Trusts and settlements – income treated as the settlor's

Contacts

Please phone:

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This helpsheet will help you decide whether you are a settlor who is chargeable on the income arising or paid to another person.

If you are, then you must fill in boxes 7 to 15, as appropriate, of the *Trusts etc.* pages of your tax return. The *Trusts etc. notes* will help you to decide which boxes to use.

You are chargeable on the income arising to someone else if:

- you are a settlor, and
- any one of the three situations described in Part 2 on page 2 applies.

Part 1 – settlor and settlements

What is a settlor?

A settlor is a person who 'makes a settlement', that is someone who puts or gifts money or other assets into a settlement. This is known as 'settling' property and it can be done directly or indirectly.

Example 1

Sue gives £1,000 to her brother Roger to put into trust for her children. Roger sets up a trust with this money and although he is the named settlor in the trust deed, Sue is treated as the real settlor because it was she who indirectly provided (or settled) the funds.

What is a settlement?

For Income Tax purposes, two elements must be present for there to be a settlement:

- firstly, there has to be some form of arrangement, either formal or informal, where property or income belonging to one person is passed to another. Property here includes money, land and other types of physical assets as well as incorporeal assets such as shares, rights and options
- secondly, there must be an element of giving or getting something for nothing or for less than the open market value. This is known as bounty.

Settlements may involve written agreements or deeds. Trusts are a common type but a settlement can also be a disposition, covenant or agreement. However, there does not have to be a deed and so settlements can also include an unwritten arrangement or even a straightforward gift or transfer of property.

Example 2

If Betty puts company shares that she owns into trust for her children, she has made a settlement. She has transferred the property to the trustees and there is bounty in this arrangement as she has given the property away for nothing.

On the other hand, if she sells those shares on the open market at the going rate, she has not made a settlement. Although there is still a transfer of property, there is no bounty as she has received full payment for the shares.

What is not treated as a settlement?

There are a number of transactions or arrangements which are not treated as settlements. These are:

- outright gifts between spouses or civil partners, but only if the person receiving the gift is entitled to all the income that arises on it and what they are receiving is not just income (or mostly income). Gifts between spouses or civil partners which are subject to conditions, for example, where the person making the gift will get it back if certain events happen, are not outright gifts
- marriage settlements, that is, arrangements made by one party to a marriage or civil partnership to provide for the other in the event that the marriage or civil partnership comes to an end. This could be a formal dissolution or annulment, a separation under a Court Order or other agreement, or a separation in circumstances where it is likely to be permanent
- annual payments made by an individual for commercial reasons in connection with their trade or profession
- loans made by an individual to a charity, which are either interest-free or low interest
- arrangements made by a person giving their spouse or civil partner rights to their pension or allocating benefits under an approved pension arrangement.

Part 2 – When is a settlor chargeable?

What are the three situations where a settlor can be chargeable?

1. The settlor retains an interest in the trust or settlement.
2. Trust income or capital is held for the benefit of the settlor's minor child or step-child.
3. The trustees pay a capital sum to the settlor.

1 The settlor retains an interest in the trust or settlement

As a settlor, you retain an interest in a trust or settlement if in any way the property can be paid to or applied for the benefit of:

- you, or
- your spouse or civil partner.

Property here means:

- the property which you have put into the trust or settlement – this could be money or other assets, such as land or shares
- any other property which has since been acquired, directly or indirectly, from the disposal proceeds of the original property you put into the trust or settlement, and/or
- income arising on the property.

If you are a settlor and have retained an interest, you are taxable on the income arising to the trust or settlement even if you do not actually receive it. In the case of a trust, where the trustees have incurred expenses in managing that trust, you cannot deduct those expenses to reduce the amount taxable on you (but see the final bullet point on trustees' payments to charities under the heading 'The exceptions – situations where you do not retain an interest' starting on page 4).

There are some situations where you are not treated as retaining an interest – see the notes starting on page 4 under the heading 'The exceptions – situations where you do not retain an interest'.

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Example 3

Following an illness Dave is no longer able to work. To ensure sufficient provision for his future in case his condition gets worse, he decides to set up the Dave Green Discretionary Trust and put some of his money into it. Dave is the settlor of the trust but as he is also the beneficiary he has retained an interest because the trustees can, at their discretion, make payments of either capital or income to him as beneficiary. Dave is therefore taxable on any income arising to the trustees.

If the circumstances had been different and it was Dave's parents who put their money into trust for his benefit, they would be the settlors, not Dave. In which case he would not be a settlor and so the issue of him retaining an interest would not arise. He would therefore not be taxable on the income arising to the trustees (although, like any other beneficiary, he would still be taxable on actual payments the trustees choose to make to him).

Example 4

Anwar puts property into trust for his grandson Rashid until he becomes 30. At that point, the property will pass to Rashid absolutely. However, the trust deed makes no mention of what should happen to the property if Rashid dies before he reaches that age.

Anwar is the settlor and has retained an interest in the property because under trust law, it reverts back to the settlor if the beneficiary does not survive to the required age and there is no other beneficiary specified. Although unlikely, the capital of the trust could be paid to Anwar and so he will be chargeable on any income arising to the trustees.

Are you a settlor with an absolute entitlement to trust income?

If you are a settlor of a trust and also a beneficiary with an absolute entitlement to income of that trust (but not capital), the trust is settlor-interested. The trustees may have given you form R185(Settlor) with details of the income on which you are taxable as settlor. This amount may be more than the income to which you are entitled under the deed as they may have used some of that income on expenses incurred in managing the trust. As settlor you are taxable on the total income. Do not show your entitlement in boxes 3 to 5 of the *Trusts etc.* pages. Instead include the total income arising to the trustees in boxes 7 to 9. If you have not been given a form R185(Settlor), you may need to speak to the trustees to find out the amount of income taxable on you.

Tax paid by the trustees and your tax liability

Where trustees have already been taxed on the income, you get credit for that tax and can set it against your liability, as settlor, on the trust income. If you have not been given a form R185(Settlor), you may need to speak to the trustees to find out the amount of any tax they have been charged. The rates of tax applied will differ according to the type of trust and nature of the income – use boxes 7 to 12 on the *Trusts etc.* pages according to the rate of tax charged on the trustees to ensure you get the correct amount of credit.

The trustees are required to fund your Income Tax liability because you are charged to tax on income that may not belong to you; it is treated as yours solely for Income Tax. Where the tax paid by the trustees exceeds your own liability that excess belongs to them.

For accumulation/discretionary trusts, the trust rate of 50% means that, unless you are liable at the additional rate, the tax paid by trustees will exceed the tax due from you. Where this happens you are required to return the excess tax to the trustees.

If required, we will provide a certificate with the details of the repayment due to you on the trust income treated as yours to help you work out how much you owe the trustees. You can ask your own HM Revenue & Customs (HMRC) office or the office dealing with the affairs of the trust for such a certificate.

Where the tax paid by the trustees is insufficient to cover your tax liability on the settlement income you can claim a refund of any additional tax you have to pay from the trustees.

If required, we will provide a certificate with the details of the tax due from you on the trust income treated as yours for you to show the trustees how much they owe you. You can ask your own HMRC office or the office dealing with the affairs of the trust for such a certificate.

The exceptions – situations where you do not retain an interest

There are a number of circumstances where you are not treated as retaining an interest in the property of a trust or settlement you have made. These are:

- making an outright gift of money to another person with no strings attached; in other words you give up any rights or control over that money. The person receiving the gift may choose of their own accord to give the money back to you but you are not treated as retaining an interest in that money. This is because that other person has complete freedom to do what they want with that money

Example 5

Dawn gives her daughter Jane a sum of money to do with as she pleases. A few years later Dawn's business is suffering and Jane decides to give back a large part of the money. The original gift was not a loan and there was never any understanding it would be paid back. Although it was an informal settlement and part of the sum has since been paid to Dawn, she has not retained an interest in it.

- where your interest in property comes about (or may come about) only if certain events happen. These events are where someone else already has a beneficial interest in that property (or may have one at some point in the future) and he or she
  - becomes bankrupt
  - assigns their interest to you
  - is party to a marriage settlement (see the section 'What is not treated as a settlement?' on page 2) but both parties and any children of the marriage or civil partnership die
  - is a child of yours (or your civil partner) who would have become beneficially entitled to the property before the age of 25, but died before reaching that age and as a result you (or your spouse or civil partner) acquire an interest
- where there is no possibility that you (or your spouse or civil partner) can acquire an interest in the property during the life of another person, while he or she is under 25, unless he or she becomes bankrupt or assigns the interest
- where the trustees of a trust pay income to a charity, either as a gift or under the terms of the trust deed. If so, you are not taxable on this income although you retain an interest in the settlement itself and in any other income that is not paid to charity. The exception only applies to gifts to charity where the income is paid in the same tax year as it arises.

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In addition, if the trustees have used part of their income on allowable expenses of managing the trust (trust management expenses or TMEs), you are not taxable on the proportion of the amount that corresponds to the gift to charity. This can affect how you show your income from a trust.

Example 6 – discretionary trusts and payments to charity

The trustees of the Peter Bruce Discretionary Trust receive income of £1,000 in the year and they spend £200 of that on TMEs. In addition, they give £100 to a charity. Peter is the settlor and the trust is settlor-interested, so he is taxable on the income arising to the trustees but not on the £100 they gave to charity. In addition he is not taxable on the part of the income spent on TMEs that corresponds to the gift to charity, which is £200 multiplied by $^{100}/_{1,000}$ = £20. So Peter's liability is £1,000 minus £100 minus £20 = £880.

Example 7 – interest in possession trusts and payments to charity

The trustees of the Burns Family Trust receive rental income of £1,200 and bank interest of £300. Under the terms of the trust deed they are required to pay two thirds of the income after allowable expenses to the settlor Richard and one third after allowable expenses to charity. Their total allowable expenses (TMEs) amount to £90 and these are apportioned between Richard and the charity. The TMEs apportioned to Richard's income cannot be used to reduce the amount of his taxable income (see the section 'The settlor retains an interest in the trust or settlement' on page 2) and so he is taxable on:

- rental income of £1,200 multiplied by $^{2}/_{3}$ = £800 and this should go in box 7 on the *Trusts etc.* pages, and
- bank interest of £300 multiplied by $^{2}/_{3}$ = £200 and this should go in box 8.

If the trustees were instead required to pay all the bank interest to charity (but none of the rental income), Richard would not be taxable on that interest. He would be taxable on rental income of £1,200 and this would go in box 7.

Examples of retaining an interest in non-trust situations

Example 8 – shares with restricted rights

Ron is a director of, and owns all the shares in, RH Trading Ltd. He creates a new class of B shares - these carry no voting rights and no rights to any assets in the event that the company is wound up. The company then issues these B shares to Ron's wife Anita.

Any dividends voted on the B shares are taxable on Ron. There is a settlement as Anita has been given the shares for nothing. Ron has retained an interest in it because the income is paid to his wife. As the B shares entitle Anita to income only (and not the capital of the company), the outright gift between spouses exemption does not apply (see 'What is not treated as a settlement?' on page 2).

Ron should include the dividends on the B shares in box 9 on the *Trusts etc.* pages of his tax return and a brief explanation in box 25. Anita does not include the dividends in her tax return but a brief note in the 'Any other information' box on page TR 6 would be helpful.

Example 9 – dividend waivers

Gill owns 80 ordinary shares in GT Co Ltd and her husband Frank owns the remaining 20. The company makes a profit of £25,000 in the year. Gill waives her right to any dividend and then the company declares a dividend of £1,000 per share. Frank receives £20,000.

Part of Frank's dividend payment is taxable on Gill. There is a settlement here as she has given away income which, in the absence of the waiver, would have gone to her – the company could not have paid £1,000 per share if Gill hadn't waived her right to a dividend as its profits were not large enough. So as a result Frank has received a larger dividend. Without Gill's waiver, Frank's share of the total dividend would have been £4,000 (£20,000 multiplied by $^{20}/_{100}$) and so the balance of £16,000 is taxable on Gill.

Gill should include the £16,000 in box 9 on the *Trusts etc.* pages of her tax return and a brief explanation in box 25. Frank should include £4,000 in the 'Interest and dividends from UK banks, building societies etc.' section on page TR 3 of his tax return with a brief note in the 'Any other information' box on page TR 6.

Example 10

The circumstances are the same as in Example 9 above except that instead of 100 ordinary shares, Gill owns 80 A shares and Frank owns 20 B shares. The A and B shares are exactly the same in all respects. The company made profits of £25,000, a dividend of £20,000 is voted on the B shares while no dividend is voted on the A shares.

Once again, part of the dividend is taxable on Gill. There is a settlement here as the dividend on the B shares could only have been paid in that amount because none was declared on the A shares. The shares rank equally and so if £20,000 had been declared for all the shares, only £4,000 would have arisen on the B shares. Frank's taxable income is £4,000 and Gill's is £16,000.

Example 11 – subscribed shares

Claire sets up a company to provide services to a number of clients. The company's share capital consists of two £1 shares. She subscribes for one and her husband Andy subscribes for the other. Claire is the sole director and Andy is the company secretary but otherwise takes no active part in the company. There are no significant capital assets and the first year's trading results are as follows:

Turnover	£100,000
Expenses	£ 5,000
Claire's salary	£ 10,000
Andy's salary	£ 5,000
Dividends	£ 70,000

Claire undertakes all the work bringing in the turnover of £100,000 and her salary and dividends come to £45,000. Andy's salary and dividends amount to £40,000. While there may be a settlement as Claire is allowing some of her earnings to be paid to Andy by way of a dividend, it is an outright gift between spouses. As Andy's share is an ordinary share, he is entitled not only to income but also to the capital of the company (even if there is hardly any capital). The outright gift exemption applies (see 'What is not treated as a settlement?' on page 2) and this arrangement is therefore not treated as a settlement for Income Tax purposes. The issue of whether Claire has retained an interest does not therefore apply and she is not taxable on any part of Andy's dividend income.

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Example 12 – partnerships

Phil is a sole trader and he decides to admit his wife, Louise, as a partner. Louise does no work for the partnership but the agreement provides for the partnership profits to be shared equally.

While there may be a settlement as Phil is allowing some of his earnings to be paid to Louise, this is an outright gift between spouses. This gift is not limited to just income as Louise is entitled to her share of any capital there may be in the business. This arrangement is not treated as a settlement for Income Tax purposes and once again the issue of whether Phil has retained an interest does not apply. Louise is taxable on her share of the partnership profits and Phil is also taxable only on his actual share.

2 Trust income or capital is held for the benefit of the settlor's minor child or stepchild

In this part, child means a child or stepchild of yours, or a child of your civil partner, who is:

- under 18 years of age, and
- neither married nor in a civil partnership.

If you have put money or property into a trust or settlement where any child of yours can benefit, you are taxable on:

- payments of income made to each child under the trust or settlement, and
- payments of capital made to each child under the trust or settlement (but see paragraph below), and
- amounts applied for the benefit of each child (this is where the payment is made to someone other than the child but for the child's benefit, for example, payment of school fees – see the paragraph below), and
- amounts to which any child is entitled, even if these amounts are not actually paid over to the child.

For the second and third bullet points immediately above (payments of capital made to a child or amounts applied for the benefit of a child), where the trustees can retain or accumulate income you will need to work out if they have retained income available. You are taxable as settlor on payments and amounts only where they can be matched to the trustees' available retained income, and the notes further below will help you see if this is the case.

Where the child's income includes a tax credit from the trustees the tax is available to the settlor. Where the tax credit exceeds the amount of tax due from the settlor the excess should be returned to the child.

Trusts and settlements made before 9 March 1999

The rules are slightly different where the trust or settlement was made before 9 March 1999 as the fourth bullet point above (amounts to which a child is entitled) does not apply. So if the trust or settlement was made before this date and you have not added any money or property to it since then, you are taxable only on actual payments made to a child or on amounts applied for the benefit of the child, subject to the trustees' available retained income.

Where the trust or settlement was made before 9 March 1999 but you have added money or property to it since then, the normal rules described above (all four bullet points) apply to the funds or property added on or after 9 March 1999. So where a child has an entitlement to income but it has not been paid over to him or her, you must apportion that income over the two periods to 8 March 1999 and from 9 March 1999. There are no set rules as to how you apportion the income but it must be done in a fair and reasonable way.

Simple gifts

If you use your own money to:

- open or add to a bank or building society account in your child's name, or
- buy an asset in your child's name, or
- transfer an existing asset of yours into your child's name,

any income arising on the account or from the asset is taxable on you.

If other people have contributed to the account, or the asset you buy or transfer is jointly owned with someone else, you are taxable only on the income that arises on your share.

Income which is not taxable on you as settlor

If the total income treated as yours (payments under a trust or settlement to a child of yours, amounts applied for the benefit of a child, amounts to which a child is entitled, where appropriate, and income arising on simple gifts) does not exceed £100 in a tax year, none of it is taxable on you.

The figure of £100 is the gross amount. That means before any tax has been deducted.

If the total amount is more than £100, you are taxable on all of it, including the £100.

Available retained income – how to work out the amount

Where the trustees can or do retain or accumulate income, you are taxable on the lower of:

- the total payments made under a trust or settlement to, and amounts applied for, the benefit of your child, and
- the trustees' available retained income.

To work out the amount of available retained income, add up all the income arising to the trust or settlement since it was first made. Then deduct the following amounts from that total:

- income that has already been treated as yours in an earlier year
- income that has been paid to, applied for the benefit of or otherwise treated as the income of someone other than your child
- income that has been treated for any of the tax years 1995–96, 1996–97 and 1997–98 as that of your child and subject to Income Tax (insofar as the income exceeds allowances and other allowable deductions)
- income that the trustees have applied on allowable expenses of managing the trust or settlement.

3 The trustees pay a capital sum to the settlor

This applies only where there is a trust. You are taxable on the lower of:

- the capital sum paid to you by the trustees, and
- the available income.

Capital sums include the trustees:

- lending money to you, your spouse or civil partner
- repaying a loan to you, your spouse or civil partner
- paying money to a third party at your request
- paying money to a third party where you have assigned your right to receive it
- paying or applying a sum for your benefit.

They do not include payments of income or the payment of sums (other than loans or repayments of loans) where you as settlor in return pay in full for them, either in money or money's worth.

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You are taxable on the lower of the capital sum and the trustees' available income in the tax year in which the capital sum is paid to you (or to your spouse or civil partner). If the available income in that year is less than the capital sum, the balance of the capital sum is carried forward to the following year and matched against the trustees' available income in that later year. This continues for a maximum of 10 years (following the year in which the capital sum is paid) until all the capital sum has been matched. If you repay the whole capital sum, you are no longer taxable on it in the tax year following the one in which you make the full repayment.

Where you have received but wholly repaid a loan and then the trustees make another loan, some or all of that further loan may be treated as a capital sum and taxable on you. If you were taxable on the original loan, it is only the excess of the further loan over the original loan that is treated as a capital sum.

Similarly, if you have made a loan to the trustees, which they have repaid in full, and you then make another loan to them, the repayment of the first loan is not treated as a capital sum as long as the second loan is at least equal to the first.

Example 13

Dominic settled £200,000 into trust several years ago for his minor children and during the tax year 2010-11 the trustees make him a loan of £30,000, which he uses to expand his business. That loan is a capital sum and Dominic is taxable on it, subject to the trustees having available income (see example 15 on page 12 to work out the charge).

If there is insufficient available income in 2010-11, the balance of the loan may be matched with available income of a later year. This goes on until it is all matched but for a maximum of 10 years (following on from 2010-11). So the last year in which Dominic is taxable on the capital sum is 2020-21, unless it is all matched with available income or he repays it in full before then.

Capital sums paid by a company

In certain situations, a capital sum of any type mentioned above, paid by a company, may be taxable on you as a settlor of a trust. This will be the case if the company paying the capital sum is:

- connected with a trust of which you are a settlor, and
- the trustees of that trust make an associated payment to the company.

For Income Tax purposes the trustees are treated as though they have paid you the capital sum. The amount taxable cannot exceed the amount or value of the associated payment.

Company here means any corporate body. It does not include individuals, partnerships or unincorporated associations.

A company is connected with a trust if:

- it is a close company, and
- the participators in it include the trustees.

Broadly speaking, a close company in this situation is one which is controlled by five or fewer participators or controlled by any number of participators who are all directors of the company, whether it is resident in the UK or elsewhere. A participator is a person who has a share or interest in the capital or income of a company, for example, a shareholder. More detailed definitions can be found in the Company Taxation Manual at CTM60000+ at **www.hmrc.gov.uk**

An associated payment is:
- any loan or repayment of a loan to the company in question by the trustees, or
- any other sum or asset transferred by the trustees to the company, that is paid or transferred in the five years beginning or ending on the date on which the company pays you the capital sum.

If the associated payment is made before the capital sum is paid, the capital sum is taxable on you as settlor in the year that it is paid. If the associated payment is made after the capital sum is paid, it is taxable in the year the associated payment is made.

An associated payment does not include a sum or asset for which the company pays in full in money or money's worth.

Example 14

The share capital of General Co Ltd consists of two £10 ordinary shares. One of these is held by the trustees of the Sheila C Discretionary Trust and Sheila is the settlor of that trust. In September 2010 General Co Ltd makes a loan to Sheila of £8,000. A year later the trustees of the Sheila C Discretionary Trust transfer a shareholding, worth £5,000, in a different company to General Co Ltd for nothing.

General Co Ltd is a close company (there are only two shareholders and so it has fewer than five participators) and it has paid Sheila a capital sum. The trustees have made an associated payment to the company within five years of the payment of the capital sum. Sheila is taxable on the £5,000 in 2011-12, to the extent that the trustees have available income.

How to calculate the trustees' available income

Firstly, you must add together all the income that has arisen to the trust since it commenced. You may need to contact the trustees for the figures. Then make the following deductions from that total.

A Income in this or earlier years which has been distributed by the trustees to any person – see Note A below.

B Certain expenses paid by the trustees in this year that are properly payable out of their income – see Note B below.

C The amount of available income in earlier years which has already been matched against capital sums taxable on you.

D Income of this or earlier years, on which you are already taxable under sections 1 and 2 of this part (income arising to settlements in which you have retained an interest and payments made or amounts payable to children of yours by trustees of trusts you have made).

E An amount of 50% applied to:
- the amount of undistributed income (the total income arising to the trust since it was made minus the figures for A and B above), minus
- the figure in C above.

Note A

For example, discretionary payments to beneficiaries. To count as distributed income, it must be taxable as income in the hands of the person receiving it. This includes amounts which:
- are subject to Income Tax but do not result in an actual tax charge because of personal allowances or similar of the person receiving them, and
- are not charged to tax only because the person receiving them is not taxable in the UK.

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Distributed income does not include payments:
- of interest
- to companies that are connected with the trust, or
- to the trustees of another trust, where that trust has been made either by you or the trustees making the payment.

Note B

These include any expenses of the trustees paid in this year except:
- any such expenses included in the figure for A above
- interest for which no tax relief is allowable
- interest paid to you, your spouse or civil partner if living with you
- any other interest if the distributed income in A above was payable only to you, your spouse or civil partner
- a part of any other interest if the distributed income in A above was payable to any person other than you, your spouse or civil partner and this part is calculated using the Working Sheet below.

Working Sheet for calculating the excluded part of other interest within distributed interest

Income arising to the trust in this year	F	£
Expenses paid in this year by the trustees	G	£
Interest paid in this year by the trustees	H	£
box G minus box H	I	£
box F minus box I	J	£
Income within A on page 10, distributed to someone other than you, your spouse or civil partner	K	£
box J minus box K	L	£
box L divided by box J	M	£

M = excluded part of interest

How to calculate the tax charge

1 Compare the amount of trustees' available income with the amount of the capital sum:
   - if the amount of available income is higher than the capital sum, the taxable amount is the capital sum
   - if the amount of available income is lower than the capital sum, the taxable amount is the available income. The difference between the two amounts is carried forward to next year and set against the available income in that year (for a maximum of 10 further years or until the capital sum is exhausted).

2 Gross up the taxable amount in 1 above at the trust rate (this is done by multiplying by 2).

3 Multiply the grossed up amount in 2 by 50% to arrive at the tax charge.

4 Deduct notional credit from the tax charge in 3. Notional credit is given on the available income, which is matched to the capital sum, arising to the trustees. The rate of notional credit is:
   - 34% on the trustees available income arising before 6 April 2004, and

- 40% on the trustees' available income arising from 6 April 2004 to 5 April 2010 inclusive.
- 50% on the trustees available income arising on or after 6 April 2010.

There is no notional credit on income arising outside the UK to trustees who are not resident in the UK.

Example 15

In Example 13 on page 9, Dominic put £200,000 into a discretionary trust in favour of his minor children. The money has been invested and income arises to the trustees as follows:

2007-08	Income £15,000	Tax £5,800
2008-09	Income £20,000	Tax £7,800
2009-10	Income £15,000	Tax £5,800
2010-11	Income £12,000	Tax £5,700
Totals	£62,000	£25,100

No payments have been made to the children so no income is treated as Dominic's under section 2 of this part (payments made to minor children of a settlor). On 1 May 2010, Dominic borrows £30,000 from the trustees. Dominic is liable to Income Tax at the additional rate of 50%.

The undistributed income of the trustees is £36,900 (£62,000 less the tax of £25,100 paid on that income). As the amount borrowed is less than the undistributed income of the trust we would treat the amount of the loan as Dominic's income.

To calculate the Income Tax charge on Dominic the amount of the loan is grossed up at the trust rate (50%). Dominic gets a notional credit for tax at the trust rate in force for the years in which the income arose to the trustees. The loan is matched with income of earlier years first.

Loan to settlor			£30,000	
Grossed up at the trust rate (30,000 x 100/50)			£60,000	
Tax due (£60,000 x 50%)				£30,000
Less notional tax:				
2007-08	£15,000 x 40%	£6,000		
2008-09	£20,000 x 40%	£8,000		
2009-10	£15,000 x 40%	£6,000		
2010-11	£10,000* x 50%	£5,000		£25,000
Tax chargeable on Dominic				£ 5,000

*The trustees' total income is £62,000 but the grossed up loan is only £60,000.

The earlier years' income is matched first and so only £10,000 of £12,000 income in the 2010-11 tax year is matched to the grossed up loan - there is no need to match income of later years.

Where to enter the tax charge in your tax return

You should enter:

- any tax chargeable as a result of the calculation in 1 and 2 on page 11 of this helpsheet in box 13 on the *Tax calculation summary* pages, and
- your full calculation (the amount in 1, the amount in 3 and any notional credit in 4, all on page 11 of this helpsheet) in box 25 'Any other information' of the *Trusts etc.* pages.