



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 9

#### SPECIAL RULES ABOUT SETTLEMENTS AND TRUSTEES

### CHAPTER 3

#### SPECIAL RATES FOR TRUSTEES' INCOME

#### **479 Trustees' accumulated or discretionary income to be charged at special rates**

- (1) This section applies if—
  - (a) accumulated or discretionary income arises to the trustees of a settlement, and
  - (b) the income does not arise under a [<sup>F1</sup>charitable trust].
- (2) Income tax is charged on the income at the rates referred to in this section instead of at the rates which would otherwise apply (for which see Chapter 2 of Part 2 (rates at which income tax is charged)).
- (3) Income tax is charged on the income at the dividend trust rate so far as the income is dividend income.
- (4) Otherwise, income tax is charged on the income at the trust rate.
- (5) Section 488 disapplies this section in cases relating to [<sup>F2</sup>Schedule 2] share incentive plans.

#### **Textual Amendments**

- F1** Words in s. 479(1)(b) substituted (8.3.2012) (with effect in accordance with art. 17 of the commencing S.I.) by [Finance Act 2010 \(c. 13\)](#), [Sch. 6 paras. 23\(2\), 34\(2\)](#); S.I. 2012/736, art. 17
- F2** Words in s. 479(5) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 70, 89](#) (with [Sch. 8 paras. 90-96](#))

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

- C1** S. 479 excluded (6.4.2014) by [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **12(3)(d)**

**480 Meaning of “accumulated or discretionary income”**

- (1) Income is accumulated or discretionary income so far as—
- (a) it must be accumulated, or
  - (b) it is payable at the discretion of the trustees or any other person, and it is not excluded by subsection (3).
- (2) The cases covered by subsection (1)(b) include cases where the trustees have, or any other person has, any discretion over one or more of the following matters—
- (a) whether, or the extent to which, the income is to be accumulated,
  - (b) the persons to whom the income is to be paid, and
  - (c) how much of the income is to be paid to any person.
- (3) Income is excluded for the purposes of subsection (1) so far as—
- (a) before being distributed, it is the income of any person other than the trustees,
  - (b) it is income from property within subsection (4), or
  - (c) it is income from service charges [<sup>F3</sup>which are paid in respect of dwellings in the United Kingdom and are held on trust.]
- (4) Property is within this subsection if it—
- (a) is held for the purposes of a superannuation fund to which section 615(3) of ICTA (superannuation funds relating to undertakings outside the UK) applies, but
  - (b) is not held as a member of a property investment LLP.

[<sup>F4</sup>(5) In subsection (3)(c) “service charges” has the meaning given by section 18 of the Landlord and Tenant Act 1985 (but as if that section also applied in relation to dwellings in Scotland and Northern Ireland).]

**Textual Amendments**

- F3** Words in s. 480(3)(c) substituted (with effect in accordance with s. 65(4) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 65\(2\)](#)
- F4** S. 480(5) substituted for s. 480(5)(6) (with effect in accordance with s. 65(4) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 65\(3\)](#)

**481 Other amounts to be charged at special rates for trustees**

- (1) This section applies if—
- (a) the trustees of a settlement are liable for income tax on an amount of a type set out in section 482,
  - (b) the trustees are not trustees of a unit trust scheme, and
  - (c) the amount is not income arising under a [<sup>F5</sup>charitable trust].

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- (2) Income tax is charged on the amount at one of the rates referred to in this section instead of at the rate which would otherwise apply (for which see Chapter 2 of Part 2 (rates at which income tax is charged)).

This is subject to subsection (5).

- (3) If the amount is within Type 1 [<sup>F6</sup>or Type 12] as set out in section 482, income tax is charged on the amount at the dividend trust rate.
- (4) Otherwise, income tax is charged on the amount at the trust rate.
- (5) Income tax is not to be charged as mentioned in subsection (2) so far as the amount—
- (a) is accumulated or discretionary income,
  - (b) would be accumulated or discretionary income apart from section 480(3)(a) or (c), or
  - (c) is income from property within subsection (6).
- (6) Property is within this subsection if it is held for the purposes of a superannuation fund to which section 615(3) of ICTA (superannuation funds relating to undertakings outside the UK) applies.

#### Textual Amendments

- F5** Words in s. 481(1)(c) substituted (8.3.2012) (with effect in accordance with art. 17 of the commencing S.I.) by [Finance Act 2010 \(c. 13\)](#), [Sch. 6 paras. 23\(3\), 34\(2\)](#); [S.I. 2012/736, art. 17](#)
- F6** Words in s. 481(3) inserted (with effect in accordance with s. 19(10) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [s. 19\(7\)](#)

## 482 Types of amount to be charged at special rates for trustees

The types of amount referred to in section 481 are as follows. *Type 1*

A payment—

- (a) which is made to the trustees or to which the trustees are entitled, and
- (b) which is made [<sup>F7</sup>by way of <sup>F8</sup>... distribution] by a company on the redemption, repayment or purchase of shares in the company or on the purchase of rights to acquire such shares.

*Type 2*

Accrued income profits treated as made by the trustees under section 628(5) or 630(2).

*Type 3*

Income treated as arising to the trustees under [<sup>F9</sup>regulation 17 of the Offshore Funds (Tax) Regulations 2009 ([S.I. 2009/3001](#))].

*Type 4*

Income which the trustees are treated as receiving under section 68(2) or 71(4) of FA 1989 (which relate to employee share ownership trusts).

*Type 5*

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A sum to which Chapter 4 of Part 3 of ITTOIA 2005 (which provides for certain amounts to be treated as receipts of a property business) applies.

*Type 6*

A profit in relation to which the trustees are liable for income tax under section 429 of ITTOIA 2005 (profits from deeply discounted securities).

*Type 7*

A gain in relation to which the trustees are liable for income tax under section 467 of ITTOIA 2005 (gains from contracts for life insurance etc), other than a gain to which subsection (7) of that section applies.

*Type 8*

A profit or gain in relation to which the trustees are liable for income tax under section 554 of ITTOIA 2005 (transactions in deposits).

*Type 9*

A profit or gain—

- (a) in relation to which the trustees are liable for income tax under section 557 of ITTOIA 2005 (disposals of futures and options), and
- (b) which does not meet any of conditions A to C in section 568 of ITTOIA 2005.

*Type 10*

Proceeds in relation to which the trustees are liable for income tax under section 573 of ITTOIA 2005 (sales of foreign dividend coupons).

*Type 11*

Income treated as arising to the trustees under [<sup>F10</sup>Part 9A of this Act (transactions in land)].

[<sup>F11</sup>*Type 12*

Income treated as arising to the trustees under section 396A of ITTOIA 2005 (arrangements offering a choice of income or capital return).]

**Textual Amendments**

- F7** Words in s. 482 inserted (with effect in accordance with s. 55(3) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 55\(2\)](#)
- F8** Word in s. 482 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. 63\(5\)](#)
- F9** Words in s. 482 substituted (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\), regs. 1\(1\), 129\(3\)](#)
- F10** Words in s. 482 substituted (with effect in accordance with s. 82 of the amending Act) by [Finance Act 2016 \(c. 24\), s. 79\(3\)](#) (and also with effect in accordance with [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 39(1)(2))
- F11** Words in s. 482 inserted (with effect in accordance with s. 19(10) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 19\(8\)](#)

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### **483 Sums paid by personal representatives to trustees**

- (1) This section applies if, during or at the end of the administration period for an estate—
  - (a) the personal representatives pay the trustees of a settlement a sum representing income of the personal representatives, and
  - (b) if this Chapter had applied to personal representatives, income tax would have been charged on that income at the dividend trust rate or at the trust rate.
- (2) The sum is treated as—
  - (a) being paid as income, and
  - (b) having borne income tax at the applicable rate.
- (3) In this section—
  - “administration period” has the meaning given by section 653 of ITTOIA 2005, and
  - “the applicable rate” means the rate referred to in section 663(1) of ITTOIA 2005 (the applicable rate for grossing up basic amounts of estate income).

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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. 24B inserted by [2023 c. 30 Sch. 2 para. 10\(3\)](#)
- s. 788(7) inserted by [2007 c. 29 Sch. 21 para. 161\(b\)](#) (The amending provision was repealed before coming into force.)