

Transfer of interest in trade to children. ITA67 s448(1), (3) and (4) 798.—(1) Where by any means whatever (including indirect means or means consisting of a series of operations and whenever adopted) a trade, which at any time before the adoption of such means was carried on by any person solely or in partnership, becomes a trade carried on by one or more than one child of such person or by means of a partnership in which such person and one or more than one child of such person are partners, the following provisions shall apply:

(a) such means shall for the purposes of this Chapter be deemed to constitute a settlement as respects which such person shall be deemed to be the settlor;

(b) the profits or gains arising from the trade after the adoption of such means, in so far as they arise to one or, as the case may be, more than one child of such person shall for the purposes of this Chapter be deemed to be the same income as would have arisen to such person had such means not been adopted;

(c) “income” where it first occurs in section 795 shall be deemed to include those profits or gains in so far as they arise to one or more than one child of such person.

(2) The amount of the income of a person from the profits or gains of a trade deemed by virtue of subsection (1) to be income of another person shall, if the first-mentioned person is engaged actively in the carrying on of the trade, be the full amount of that income reduced by a sum (in subsection (3) referred to as “the appropriate sum”) equal to the amount which would have been allowed in computing those profits or gains in respect of the first-mentioned person if that person, instead of being a person engaged in the carrying on of the trade, had been a person employed by a person or persons carrying on the trade.

(3) The appropriate sum shall be deemed to be profits or gains arising to the first-mentioned person referred to in subsection (2) from the exercise of an office or employment within the meaning of Schedule E.