), [14\(2\)\(a\)](#)

### 657 Income charged: foreign estates

- (1) In the case of a foreign estate, tax is charged under section 649 on the full amount of estate income treated as arising in the tax year.
- (2) That amount depends on whether the estate income arising in the tax year is paid from sums within section [<sup>F5</sup>680(4)] (sums treated as bearing income tax).
- (3) So far as the estate income is paid from such sums, that amount is the basic amount of that income for the tax year grossed up by reference to the applicable rate <sup>F6</sup>... (see section 663).
- (4) That gross amount is treated as having borne income tax at that rate.
- (5) So far as the estate income is not paid from sums within section [<sup>F5</sup>680(4)], the amount of estate income treated as arising in the tax year is the basic amount of that income for that year.

#### Textual Amendments

- F5** Word in s. 657 substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 21](#)
- F6** Words in s. 657(3) omitted (6.4.2023 in relation to the tax year 2023-24 and subsequent tax years) by virtue of [Finance Act 2023 \(c. 30\)](#), [Sch. 2 paras. 1\(3\)](#), [14\(2\)\(a\)](#)

### 658 Special rules for foreign income

- (1) The charge to tax under section 649 on the amount of income arising in a tax year is subject to Part 8 (foreign income: special rules).
- (2) For the purposes of section 830(1) (meaning of “relevant foreign income”) amounts charged to tax under section 649—
  - (a) are treated as arising from a source outside the United Kingdom if the estate is a foreign estate, and
  - (b) are treated as not arising from such a source if the estate is a UK estate.

### 659 Person liable

- (1) If the estate income is from a person's absolute interest or limited interest, that person is liable for any tax charged under section 649 unless subsection (3) or (4) provides that another person is liable.
- (2) If the estate income is from a discretionary interest, the person in whose favour the discretion is exercised in making the payment in question is liable for any tax charged under section 649.
- (3) If, in a case where the estate income is from an absolute interest—

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- (a) section 671 (successive absolute interests) applies, or
- (b) section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest) applies and the income is treated as arising because of that section,

the person by reference to whose assumed income entitlement the estate income is determined is liable for any tax charged under section 649.

- (4) If, in a case where the estate income is from a limited interest—
- (a) section 673(1) applies and the income is treated as arising because of section 673(2) (payment in respect of a previous limited interest), or
  - (b) section 674 (successive interests: holders of limited interests) applies,
- the person entitled to receive the payment in question is liable for any tax charged under section 649.

*Basic amount of estate income: general calculation rules*

**660 Basic amount of estate income: absolute interests**

- (1) The basic amount of estate income relating to a person's absolute interest in the whole or part of the residue of an estate for a tax year before the final tax year is the lower of—
  - (a) the total of all sums paid in the tax year in respect of that interest, and
  - (b) the amount of the person's assumed income entitlement for the tax year in respect of it.
- (2) The basic amount for the final tax year is equal to the amount of the person's assumed income entitlement for that year in respect of that interest.
- (3) But if the residuary income of the estate for the final tax year is nil because the allowable estate deductions exceed the aggregate income of the estate, the basic amount for that year is reduced—
  - (a) where the person has an absolute interest in the whole of the residue of the estate, by an amount equal to the excess, and
  - (b) in any other case, by an amount equal to such part of the excess as is just and reasonable.
- (4) See sections 665 to 670 for the meaning of references to assumed income entitlement and residuary income of an estate.
- (5) See sections 664 and 666(2) for the meaning of aggregate income of an estate and allowable estate deductions respectively.
- (6) This section is subject to sections 671 to 673 (successive interests).

**661 Basic amount of estate income: limited interests**

- (1) The basic amount of estate income relating to a person's limited interest in the whole or part of the residue of an estate for a tax year is the total of the sums within section 654(2)(b), (3)(c) and (4)(c) for that year.
- (2) This does not apply, and section 675 applies instead, if the limited interest is one to which section 674 (successive interests: holders of limited interests) applies.

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## 662 Basic amount of estate income: discretionary interests

The basic amount of estate income relating to a person's discretionary interest in the whole or part of the residue of an estate for a tax year is the total of the payments made in the tax year in exercise of the discretion in favour of the person.

### [<sup>F7</sup>663 The applicable rate for grossing up basic amounts of estate income

- (1) The applicable rate by reference to which a basic amount of estate income is grossed up for the purposes of sections 656 and 657 depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which section 679 treats the basic amount as having been paid.
- (2) If the same rate was borne by all of the income from which section 679 treats the basic amount as having been paid, the applicable rate is that rate.
- (3) If different rates were borne by different parts of the income from which section 679 treats the basic amount as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the basic amount is grossed up.]

#### Textual Amendments

- F7** S. 663 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. 1\(4\), 14\(2\)\(a\)](#)

## 664 The aggregate income of the estate

- (1) For the purposes of this Chapter the aggregate income of the estate for a tax year is the total of the income and amounts specified in subsection (2), but excluding the income specified in subsection (5).
- (2) The income and amounts are—
  - (a) the income of the deceased's personal representatives in that capacity which is charged to United Kingdom income tax for the tax year,
  - (b) the income of the deceased's personal representatives in that capacity on which such tax would have been charged for the tax year if—
    - (i) it was income of a UK resident <sup>F8</sup>..., and
    - (ii) it was income from a source in the United Kingdom,
  - (c) any amount of income treated as arising to the personal representatives under section 410(4) (stock dividends) that would be charged to income tax under Chapter 5 of Part 4 if income arising to personal representatives were so charged (see section 411),
  - (d) in a case where section 419(2) applies (release of loans to participator in close company: loans and advances to persons who die), the amount that would be charged to income tax under Chapter 6 of Part 4 apart from that section, and
  - (e) any amount that would have been treated as income of the personal representatives in that capacity under section 466 if the condition in section 466(2) had been met (gains from contracts for life insurance).
- (3) In calculating the amount of the income within subsection (2)(a), any allowable deductions are to be taken into account.

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- (4) In calculating the amount of the income within subsection (2)(b), any deductions which would be allowable if the income had been charged to United Kingdom income tax are to be deducted from the full amount of the income actually arising in the tax year.
- (5) The excluded income is—
- (a) income to which any person is or may become entitled under a specific disposition, and
  - (b) income from property devolving on the personal representatives otherwise than as assets for payment of the deceased's debts.
- (6) In subsection (5)(a) “specific disposition” means a gift of specific property under a will, including—
- (a) the disposition of personal chattels by section 46 of the Administration of Estates Act 1925 (c. 23) (succession on intestacy), and
  - (b) any disposition which under the law of another country has a similar effect to a gift of specific property by will under the law of England and Wales, but excluding real property included in a residuary gift made by will by a specific or general description of it or, in Scotland, heritable estate included in such a gift.

#### **Textual Amendments**

- F8** Words in s. 664(2)(b)(i) omitted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 51](#)

*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*

Add together the amounts found under step 1 after making any deductions necessary under step 2.

*Step 4*



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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.

## **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—

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- (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 [<sup>F9</sup>grossed up, where the estate is a UK estate, by the applicable rate (see [subsections \(5A\) to \(5C\)](#))].
- (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.

[<sup>F10</sup>(5A) The applicable rate by reference to which a sum within subsection (1)(b) is grossed up depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which section 679A treats the sum as having been paid.

(5B) If the same rate was borne by all the income from which section 679A treats the sum as having been paid, the applicable rate is that rate.

(5C) If different rates were borne by different parts of the income from which section 679A treats the sum as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the sum is grossed up.]

- (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).

#### **Textual Amendments**

**F9** Words in s. 668(1)(b) 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. 2\(2\)\(a\), 14\(2\)\(a\)](#)

**F10** S. 668(5A)-(5C) substituted for s. 668(5) (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\(2\)\(b\), 14\(2\)\(a\)](#)

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## 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.
- (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—
- [<sup>F11</sup>(a) income charged at [<sup>F12</sup>an applicable] rate were charged at the basic rate, and
  - (b) income charged at the dividend additional rate or the dividend upper rate were charged at the dividend ordinary rate.]

[<sup>F13</sup>(3A) For the purposes of subsection (3), each of the following is an “applicable rate”—

- (a) the higher rate,
  - (b) the additional rate,
  - (c) any Scottish rate that—
    - (i) is above the Scottish basic rate, but
    - (ii) is not the Scottish intermediate rate,
  - (d) the Welsh higher rate, and
  - (e) the Welsh additional 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

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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 [<sup>F14</sup>an officer of Revenue and Customs] , or determined in proceedings between 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 [<sup>F14</sup>an officer of Revenue and Customs]

#### Textual Amendments

- F11** S. 669(3)(a)(b) substituted (with effect in accordance with s. 4(18) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 4\(13\)](#)
- F12** Words in s. 669(3)(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\), arts. 1\(1\), 10\(3\)\(a\)](#)
- F13** S. 669(3A) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\), arts. 1\(1\), 10\(3\)\(b\)](#)
- F14** Words in s. 669(7)(8) 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\(h\)](#)

#### 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.

<sup>F15</sup>(4A) .....

- (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

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income of the estate bearing income tax at different rates are to be made as are just and reasonable for their different interests.

#### Textual Amendments

**F15** S. 670(4A) 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. 3(2), 14(2)(a)**

### *Special rules for successive interests*

#### **671 Successive absolute interests**

- (1) This section applies if two or more absolute interests in the whole or the same part of the residue of an estate are held successively during the administration period by different persons.
- (2) In determining whether a person with a later such interest (“the later holder”) has an assumed income entitlement in respect of that interest and, if so, its amount—
  - (a) the later holder's share of the residuary income of the estate in respect of that interest for any tax year is to be treated as including the share of any person with a previous such interest (“a previous holder”), and
  - (b) the basic amounts relating to the later holder's interest are to be treated as including the basic amounts relating to any previous such interest.
- (3) In applying subsection (2), all determinations under that subsection or section 672(2) that fall to be made in relation to a person with an earlier interest are to be made before determinations under those provisions relating to a person with a later interest.
- (4) A person who is a previous holder in the final tax year is to be taxed in that year, in relation to the interest as to which that person is a previous holder, as if that year were not the final tax year, and the later holder's assumed income entitlement in that year is to be calculated accordingly [<sup>F16</sup>(or, where the previous holder is a company chargeable to corporation tax, having regard to the application of section 954(4) of CTA 2009 to the previous holder)].
- (5) The calculation under section 668(1)(a) and (b) (amount of reduction in the share of the residuary income of the person with an absolute interest at the end of the administration period) is to be made by reference to all the absolute interests taken together.
- (6) If the amount resulting from that calculation is greater than the total amount of the reductions which can be made under section 668(2) and (3), the share of the residuary income of the estate of the last previous holder of the interest for the last tax year in which that last holder had that interest is to be reduced, and so on [<sup>F17</sup>(but, in a case where the last previous holder or any earlier previous holder is a company chargeable to corporation tax, having regard to the application of section 954(6) of CTA 2009 to the previous holder)].
- (7) For the purposes of this section and sections 672 to 676, two interests are held successively even where one is not held immediately before or after the other.
- (8) It is assumed for those purposes that each of the persons holding the interests in question is a person liable to income tax.

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### Textual Amendments

- F16** Words in s. 671(4) added (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 634\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F17** Words in s. 671(6) added (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 634\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))

## 672 Successive interests: assumed income entitlement of holder of absolute interest following limited interest

- (1) This section applies if—
- (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
  - (b) each later interest arises or is created on the cessation of the previous interest otherwise than by death,
  - (c) at least one of the interests is an absolute interest, and
  - (d) at least one of the interests preceding that interest is a limited interest.
- (2) Rules A and B apply to determine in relation to such an absolute interest—
- (a) whether the person with the interest has an assumed income entitlement in respect of the interest, and
  - (b) if so, its amount.
- (3) Rule A is that the person's share of the residuary income of the estate in respect of the absolute interest for any tax year is treated as including any amount which would be included in it if—
- (a) the interest had subsisted throughout the period when any such limited interest subsisted, and
  - (b) no such limited interest had ever subsisted.
- (4) Rule B is that the basic amounts relating to the absolute interest are treated as including the basic amounts relating to any such limited interest.

## 673 Successive interests: payments in respect of limited interests followed by absolute interests

- (1) This section applies if—
- (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
  - (b) each later interest arises or is created on the cessation of the previous interest otherwise than by death,
  - (c) at least one of the interests is an absolute interest, and
  - (d) at least one of the interests preceding that interest is a limited interest.
- (2) A sum to which a person (“P”) with such an absolute interest is entitled in respect of any such limited interest which is paid while P has the absolute interest is treated as paid in respect of the absolute interest (and not the limited interest).
- (3) Subsection (4) applies if—
- (a) P's absolute interest ceases during the administration period, and
  - (b) a sum to which P is entitled in respect of any such limited interest—

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- (i) is paid after the absolute interest ceases but before the end of the administration period, or
  - (ii) remains payable at the end of it.
- (4) This Chapter applies as respects any such sum as if the limited interest had continued to subsist while that absolute interest subsisted and had been held by P.
- (5) Subsection (4) is subject to subsection (6).
- (6) For the purposes only of section 668 (reduction in share of residuary income of estate), any such sum is treated as paid or payable in respect of the absolute interest.

#### **674 Successive interests: holders of limited interests**

- (1) This section applies if—
- (a) two or more interests in the whole or part of the residue of an estate are held successively during the administration period by different persons,
  - (b) the earlier or, if there are more than two, the earliest of the interests is a limited interest, and
  - (c) each later interest arises or is created on the cessation of the previous interest otherwise than by death.
- (2) Income is treated as arising from a limited interest in the whole or part of the residue of the estate in a tax year in cases A, B and C.
- (3) Case A is where—
- (a) one of the successive interests subsists at the beginning of the tax year,
  - (b) a sum is paid in respect of one of the interests in that year and before the end of the administration period, and
  - (c) a person who has or has had one of the interests which is a limited interest (“a limited holder”) is entitled to receive the payment.
- (4) Case B is where—
- (a) the tax year is the final tax year,
  - (b) one of the successive interests subsists at the beginning of that year,
  - (c) a sum remains payable in respect of one of the interests at the end of the administration period, and
  - (d) a limited holder is entitled to receive the payment.
- (5) Case C is where—
- (a) the tax year is a year before the final tax year,
  - (b) the last of the successive interests ceases in the tax year,
  - (c) a sum is either—
    - (i) paid in respect of one of the interests in a later tax year but before the end of the administration period, or
    - (ii) remains payable in respect of it at the end of that period, and
  - (d) a limited holder is entitled to receive the payment.

#### **675 Basic amount of estate income: successive limited interests**

The basic amount of estate income relating to a limited interest within section 674 for a tax year is the total of the sums within section 674(3)(b), (4)(c) and (5)(c) for that year.

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## 676 Apportionments

- (1) Such apportionments as are just and reasonable are to be made for the purposes of this Chapter if—
- (a) the part of a residuary estate in which an interest within any of the provisions specified in subsection (2) subsists does not wholly correspond with the part in which another such interest held successively subsists, or
  - (b) one of those interests is in the whole of the residuary estate and the other is only in part of it.
- (2) The provisions are—
- section 671 (successive absolute interests),
  - section 672 (successive interests: assumed income entitlement of holder of absolute interest following limited interest),
  - section 673 (successive interests: payments in respect of limited interests followed by absolute interests),
  - section 674 (successive interests: holders of limited interest), and
  - section 675 (basic amount of estate income: successive limited interests).

*Relief where foreign estates have borne UK income tax*

## 677 Relief where UK income tax borne by foreign estate: absolute interests

- (1) This section applies if—
- (a) an estate is a foreign estate in relation to a tax year,
  - (b) United Kingdom income tax has been charged on a person for the tax year on estate income treated as arising from the estate under section 652 (estate income: absolute interests in residue), and
  - (c) United Kingdom income tax has already been borne by part of the aggregate income of the estate for the tax year.
- (2) If the person makes a claim under this section, the income tax charged on the person on that estate income is to be reduced by an amount equal to—

$$T \times \frac{A}{B}$$

where—

T is the income tax charged on the person,

A is so much of the aggregate income of the estate as has already borne United Kingdom income tax for the tax year, and

B is the aggregate income of the estate for the tax year.

[<sup>F18</sup>(3) The tax reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007.]



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#### Textual Amendments

**F18** S. 677(3) 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. 562](#) (with transitional provisions and savings in [Sch. 2](#))

### 678 Relief where UK income tax borne by foreign estate: limited and discretionary interests

- (1) This section applies if—
- an estate is a foreign estate in relation to a tax year,
  - United Kingdom income tax has been charged on a person for the tax year on estate income from the estate treated as arising under—
    - section 654 (estate income: limited interests in residue), or
    - section 655 (estate income: discretionary interests in residue), and
  - United Kingdom income tax has already been borne by part of the aggregate income of the estate for the tax year.
- (2) If the person makes a claim under this section, the income tax charged on the person on that estate income is to be reduced by an amount equal to—

$$T \times \frac{A - C}{B - C}$$

where—

T is the income tax charged on the person,

A is so much of the aggregate income of the estate as has already borne United Kingdom income tax for the tax year,

B is the aggregate income of the estate for the tax year, and

C is the amount of United Kingdom income tax already borne by the aggregate income of the estate for the tax year.

[<sup>F19</sup>(3) The tax reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007.]

#### Textual Amendments

**F19** S. 678(3) 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. 563](#) (with transitional provisions and savings in [Sch. 2](#))

#### 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.

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- (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>F20</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>F21</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—
  - (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**

- F20** 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\(2\)\(a\)](#)
- F21** 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>F22</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.]

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### Textual Amendments

- F22** 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>F23</sup> ...  
section 679 (income from which basic amounts are treated as paid) [<sup>F24</sup>, and  
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>F25</sup>(2A) or]<sup>F26</sup> ...  
(4), the sum is treated as bearing income tax at the rate specified for it in that subsection.
- [<sup>F27</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>F28</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>F29</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

- F23** 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)
- F24** 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)
- F25** 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)
- F26** 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\(a\)](#)
- F27** 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)
- F28** 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\(b\)](#)
- F29** 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](#)

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### **[<sup>F30</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.]

#### **Textual Amendments**

**F30** 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>F31</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**

**F31** 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

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- (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—
    - (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>F32</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**

**F32** 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>F33</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—

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- (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.]

#### **Textual Amendments**

- F33** 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\(7\)\(a\)](#)