



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 5

#### MISCELLANEOUS INCOME

#### CHAPTER 5

#### SETTLEMENTS: AMOUNTS TREATED AS INCOME OF SETTLOR [F<sup>1</sup>OR FAMILY]

#### *Trustees' payments: further provisions*

#### **638 Capital sums paid by way of loan or repayment of loan**

- (1) No part of a capital sum which is paid to a settlor by way of loan is treated under section 633 as the settlor's income for any tax year after the tax year in which the whole of the sum is repaid.
- (2) Subsection (3) applies if—
  - (a) a capital sum is paid to the settlor by way of loan, and
  - (b) one or more capital sums have previously been paid to the settlor by way of loan and wholly repaid.
- (3) The amount of the capital sum mentioned in subsection (2)(a) is treated for the purposes of section 633 as equal to the amount (if any) by which it exceeds so much of the capital sum or sums previously paid as has already been treated as the settlor's income under that section.
- (4) Subsection (5) applies if—
  - (a) a capital sum is paid to the settlor by way of complete repayment of a loan, and

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**Changes to legislation:** *There are outstanding changes not yet made by the [legislation.gov.uk](https://www.legislation.gov.uk) editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

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- (b) an amount not less than the capital sum is subsequently lent by the settlor to the trustees of the settlement.
- (5) No part of the capital sum is treated under section 633 as the settlor's income for any tax year after that in which the further loan is made.

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