HM Revenue & Customs

Trusts etc. notes

Tax year 6 April 2013 to 5 April 2014

Contacts

To download the form and related helpsheets go to **hmrc.gov.uk/sa107**

For more information about Self Assessment go to **hmrc.gov.uk/sa** or **hmrc.gov.uk/sacontactus**

Who should complete the *Trusts etc.* pages

Complete the *Trusts etc*. pages if, in the year to 5 April 2014, you:

- received or were entitled to income from a trust or *settlement*
- received income from the *estate of a deceased person*
- were a *settlor* and taxable
  - on income arising to trustees of a settlor-interested trust or some other *settlement* in which you have an interest
  - on income payable to your minor children from property you have placed in *settlement*
  - in certain situations on receipt of loans from a trust.

These notes and any forms R185(Trust Income) and/or R185(Settlor) from the trustees or forms R185(Estate Income) from the *personal representatives* will help you. In most cases, all you will have to do is copy figures from these forms onto the *Trusts etc.* pages. Do not enclose forms R185: if we need to see them we will ask you to send them. Words and phrases in italics are explained in the 'Glossaries' starting on page TN 7.

Income not to be entered on the *Trusts etc.* pages

If you were the beneficiary of a *bare trust* use other pages or sections of your tax return to enter income received from the *bare trust*. If you received income from a foreign trust you may need the *Foreign* pages.

Income from trusts and settlements

If you are the beneficiary **and** the *settlor* of a settlor-interested trust, leave boxes 1 and 2 blank; do not enter payments from that trust made to you as a beneficiary. This is because you are already taxable on all the trust income arising to the trustees, and this will go in boxes 7 to 12.

Discretionary income payment from a UK resident trust

Box 1 *Net amount – after tax taken off*

If you are a beneficiary of a *discretionary trust*, enter in box 1 the amount received from the trustees after they took off tax. But do not include payments from a trust that is settlor-interested (see the box 2 note below). If you received payments from more than one trust, add them together. The income in box 1 carries a tax credit of 45% – so if you are not taxable at 45%, some tax may be repaid to you or will reduce your overall tax bill – we will work this out. Payments from non-resident trustees go in box 41 on the *Foreign* pages (but see also the note for box 2 below).

Box 2 *Total payments from settlor-interested trusts*

If you are a beneficiary of a settlor-interested trust, include in box 2 all payments from the trust, **whether the trustees are UK resident or not.** (But if the trustees are non-UK resident, only fill in box 2 if you have been told that the trust is settlor-interested for UK tax purposes and the trust income from which the payment has been made has been taxed on the settlor. If you have not, use box 41 on the *Foreign* pages.)

These payments are treated as taxed and there will be no further tax to pay on this income.

Non-discretionary income entitlement from a trust

Boxes 3 to 5

Copy the figures from form R185(Trust Income) into boxes 3 to 5, as appropriate (but see 'Income chargeable on settlors' below). If you do not have a form R185(Trust Income) enter the amounts to which you are entitled after UK tax has been taken off (the net amount) in boxes 3 to 5. Use the appropriate box according to the rate of tax which has been taken off.

But do not include the following amounts in boxes 3 to 5.

- Stock dividends – they go on the *Additional information* pages.
- Foreign income – this goes on the *Foreign* pages.
- Untaxed trust income – this should go in the appropriate box elsewhere on your tax return.

Income chargeable on settlors

Helpsheet 270 *Trusts and settlements – income treated as the settlor's* gives more details about *settlements* and when a *settlor* is taxable on income arising to another person. The boxes you should complete if you are taxable as a *settlor* will depend on whether the income arises to the trustees of a trust or to a person in a non-trust situation.

In certain cases and if the tax paid by the trustees exceeds the tax due by the settlor on the same income, the settlor must pay the excess to the trustees. Where this happens, the settlor can ask us to provide a certificate showing the amount to be paid to the trustees. Download Helpsheet 270 *Trusts and settlements – income treated as the settlors* from **hmrc.gov.uk/helpsheet270**

Income arising to trustees of a trust or settlement

Boxes 7 to 12

Copy the figures from form R185(Settlor). If you have not been provided with one you may need to ask the trustees of the trust or *settlement* for the information to go in boxes 7 to 12. Use the appropriate box according to the rate of tax taken off by the trustees. You get credit for tax paid by the trustees. Do not enter foreign income in these boxes – use the *Foreign* pages instead.

If you are both the *settlor* and the beneficiary of a non-discretionary settlor-interested trust, the amount of your entitlement as beneficiary may be less than the total trust income because the trustees have used some of the income to pay the trust management expenses. But as a *settlor* you are taxable on all the income so you must enter the total trust income in boxes 7 to 12.

Gains on life insurance policies arising to trustees

If the trust made a gain on a life insurance policy, you may have to complete boxes on other tax return pages, as well as boxes here. The boxes you should complete will depend on whether the policy was foreign, whether tax at 20% was treated as paid on the gain by the insurer, or whether the trustees had to pay any further tax.

- If only 20% tax was treated as paid, enter the gain in box 4 on page Ai 1 of the *Additional information* pages.
- If the trustees paid a further 25% tax on the gain, enter that further tax paid in box 15 on the *Trusts etc.* pages.

> **Contacts**
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> **hmrc.gov.uk/sacontactus**

- If no tax was treated as paid on the gain, enter the amount of the gain in box 6 on page Ai 1 of the *Additional information* pages. Enter the amount of tax paid by the trustees on the gain in box 15 of the *Trusts etc.* pages – this may be either 20% or 45%.
- If the gain was on a foreign life policy, enter it in box 43 on the *Foreign* pages.

Income arising from a non-trust settlement

Boxes 9, 13 and 14

If you are taxable as *settlor* on income arising to another person in a non-trust *settlement* or arrangement, enter dividend type income in box 9, non-savings income in box 13 and savings income in box 14. Helpsheet 270 *Trusts and settlements – income treated as the settlor's* explains more about this and will help you to work out these amounts. If, exceptionally, tax has been taken off from the income, enter it in box 7 or box 8. If the income is foreign, use the *Foreign* pages. Read Helpsheet 270 *Trusts and settlements – income treated as the settlors* for more information.

Gains on life insurance policies in a non-trust situation

If you are taxable on a gain made on a life insurance policy, you must complete boxes on other pages of the tax return.

- If 20% tax was treated as paid, enter the gain in box 4 on page Ai 1 of the *Additional information* pages.
- If no tax was treated as paid on the gain, enter the amount of the gain in box 6 on page Ai 1 of the *Additional information* pages.
- If the gain was on a foreign life policy, enter it in box 43 on the *Foreign* pages.

> **Contacts**
> If you need help, please phone the Deceased Estates Helpline on
> **0300 123 1072**

Income from the estates of deceased persons

Copy the figures from form R185(Estate Income) into boxes 16 to 21 as appropriate (but see the notes for boxes 18 to 20).

If the *personal representatives* of the estate of a deceased person have not given you a form R185(Estate Income), ask them for details of the amounts you have received or to which you are entitled as a *residuary beneficiary*, and the tax paid on that income. There is no charge to Income Tax on the residue itself but residuary beneficiaries are taxable on any income that arises on their share of it. The amount of income and how it is taxed will depend firstly on the *type of interest* you have in the residue and secondly on whether it is a UK or foreign estate.

There is no charge to Income Tax on a legacy although any income arising on the specific sum of money or asset is taxable. Do not enter any such income on the *Trusts etc.* pages but include it elsewhere on your tax return, according to the type of income.

Absolute interest

If you received no income from the residue of the estate during 2013–14 there is nothing to enter on these *Trusts etc.* pages (but if the *administration period* ended in 2013–14 see the note below). If the estate was very small, or if the administration was completed very quickly, the *personal representatives* may not have received any income and therefore no forms R185(Estate Income) will have been completed.

Otherwise, if you have an *absolute interest* in the residue of the estate, you are taxable on the lower of:

- any amounts paid to you by the *personal representatives* in the tax year, or
- the amount of income that has arisen on your share of residue since the administration of the estate began (but take off from this amount any payments included on earlier years' tax returns).

If the administration of the estate was completed during 2013–14, you are taxable on all the income from your share of the estate for the entire *administration period*, but you can take off any amounts included on earlier years' tax returns.

Successive interest

If you have a *successive interest* in the estate you can take off any amounts already included in the original beneficiary's earlier years' tax returns.

Limited or discretionary interest

If you have a *limited interest* or *discretionary interest* in the residue of the estate you are taxable on the amount you receive in the year.

Income from UK estates

Broadly speaking, a UK estate is one where all the income of the estate has already been taxed in the UK. You will receive credit for the tax taken off from the payments you receive from the estate.

Once you have worked out the amounts on which you are taxable, enter them in boxes 16 to 21, according to the rate of tax that has been taken off and whether or not that tax is repayable. Most income will go in boxes 16, 17 and 21.

Boxes 16, 17 and 21 *Non-savings, savings and dividend income*

Where tax has been taken off:
- non-savings income at basic rate (20%) – enter the amount in box 16. This includes rental income and profits from a trade.
- savings income at basic rate (20%) – enter the amount in box 17. This includes bank and building society interest.
- dividend income taxed at non-payable dividend rate (10%) – enter the amount in box 21. This includes dividends from UK companies.

Also enter in box 21 any income from a UK estate that represents dividends from foreign companies and that qualifies for the UK dividend tax credit.

Please see the notes below and the notes for the *Foreign* pages for guidance on which foreign dividends qualify for the UK tax credit.

Box 18 *Dividend income*

If you receive or are entitled to foreign dividend income from a UK estate that does not qualify for the UK dividend tax credit, enter in box 18 the amount after tax was taken off.

Please see the notes on page TN 5 for guidance if you receive or are entitled to foreign dividend income from a foreign estate.

Box 19 *Non-savings income taxed at non-repayable basic rate*

If you receive or are entitled to life insurance policy gains made by the estate, and tax at 20% is treated as paid, enter the gain in box 19. But if tax at 22% is treated as paid on life insurance policy gains, please show this separately as non-repayable income taxed at 22% – after tax taken off, in the 'Any other information' box, box 25.

Contacts

To download the form and related helpsheets go to **hmrc.gov.uk/sa107**

For more information about Self Assessment go to **hmrc.gov.uk/sa** or **hmrc.gov.uk/sacontactus**

Box 20 *Income taxed at 22%*

Enter in box 20 any income that has had tax taken off at 22% when this was the basic rate of tax, (but not life insurance policy gains, see the notes on box 19 on page TN 4) and that is not passed over to the beneficiaries until after the reduction in the basic rate to 20%.

Tax credits on foreign dividends

Personal representatives who receive dividend income from foreign companies as part of the income of a UK or foreign estate are, in most cases, entitled to a UK tax credit equal to one-ninth of the dividend.

For more information, please download the notes for the *Foreign* pages from **hmrc.gov.uk/sa106-notes**

Special situations

If there has been a *deed of variation* and the amount you receive or are entitled to changes, you are taxable on the amount actually paid to you. The variation does not alter taxable income for periods prior to the date of the deed.

If the same income has been charged to Inheritance Tax and is also charged to Income Tax, you can claim relief for paying tax twice. If the *personal representatives* have told you about this, simply enter the reduced amount in the appropriate box.

If you claimed your legal rights in a Scottish estate, your claim will usually be paid with interest. Enter the interest on page TR 3 of your tax return, not the *Trusts etc.* pages.

Income from foreign estates

A foreign estate is one where the estate has not been charged the full amount of UK tax because:

- it has overseas income, and
- either the *personal representatives* are not resident in the UK or the deceased was not domiciled in the UK at the time of death.

Box 22 *Foreign estate income*

If you receive or are entitled to income from a foreign estate enter the full amount of taxable income, depending on whether you had an *absolute, limited* or *discretionary interest*, before any UK or foreign tax is taken off.

Box 23 *Relief for UK tax already accounted for*

If some UK tax has been charged on the overseas income from a foreign estate you can claim relief in box 23 for the UK tax paid or taken off and any UK tax credit. You should also include any UK tax credit for foreign tax paid in respect of qualifying foreign company dividends. Please see the notes for the *Foreign* pages for information about tax credits on foreign dividends. If you want to claim the relief, use Working Sheet 1 on page TN 6 if you have an *absolute interest* and Working Sheet 2 on page TN 6 if your interest is *limited or discretionary*. Download the foreign page notes from **hmrc.gov.uk/sa106-notes**

In **both** Working Sheets:

- B is the actual tax you would be charged on box 22 income, before claiming relief, and depends on your total taxable income and personal circumstances

- C is the amount of estate income which would be charged to tax in the UK, if it all arose in the UK and the *personal representatives* were resident in the UK
- D is the amount of estate income which would be charged to tax in the UK, on which UK tax has actually been paid or taken off or which carries a UK tax credit.

You may need to ask the *personal representatives* for some of these figures.

Working Sheet 1 – *absolute interests*

Box 22 income	A	£
Tax on box 22 income	B	£
Amount of estate income which would be charged to UK tax	C	£
Amount of estate income which would be charged to UK tax, on which UK tax has actually been paid or taken off or which carries a UK tax credit	D	£
Box D divided by box C	E	
Box B multiplied by box E *Copy box F to box 23*	F	£

Working Sheet 2 – *limited or discretionary interests*

Box 22 income	A	£
Tax on box 22 income	B	£
Amount of estate income which would be charged to UK tax	C	£
Amount of estate income which would be charged to UK tax, on which UK tax has actually been paid or taken off or which carries a UK tax credit	D	£
Total UK tax paid and/or tax credits on income within C	E	£
Box D minus box E	F	£
Box C minus box E	G	£
Box F divided by box G	H	
Box B multiplied by box H *Copy box I to box 23*	I	£

Foreign tax paid on estate income

If you receive or are entitled to income that is chargeable to UK tax and that has also been taxed in a foreign country, you may be able to claim Foreign Tax Credit Relief for the foreign tax paid. To claim, enter it on the *Foreign* pages.

Contacts

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For more information about Self Assessment go to **hmrc.gov.uk/sa** or **hmrc.gov.uk/sacontactus**

Box 24 *Foreign tax for which Foreign Tax Credit Relief has not been claimed*

If you do not want to claim Foreign Tax Credit Relief, you can claim a deduction of the foreign tax against your income by filling in box 24. But you cannot claim part deduction and part Foreign Tax Credit Relief on the same amount of income.

Glossary – trusts and settlements

Bare trust

A *bare trust* is one where you have an absolute right to the income and capital of the trust. For tax purposes any income arising to the trustees is treated as yours and it should be returned on the pages or sections of the tax return that deal with that type of income, not the *Trusts etc.* pages.

Discretionary trust

Trustees use their discretion to make any income payments: a beneficiary has no absolute right to income or capital of a *discretionary trust*. For Income Tax purposes, maintenance and accumulation trusts are treated as discretionary trusts.

Non-discretionary trust

This is a trust where the beneficiaries have an absolute right or entitlement to the income (as it arises) but not to the capital of the trust. Also known as an interest in possession trust; the beneficiaries may be called life tenants or, in Scotland, life renters.

Settlement

Settlement has a wide meaning and may include a trust in the usual sense but also a covenant, a disposition, an arrangement or even a straightforward transfer of assets. Trusts usually have written deeds but some other settlements may not be formal arrangements. There are also exceptions to this description: Helpsheet 270 *Trusts and settlements – income treated as the settlor's* has more information and gives examples of what is, and what is not, a *settlement*. Download Helpsheet 270 from **hmrc.gov.uk/helpsheet270**

Settlor

A *settlor* is someone who puts money or other assets into a trust or *settlement*. If you are a *settlor* you will be taxable if:

- you retain an interest in the trust or *settlement*, that is, you or your spouse or civil partner can benefit now or in the future from the capital or income of the *settlement*. You are taxable on the income arising to the trust or *settlement*
- you have not retained an interest but capital or income is paid to, or for the benefit of, your child or stepchild (if that child is under 18 and has never married or formed a civil partnership). Payments made to that child are taxable on you.

And you may be taxable if you are a *settlor* and you or your spouse or civil partner have received a loan, or the repayment of a loan, from the trustees of the trust or *settlement*. Helpsheet 270 explains this in more detail. Download Helpsheet 270 from **hmrc.gov.uk/helpsheet270**

Information

- Go to **hmrc.gov.uk/contactus**
- Phone the SA Helpline on **0300 200 3310**.
- Phone the SA Orderline on **0300 200 3610** for paper copies of the helpsheets and forms.

Glossary – estates

Administration period

Each estate has a period of administration which runs from the day after the date of death to the date on which the estate is ready to be distributed to the residuary beneficiaries.

Deed of variation

This is a change (or variation) to the terms of a will, or the rules of intestacy where there is no will. Where there is such a change, beneficiaries are taxed on the income actually paid to them. The *deed of variation* has no retrospective effect for Income Tax purposes and so cannot change taxable income for periods prior to the date of the deed.

Estate of a deceased person

An estate is all the property, money and other assets of someone who has died.

Legacy

A *legacy* is a specific sum of money or a particular asset left to you under the will. Any **income** that arises on that money, or asset, is taxable and you should enter it on the appropriate page or section of your tax return. For example, if you inherited a *legacy* of company shares, you should enter any dividends on page TR 3 of your tax return. Or if you were left a *legacy* of a property that is let, the rental income should be returned on the *UK property* pages.

Personal representatives

Personal representatives are the people appointed to administer the estate during the period of administration. They are either executors (if there was a will) or administrators (if there was no will). In Scotland, the term executor is used in both situations.

Residuary beneficiary

A *residuary beneficiary* is someone who is entitled to a share of the residue of the estate. The residue is what is left in the estate after all the debts, expenses, taxes and legacies have been paid out.

A *residuary beneficiary* is taxable on any income that arises on their share of the residue of the estate. For example, on their share of any interest on money held in a savings account or of dividends on shares. A *residuary beneficiary* may receive or be entitled to this income while the estate is still being administered or when the administration ends.

Type of interest

You have an *absolute interest* in an estate if you are entitled to receive both the income and the capital from your share of the residue of the estate.

You have a *discretionary interest* if you are only entitled to receive income from the estate at the discretion of the *personal representatives*.

You have a *limited interest* if you are entitled to receive the income, but not the capital, from your share of the residue of the estate.

You have a *successive interest* if a *residuary beneficiary* dies during the administration of the estate and as a result you become a new beneficiary. You are treated as though you had been a *residuary beneficiary* from the start of the original estate.