



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 6

#### EXEMPT INCOME

### CHAPTER 3

#### INCOME FROM INDIVIDUAL INVESTMENT PLANS

#### **694 Income from individual investment plans**

- (1) The Treasury may by regulations provide that income of an individual from investments under a plan—
- is exempt from income tax, or
  - is exempt from income tax to such extent as is specified in the regulations.

[<sup>F1</sup>(1A) In subsection (1) “income of an individual from investments under a plan” includes income from investments which is treated as the individual's income by virtue of section 629 (income paid to relevant children of settlor).]

- (2) In this Chapter such regulations are referred to as “investment plan regulations”.
- (3) Investment plan regulations may, in particular, specify—
- the description of individuals who may invest, and
  - maximum investment limits.
- (4) They may provide for investment by an individual under more than one plan in the same tax year.
- (5) They must set out conditions subject to which plans are to operate.

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- (6) The following provisions of this Chapter contain more particular provisions about the scope of investment plan regulations.

#### Textual Amendments

**F1** S. 694(1A) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\), s. 40\(2\)](#)

### [<sup>F2</sup>694A Deceased investors

- (1) In section 694(1) “income of an individual from investments under a plan” includes—
- (a) income (of any person) from administration-period investments under a plan, and
  - (b) income (of any person) from the estate of a deceased person (“D”) where the whole or any part of the income of D’s personal representatives is income from administration-period investments under a plan.
- (2) For the purposes of sections 694(3)(a) and (4) and 695(1) “individual”, in relation to investments that are administration-period investments, includes—
- (a) the personal representatives of the deceased individual concerned, and
  - (b) any other person on whose directions plan managers agree to act in relation to the investments.
- (3) In sections 699 and 701 “investor” includes a person entitled to an exemption given by investment plan regulations by virtue of subsection (1) of this section.
- (4) Investments are “administration-period investments” if—
- (a) an individual dies, and
  - (b) immediately before the individual’s death—
    - (i) the investments were held under a plan,
    - (ii) the individual was entitled to the income from the investments, and
    - (iii) as a result of investment plan regulations, the individual’s income from investments under the plan was exempt from income tax (either wholly or to an extent specified in the regulations).
- (5) Investments are also “administration-period investments” if (directly or indirectly) they represent investments that are administration-period investments as a result of subsection (4).
- (6) Investment plan regulations may provide that investments are administration-period investments as a result of subsection (4) or (5) only at times specified in, or ascertained in accordance with, the regulations.
- (7) Provision under subsection (6) may (in particular) be framed by reference to the completion of the administration of a deceased individual’s estate.
- (8) In the application of subsection (7) in relation to Scotland, the reference to the completion of the administration is to be read in accordance with section 653(2).]

#### Textual Amendments

**F2** S. 694A inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 27\(1\)](#)

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## 695 Investment plans

- (1) Investment plan regulations may specify the kind of investments which may be made under a plan or which may be made by particular descriptions of individuals under a plan.
- (2) They may—
  - (a) provide for a plan in the form of an account, and
  - (b) authorise the ways in which the subscriptions to an account are to be invested.
- (3) They may—
  - (a) provide that plans are to be such as are approved by the [<sup>F3</sup>the Commissioners for Her Majesty’s Revenue and Customs], and
  - (b) specify the circumstances in which approval may be granted and withdrawn.
- (4) They may—
  - (a) provide for plans to be treated as being of different kinds, according to criteria set out in the regulations,
  - (b) provide for the [<sup>F4</sup>Commissioners] to register a plan as being of a particular kind, and
  - (c) make different provision about different kinds of plan.

### Textual Amendments

- F3** Words in s. 695(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)
- F4** Word in s. 695(4) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(3\)\(b\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

### [<sup>F5</sup>695A Investment plans for children

- (1) This section applies where investment plan regulations provide that income of a child from investments under a plan (a “child plan”) is exempt from income tax (either wholly or to such extent as is specified in the regulations).
- (2) In addition to any provision which may be made by virtue of any other provision of this Chapter, investment plan regulations may—
  - (a) specify descriptions of persons by whom investments may be made for a child,
  - (b) provide that withdrawals may be made only in the circumstances specified in the regulations, and
  - (c) provide that, in the case of a child who is under 16, the plan managers may act only on the direction of a person of a description specified in the regulations.
- (3) They may also provide—
  - (a) that any assignment of, or agreement to assign, investments under a child plan, and any charge on or agreement to charge any such investments, is void,
  - (b) that, on the bankruptcy of a child with investments under a child plan, the entitlement to those investments does not pass to any trustee or other person acting on behalf of the child's creditors, and
  - (c) that, where a contract is entered into by or on behalf of a child who is 16 or over in connection with a child plan under which investments are held—

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- (i) by the child, or
  - (ii) by another child in relation to whom the child has parental responsibility,
- the contract has effect as if the child had been 18 or over when it was entered into.
- (4) Where, by virtue of provision made in investment plan regulations under subsection (2)(a), investments are made for a child under a child plan, for the purposes of this Chapter the child is treated as having made those investments.
- (5) In this section—
- “assignment” includes assignation, and “assign” is to be construed accordingly;
  - “bankruptcy”, in relation to a child, includes the sequestration of the child's estate;
  - “charge on or agreement to charge” includes a right in security over or an agreement to create a right in security over;
  - “child” means an individual under 18;
  - “parental responsibility” means—
    - (a) parental responsibility within the meaning of the Children Act 1989 or the Children (Northern Ireland) Order 1995, or
    - (b) parental responsibilities within the meaning of the Children (Scotland) Act 1995;
- and any reference to investments being held by a child includes a reference to investments being held by plan managers on behalf of the child by virtue of section 696(1).]

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**Textual Amendments**

**F5** S. 695A inserted (19.7.2011) by [Finance Act 2011 \(c. 11\), s. 40\(3\)](#)

**696 Plan managers**

- (1) Investment plan regulations may provide that investments are to be held by persons on behalf of investors.
- (2) In this Chapter those persons, including the managers of any such account as is specified in section 695(2), are referred to as “plan managers”, and references to “plan managers” in any other enactment are to be read accordingly.
- (3) Investment plan regulations may—
- (a) provide that plan managers are to be such as are approved by [<sup>F6</sup>the Commissioners for Her Majesty's Revenue and Customs] , and
  - (b) specify the circumstances in which approval may be granted and withdrawn.

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**Textual Amendments**

**F6** Words in s. 696(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

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## 697 Special requirements for certain foreign managers

- (1) Investment plan regulations may provide that a foreign institution may only be a plan manager if one of the requirements set out in section 698(2), (3) and (4) about the discharge of such of the institution's duties as are specified in the regulations is met.
- (2) In this section “foreign institution” means—
  - <sup>F7</sup>(a) .....
  - <sup>F8</sup>(b) .....
  - (c) an insurance company which is non-UK resident.
- (3) Different duties may be specified under subsection (1) for different institutions or different descriptions of institution.
- (4) In this section—
 

“insurance company” means an undertaking carrying on the business of effecting or carrying out contracts of insurance, and

“contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).

### Textual Amendments

- F7** S. 697(2)(a) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/689), regs. 1, **13(4)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F8** S. 697(2)(b) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/689), regs. 1, **13(4)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

## 698 Requirements for discharge of foreign institution's duties

- (1) The requirements about the discharge of an institution's duties which are referred to in section 697(1) (one of which may be imposed in the case of certain foreign managers) are requirements A, B and C.
- (2) Requirement A is that—
  - (a) a person is currently appointed by the institution to be responsible for securing the discharge of the duties,
  - (b) that person either—
    - (i) is an individual who is a UK resident, or
    - (ii) is not an individual and has a business establishment in the United Kingdom, and
  - (c) the institution has notified [<sup>F9</sup>the Commissioners for Her Majesty's Revenue and Customs] of that person's identity and appointment.
- (3) Requirement B is that there are other current arrangements with the [<sup>F10</sup>Commissioners] for a person other than the institution to secure the discharge of the duties.
- (4) Requirement C is that there are other current arrangements with the [<sup>F10</sup>Commissioners] designed to secure the discharge of the duties.
- (5) Investment plan regulations may provide—

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- (a) that requirement A or B is only met if the person concerned is of a description specified in the regulations as respects that requirement,
  - (b) that appointments made for the purposes of requirement A or arrangements made for the purposes of requirement B are treated as terminated in circumstances specified in the regulations as respects that requirement.
- (6) Investment plan regulations may provide that a person currently appointed as mentioned in subsection (2) or as to whom there is a current arrangement within subsection (3)—
- (a) may act on the institution's behalf for any of the purposes of the provisions relating to the duties,
  - (b) is to secure the institution's compliance with, and discharge of, the duties, where appropriate by acting on its behalf,
  - (c) is personally liable for the institution's failure to comply with or discharge any of the duties, as if they were imposed on the person and the institution jointly and severally.

#### Textual Amendments

**F9** Words in s. 698(2) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

**F10** Word in s. 698(3)(4) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(3\)\(c\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

### 699 Non-entitlement to exemption

- (1) Investment plan regulations may—
- (a) provide that in circumstances specified in the regulations an investor ceases to be entitled to the exemption given by regulations made under section 694(1) and is treated as not having been entitled to it,
  - (b) adapt or modify the effect of any enactment relating to income tax for that purpose, and
  - (c) provide that in those circumstances the investor or the plan manager (depending on the terms of the regulations) is to account to <sup>F11</sup>the Commissioners for Her Majesty's Revenue and Customs] for income tax from which exemption has already been given on the basis that the investor was entitled to the exemption.
- (2) They may provide that an investor or the plan manager (depending on the terms of the regulations) is to account to the <sup>F12</sup>Commissioners]—
- (a) for income tax from which the exemption has been given in circumstances where the investor was not entitled to it, or
  - (b) for an amount determined in accordance with the regulations to be the amount to be taken as representing that tax.
- (3) They may modify the effect of or adapt any enactment relating to income tax for the purposes of securing that investors or plan managers account for the tax and other amounts mentioned in subsections (1) and (2).

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- (4) They may also modify the provisions of or adapt Chapter 9 of Part 4 of this Act (gains from contracts for life insurance etc.) or Chapter 2 of Part 13 of ICTA (life policies, life annuities and capital redemption policies) for cases where an investor—
- (a) ceases to be entitled to the exemption given by regulations made under section 694(1) and is treated as not having been entitled to it, or
  - (b) has been given the exemption on the basis of an entitlement to it when there was no such entitlement.
- (5) They may provide for plan managers (as well as investors) to be liable to account for amounts becoming due from investors as a result of regulations made under subsection (4).
- (6) They may provide that, instead of having to account as mentioned in subsection (2) or (5), an investor or a plan manager is liable to a penalty of an amount specified in the regulations if—
- (a) an exemption has been given to which there was no entitlement, and
  - (b) the circumstances are such as are specified in the regulations.
- (7) They may provide that liabilities are imposed in cases which—
- (a) are not cases in which liabilities may be imposed under subsections (1) to (6) where relief has been given to which there was no entitlement, but
  - (b) are cases where—
    - (i) a contravention or failure to comply with investment plan regulations that is specified in the regulations, or
    - (ii) the existence of such other circumstances as are so specified,
 would have the effect of excluding or limiting an entitlement to exemption, apart from the regulations under this subsection.
- (8) Regulations under subsection (7)—
- (a) may only provide for the imposition of liabilities equivalent to those which may be imposed under subsections (1) to (6), and
  - (b) must provide for those liabilities to replace the liabilities to tax which would otherwise arise.
- [<sup>F13</sup>(9) In this section references to an investor include an individual entitled to an exemption given by investment plan regulations by virtue of section 694(1A).]

#### Textual Amendments

- F11** Words in s. 699(1)(c) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)
- F12** Word in s. 699(2) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(3\)\(d\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)
- F13** S. 699(9) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\), s. 40\(4\)](#)

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#### Textual Amendments

**F14** S. 700 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 14](#)

### 701 General and supplementary powers

- (1) Investment plan regulations may make provision generally for the purpose of—
  - (a) the establishment and administration of plans, and
  - (b) the administration of income tax in relation to them.
- (2) They may adapt or modify the effect of any enactment relating to income tax for the purpose of securing that investors are entitled to exemption from income tax in respect of investments.
- (3) They may specify how exemption from tax is to be claimed by, and granted to, investors or plan managers on behalf of investors.
- [<sup>F15</sup>(4) They may include provision having effect in relation to times before they are made if the provision does not impose or increase any liability to tax.
- (5) They may make different provision for different cases or circumstances.]
- [<sup>F16</sup>(6) In this section references to an investor include an individual entitled to an exemption given by investment plan regulations by virtue of section 694(1A).]

#### Textual Amendments

**F15** S. 701(4)(5) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), s. 40

**F16** S. 701(6) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), s. 40(5)



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