



Income Tax Act 2007

2007 CHAPTER 3

PART 9

SPECIAL RULES ABOUT SETTLEMENTS AND TRUSTEES

CHAPTER 4

TRUSTEES' EXPENSES AND SPECIAL RATES FOR TRUSTEES

484 Trustees' expenses to be set against trustees' trust rate income

- (1) This section applies if the trustees of a settlement incur allowable expenses in a tax year ("the current tax year").
- (2) The allowable expenses are to be set against the trustees' trust rate income for the current tax year in accordance with section 486.
- (3) That is to be done before working out whether section 491 applies in relation to the trustees for the current tax year.
- (4) So far as any of the trustees' trust rate income has an amount set against it in accordance with section 486, income tax is charged on it at the rate or rates which would apply apart from Chapter 3 (see Chapter 2 of Part 2).
- (5) Expenses are allowable for the purposes of this Chapter only so far as—
 - (a) they are expenses of the trustees, and
 - (b) they are properly chargeable to income, ignoring the express terms of the settlement.
- (6) Expenses are not allowable for the purposes of this Chapter if they are expenses which (apart from this section) have fallen, or may fall, to be taken into account for the purpose of calculating the trustees' liability to income tax for any tax year.

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485 Carry forward of unused expenses

- (1) This section applies if (apart from this section) the trustees incur an allowable expense in a tax year prior to the current tax year (“the earlier tax year”).
- (2) For the purposes of this Chapter the trustees are treated as having incurred the allowable expense in the current tax year so far as conditions A and B are met in relation to the expense.
- (3) Condition A is that the allowable expense could not be set against the trustees' trust rate income for the earlier tax year only because the trustees' trust rate income was insufficient or they had no trust rate income.
- (4) Condition B is that the allowable expense has not been set against the trustees' trust rate income for a tax year prior to the current tax year as a result of this section.

486 How allowable expenses are to be set against trust rate income

- (1) Take the following steps to determine how the allowable expenses are to be set against the trustees' trust rate income for the current tax year.

Step 1

Reduce the allowable expenses by the proportion of those expenses (if any) which is excluded in accordance with section 487.

References at Steps 3 to 6 below to the allowable expenses are references to the expenses as so reduced.

Step 2

Identify the type or types of income which make up the trust rate income.

The possible types are dividend income, savings income and other income.

Step 3

If there is dividend income within subsection (2)—

- (a) gross up by reference to the dividend ordinary rate so much of the allowable expenses as is necessary to give a result equal to the amount of that income, or
- (b) if there are not enough allowable expenses to give that result, gross them all up by reference to that rate.

The grossed up amount is set against the dividend income within subsection (2).

Step 4

If there are remaining expenses and there is dividend income not within subsection (2)

- (a) gross up by reference to the dividend ordinary rate so much of the remaining expenses as is necessary to give a result equal to the amount of that income, or
- (b) if there are not enough remaining expenses to give that result, gross them all up by reference to that rate.

The grossed up amount is set against the dividend income not within subsection (2).

For the purposes of this step “the remaining expenses” are the allowable expenses so far as they have not been grossed up at Step 3.

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Step 5

If there are remaining expenses and there is savings income—

- (a) gross up by reference to the [^{F1}basic rate] so much of the remaining expenses as is necessary to give a result equal to the amount of that income, or
- (b) if there are not enough remaining expenses to give that result, gross them all up by reference to that rate.

The grossed up amount is set against the savings income.

For the purposes of this step “the remaining expenses” are the allowable expenses so far as they have not been grossed up at Step 3 or 4.

Step 6

If there are remaining expenses and there is other income—

- (a) gross up by reference to the basic rate so much of the remaining expenses as is necessary to give a result equal to the amount of that income, or
- (b) if there are not enough remaining expenses to give that result, gross them all up by reference to that rate.

The grossed up amount is set against the other income.

For the purposes of this step “the remaining expenses” are the allowable expenses so far as they have not been grossed up at Step 3, 4 or 5.

- (2) Income is within this subsection so far as it is—
 - (a) chargeable under Chapter 3 of Part 4 of ITTOIA 2005 (dividends etc from UK resident companies),
 - (b) chargeable under Chapter 5 of that Part (stock dividends from UK resident companies), or
 - (c) chargeable under Chapter 6 of that Part (release of loan to participator in close company).
- (3) If income tax would, apart from Chapter 3, be charged on any income mentioned at Steps 3 to 6 at a rate different to the rate mentioned at the step in question, for the purpose of setting any expenses against that income, gross up the expenses by reference to the different rate instead of at the rate mentioned.

Textual Amendments

- F1** Words in s. 486(1) substituted (21.7.2008 with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 21](#)

487 Non-UK resident trustees

- (1) This section applies if a proportion of the income arising to the trustees in the current tax year is untaxed income.
- (2) A proportion of the allowable expenses is excluded for the purposes of section 486.
- (3) That proportion is the same as the proportion of the income arising to the trustees which is untaxed income.

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- (4) For the purposes of this section the income arising to the trustees is untaxed income so far as they are not liable to income tax on it wholly or partly because they—
- (a) have been non-UK resident, or
 - (b) have been treated as resident in a territory outside the United Kingdom under double taxation arrangements.
- (5) If the income tax charged on the income arising to the trustees is limited under Chapter 1 of Part 14 (limits on liability to income tax of non-UK residents), the untaxed income includes so much of the income so arising which is disregarded income (within the meaning of that Chapter) except so far as the disregarded income is within subsection (6).
- (6) The disregarded income is within this subsection so far as—
- (a) sums representing income tax have been deducted from the income, [^{F2}or]
 - (b) sums representing income tax have been treated as deducted from or paid in respect of the income, ^{F3}...
 - ^{F3}(c)

Textual Amendments

- F2** Word in s. 487(6) inserted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 63\(6\)\(a\)](#)
- F3** S. 487(6)(c) and word 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\(6\)\(b\)](#)

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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.)