

Absolute interest in residue. ITA67 s452; CTA76 s140(1) and Sch2 Ptl par24 801.—(1) This section shall apply in relation to a person who during the administration period or a part of that period has an absolute interest in the residue of the estate of a deceased person or in a part of the residue of that estate.

(2) There shall be ascertained in accordance with section 802 the amount of the residuary income of the estate for each whole year of assessment, and for each part of a year of assessment, during which—

(a) the administration period was current, and

(b) that person had that interest,

and the amount so ascertained in respect of any year or part of a year, or, in the case of a person having an absolute interest in a part of a residue, a proportionate part of that amount, is in this Chapter referred to as the “residuary income” of that person for that year of assessment.

(3) When any sum has or any sums have been paid during the administration period in respect of that absolute interest, the amount of that sum or the aggregate amount of those sums shall, subject to subsection (4), be deemed for the purposes of the Income Tax Acts to have been paid to that person as income to the extent to which, and for the year or years of assessment for which, that person would have been treated for those purposes as having received income if—

(a) that person had had a right to receive in each year of assessment—

(i) in the case of an Irish estate, that person's residuary income for that year less income tax for that year at the standard rate of tax, or

(ii) in the case of a foreign estate, that person's residuary income for that year,

and

(b) that sum or the aggregate of those sums had been available for application primarily in or towards satisfaction of those rights as they accrued and had been so applied.

(4) In the case of an Irish estate, any amount deemed to have been paid to that person as income for any year by virtue of subsection (3) shall be deemed to be income of such an amount as would after deduction of income tax at the standard rate of tax for that year be equal to the amount deemed to have been so paid, and to be income which has borne income tax at the standard rate of tax.

(5) On the completion of the administration of the estate—

(a) the amount of the residuary income of that person for any year of assessment shall be deemed for the purposes of the Income Tax Acts to have been paid to that person as income for that year and, in the case of an Irish estate, shall be deemed to have borne tax by reference to the standard rate of tax, and

(b) where the amount deemed to have been paid to that person as income for any year by virtue of this subsection is less or greater than the amount deemed to have been paid to that person as income for that year by virtue of subsection (3) or (4), such adjustments shall be made as are provided in section 804.

(6) In the case of a foreign estate, any amount deemed to have been paid to that person as income for any year by virtue of this section shall be deemed to be income of that amount, and shall be chargeable to income tax under Case III of Schedule D as if it were income arising from securities in a place outside the State.

(7) Where—

(a) a person has been charged to income tax for any year by virtue of this section in respect of an amount deemed to have been paid to that person as income in respect of an interest in a foreign estate, and

(b) any part of the aggregate income of that estate for that year has borne Irish income tax by deduction or otherwise,

the income in respect of which that person has been so charged to tax shall on proof of the facts be reduced by an amount bearing the same proportion thereto as the part of that aggregate income which has borne Irish income tax bears to the whole of that aggregate income.

(8) Where relief has been given in accordance with subsection (7), such part of the amount in respect of which the person has been charged to income tax as corresponds to the proportion referred to in that subsection shall for the purpose of computing the person's total income be deemed to represent income of such an amount as would after deduction of income tax at the standard rate of tax be equal to that part of the amount charged.

(9) For the purposes of any charge to corporation tax to which this section is applied, the residuary income of a company shall be computed in the first instance by reference to years of assessment, and the residuary income for any such year shall be apportioned between the accounting periods (if more than one) comprising that year.