HM Revenue & Customs

Notes on TRUST AND ESTATE FOREIGN

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HELPSHEETS

Helpsheets giving more detailed information about particular tax rules for the Trust and Estate Foreign pages are available from the SA Orderline or you can download them from **www.hmrc.gov.uk**

- *Helpsheet 240: Lloyd's underwriters*
- *Helpsheet 252: Capital allowances and balancing charges*
- *Helpsheet 260: Overlap*
- *Helpsheet 321: Gains on foreign life insurance policies*
- *Helpsheet 390: Trusts and estates of deceased persons: Foreign Tax Credit Relief for capital gains*

Filling in the Trust and Estate Foreign pages

Gather together the material you need, such as:

- overseas dividend vouchers
- bank statements for overseas accounts
- foreign tax assessments
- receipts for foreign tax paid.

The notes in Part A tell you how to complete the Trust and Estate Foreign pages. The pages are divided into five sections.

- Page TF1 is for foreign savings (including income from offshore funds), which are taxable at the basic (20%) rate of tax or the dividend (10%) rate of tax (notes start on page TFN3)
- Page TF2 is for overseas:
  - income from land and property, except for income from furnished holiday lettings in the European Economic Area (EEA)
  - disposals of offshore funds
  - income from trusts or companies.

  Also use it for foreign savings if the beneficiary(ies) of the trust has an absolute interest in income and is taxable on the remittance basis.
- Complete page TF3 to claim Foreign Tax Credit Relief for foreign tax on:
  - income included in the Trade or Partnership Pages, or boxes 9.29 to 9.31 on page 5, of the Trust and Estate Tax Return (see notes on page TFN7)
  - chargeable gains included in the Capital Gains pages (see notes on page TFN9).
- Complete pages TF4 and TF5 as appropriate for foreign let property. Summarise the income on page TF2 (notes start on page TFN9).
- If you think that you will need more space for all your entries on pages TF1, TF2 and TF3, take copies of these pages before filling them in and use them to give the additional information. Include any amounts shown on the copy pages in the total boxes on pages TF1, TF2 and TF3.

Pages TF1 to TF5 give the information we need to calculate relief for any foreign tax paid on taxable income or gains that are also chargeable to UK tax. You may be able to set all or part of the foreign tax against the trust or estate's UK tax bill. This is known as Foreign Tax Credit Relief.

If you want to calculate the Foreign Tax Credit Relief yourself, or you are calculating the trust or estate's tax bill, refer to Part B of these notes for guidance on how to do this.

SA904(Notes)

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Notes on TRUST AND ESTATE FOREIGN

Part A - reporting the trust or estate's foreign income and claiming Foreign Tax Credit Relief

Arising basis

Except in the special circumstances described below, the trust or estate's income is taxed as it arises, whether or not it is actually brought to the UK. You must enter the full amount of income arising from overseas sources on the Trust and Estate Foreign pages. For overseas rental income this means the gross income *minus* allowable expenses. For all other income, it is simply gross income before tax.

Special circumstances – Trustees

Where trust income is payable to a beneficiary(ies) with an absolute interest in income (including a life tenant) or to an annuitant, the trustees' liability to UK Income Tax in respect of the income payable to each beneficiary or annuitant is determined by reference to the residence (and, in appropriate cases, the ordinary residence or domicile) of the beneficiary or annuitant.

Where the above mentioned beneficiary(ies) or annuitant is not resident in the UK their share of trust income is not taxable on the trustees and should not be included in the Trust and Estate Tax Return.

Where the beneficiary(ies) or annuitant is resident but:
- not ordinarily resident or
- not domiciled in the UK

and the trustees know that a beneficiary(ies) will make a claim for that tax year to be taxed on the remittance basis (see below), the liability of the trustees can be limited to so much of the beneficiary(ies) or annuitants share of the income arising abroad that is remitted to the UK.

Trustees should exclude from the Trust and Estate Tax Return any such overseas income that is not remitted to the UK. If the beneficiary does not claim the remittance basis the trustees are assessable on the amount arising.

Remittance basis

From 6 April 2008, UK law has changed so that qualifying individuals must now decide each year if they will claim to be taxed on their worldwide income or, instead, if they will make a claim to be taxed only on any amounts of foreign income and chargeable gains that are remitted to the UK in that tax year.

More information about the remittance basis is available on our website. Go to **www.hmrc.gov.uk** and look for *remittance basis* within the *Search* facility.

Special circumstances – Personal representatives

If the personal representatives are resident in the UK, their taxable income will depend on the domicile of the deceased, whose estate is being administered, at the date of death.

If the deceased was domiciled in the UK, then the personal representatives will be taxable in the normal way on both UK and overseas income.

If the deceased was domiciled outside the UK, they will not be taxable on overseas income. In such circumstances, you should not include such income. Please also tick box 6.6 on the Trust and Estate Non-Residence pages.

Joint savings and investments

If the trust or estate had savings or investments held jointly with others, you should enter only the trust or estate's share of the income.

Unremittable income

If the trust has income arising outside the UK that it is unable to remit to the UK because of exchange controls or a shortage of foreign currency in the overseas country, then the trustees can claim that the unremittable income should not be taxed for 2010–11.

If you think this applies to the trust, read the note about 'Entering unremittable income' on page TFN3.

Income becoming remittable

Where income was not taxed in an earlier year because it was unremittable but it can now be remitted to the UK, it is treated as arising in 2010–11. Income may become remittable if, for example, exchange controls are lifted. Include any income to which this applies whether or not it is actually remitted to the UK. The amount of the income and any foreign tax charged on it should be converted to sterling using the exchange rate prevailing at the time when the income becomes remittable.

Foreign income: change to sterling

Income taxable on the arising basis should be converted to sterling at the rate of exchange applicable at the time when the income arose.

Income taxable on the remittance basis should be converted to sterling at the rate of exchange applicable on the date of receipt in the UK.

Gains on foreign life insurance policies, life annuities and capital redemption policies should be calculated in the currency in which the policy or life annuity is denominated and the gain converted into sterling at the rate of exchange applicable at the time of the chargeable event (which may not be at the time the transaction occurred).

The trust or estate's HM Revenue & Customs office will be able to provide help if you are unsure of the exchange rate to use.

Foreign tax paid and Foreign Tax Credit Relief

Foreign Tax Credit Relief is normally the most beneficial way to obtain relief from double taxation, but if you do not wish to claim it for the trust or estate you may instead deduct the foreign tax when calculating the amount of income and gains taxable in the UK.

Example 1
The trust or estate received income of £1,000 on which foreign tax of £150 was withheld at source. If the income is taxable in the UK at 20% and you claim Foreign Tax Credit Relief, the net liability will be (£200 *minus* £150) = £50.

If you do not claim Foreign Tax Credit Relief, the liability will be: (£1,000 *minus* £150) = £850 x 20% = £170.00.

Foreign Tax Credit Relief is not always available for the full amount of foreign tax paid. Relief is subject to the following rules:
- relief is only due if the trust is a UK resident (special rules apply in certain circumstances if the trust or estate is a resident of the Isle of Man or the Channel Islands - ask at any HM Revenue & Customs office or your tax adviser for help)
- the income must arise in the foreign country and be properly taxable under the foreign country's law
- where a Double Taxation Agreement (see page TFN3) exists between the UK and the other country, the amount of foreign tax eligible for relief is restricted to the minimum foreign tax payable under the terms of the Agreement. If you want to calculate the trust, or estate's tax, check in the appropriate list of countries in the Digest of Double Taxation Treaties to see

whether a restriction applies to the amount of foreign tax that can be allowed. Go to **www.hmrc.gov.uk** and look for *DT Digest* within the *Search* facility

Withholding tax is tax deducted by the payer when the income is paid to the trust or estate. If the trust or estate has paid foreign tax at a higher rate than that shown for the particular type of income, Foreign Tax Credit Relief is not available for the tax in excess of the agreement rate; you should therefore approach the overseas tax authority for a refund of the tax paid in excess of the agreement rate.

- where no Double Taxation Agreement exists between the UK and the other country, or the Agreement does not cover the particular foreign tax, relief is only available if the tax corresponds to UK Income Tax or Capital Gains Tax. If you are in any doubt about this, contact the trust or estate's HM Revenue & Customs office
- the amount of Foreign Tax Credit Relief **must not** exceed the UK tax chargeable on the same item of income or gains on which the foreign tax was calculated
- you cannot claim Foreign Tax Credit Relief for any foreign tax paid on a particular item of the trust or estate's income or gains, if you have claimed all or part of that foreign tax as a deduction in arriving at the amount of income or gains for UK tax.

Tax deducted from dividends received from the countries listed below is not eligible for Foreign Tax Credit Relief, either because the relief is specifically prohibited by the Double Taxation Agreement or because the tax is not a direct tax on the dividend itself because it is effectively a payment on account of tax chargeable on the profits and gains of the company paying the dividend.

The countries are Antigua; Australia (franked dividends only); Belize; Cyprus; The Gambia; Guernsey; Isle of Man; Jersey; Kiribati; Malaysia; Malta; Montserrat and Singapore.

Although the tax is not available for credit relief, it may be deducted in calculating the amount of the dividend taxable in the UK (see Example 1 on page TFN2).

Double Taxation Agreements

A Double Taxation Agreement is an arrangement between two countries. It consists of a series of detailed provisions designed to eliminate or relieve the taxation of income or gains in more than one country. It may provide, for example, that a UK resident is exempt from tax, or is liable to a reduced rate of withholding tax, in the foreign country.

Special Withholding Tax (SWT)

SWT is an amount of tax withheld on certain payments to UK residents by some European Member States and other related and third party territories under the terms of the European Savings Directive and equivalent third party agreements. This tax will be in addition to any foreign tax deducted by the country of origin of the payment. The countries that may deduct SWT are:

Andorra	Liechtenstein
Austria	Luxembourg
British Virgin Islands	Monaco
Gibraltar	Netherland Antilles
Guernsey	San Marino
Isle of Man	Switzerland
Jersey	Turks and Caicos Islands

Where SWT is deducted you are treated as having paid in the year of deduction an equivalent amount of Income Tax in the UK which can be set against your UK tax liability of that year or repaid to you if the amount exceeds that liability.

Capital Gains Tax

If the proceeds of a sale of shares or units in some undertakings, which if a gain were to accrue on it would be a chargeable gain and chargeable to Capital Gains Tax, have had Special Withholding Tax deducted by one of the territories listed on page TFN 5, enter the total amount in box 4.10A.

Filling in pages TF1 and TF2

Give details of overseas:

- interest and other income from savings
- dividends
- income from land and property
- income from trusts or companies abroad
- chargeable event gains.

(Page TF3 asks for information about any income or gains included elsewhere in the Trust and Estate Tax Return and which may have suffered foreign tax for which you want to claim credit relief.)

Important: Each item of income or gains in any particular category (for example, dividends from more than one overseas company) must be entered separately. **But see below for how to deal with unremittable income.**

For each item the example on page TFN4 shows you how to make entries:

- **in column A**, enter the name of the country in which the item of income arose. In the sections dealing with interest and other savings show the nature of the income received in brackets as [I] for interest or [O] for other income as appropriate
- **in column B**, enter the amount of income before deducting any UK, foreign or Special Withholding Tax, if any, from the income
- **in column C**, enter the amount of foreign tax paid on the income entered in column B. (If the rate of foreign tax you have paid is more than the rate to which, as a UK resident, you were liable under the terms of a Double Taxation Agreement, enter the amount of foreign tax at the Agreement rate and approach the overseas tax authority for a refund of the excess. You can check in the Digest of Double Taxation Treaties the maximum percentage rates that apply. Go to **www.hmrc.gov.uk** and look for *DT Digest* within the *Search* facility
- **in column D**, enter the amount of UK Income Tax and/or Special Withholding Tax, if any, deducted from income
- **in column E**, enter the amount of taxable income. The notes on page TFN4 explain how to work this out
- tick the box **in column E** if the trust or estate wants to claim Foreign Tax Credit Relief for the item.

Entering unremittable income

For each item of income (excluding income from land and property abroad, see page TFN9) not remittable to the UK in the tax year 2010–11:

- **in column A**, enter the country in which the item of income arose and tick the box
- **in column B**, enter the amount of the unremittable income, in its foreign currency (delete the £ sign)
- **in column C**, enter, in its foreign currency, the amount of the foreign tax, if any, paid on the unremittable income (delete the £ sign)
- leave other columns blank.

Foreign savings

If the beneficiary(ies) of the trust has an absolute interest in the trust (including a life tenant) and it is known that they will make a claim for the tax year to be taxed only on the amount of their

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foreign income and gains that is remitted to the UK, include foreign savings income on page TF2 (not page TF1).

Interest and other income from overseas savings and investments

Filling in the columns

column A Enter the name of the country where the trust or estate's income arose and in which tax was withheld at source when the interest was paid and add [I] or [O] as appropriate, to indicate whether the income was interest or other income (see the example below).

columns B to D Treat each source of interest (including, for example, different accounts with the same bank) separately and enter details of each on a separate line.

Interest from overseas unit trusts and other investment funds

The information you need to put in these columns will be shown on the trust or estate's unit trust or fund voucher. If you do not have a tax voucher, ask the unit trust or fund administrator for one. Where the income of the unit trust or fund is automatically reinvested in the fund, you may still have to enter the appropriate income arising to you and any tax deducted. There are some instances where dividend distributions from offshore funds must be returned as interest received (see 'Note 1' on page TFN5).

Interest from other overseas sources

In these columns enter the amounts of interest the trust or estate received from foreign bank accounts, or from foreign company loan stocks, or from loans to individuals or other organisations outside the UK. If the payer of the interest has deducted foreign withholding tax and accounted for that tax to the overseas tax authority on the trust or estate's behalf, this will normally be shown on a certificate of tax paid.

Other income from overseas savings

Enter in these columns any other income that the trust or estate received or was entitled to from overseas savings and investments. Do not include:

- gains on life insurance policies, life annuities and capital redemption policies (see page TFN6)
- income from land and property abroad (see page TFN9).

column E Enter in column E the amount in column B *minus*, if you are not claiming Foreign Tax Credit Relief for the trust or estate, any foreign tax included in column C.

If you are claiming Foreign Tax Credit Relief for the trust or estate, copy the figure in column B to column E, without deducting any part of the amount in columns C or D, and tick the box in column E.

box 4.1 Add up the figures in column E and enter the total in box 4.1.

box 4.1A Add up the figures in column D and enter the total in box 4.1A. Please note that there should only be entries of Special Withholding Tax in this column if the income arises in one of the territories listed on page TFN3 in the section headed Special Withholding Tax.

Dividends and distributions from overseas sources

Exclude:

- distributions made in the course of the liquidation of a foreign company
- distributions that constitute a return of the capital interest in a foreign company
- distributions made by a foreign company in the form of its own stocks and shares
- stock dividends from foreign companies
- bonus shares from a stock dividend issue made by a foreign company.

Where, however, a distribution was not made in the form of shares and the trust or estate accepted cash from the foreign company under an option given to receive cash instead of shares, the cash is taxable and should be included on page TF1.

If you are not sure whether the distributions received by the trust or estate fall into any of the above categories, ask us or your tax adviser for help.

Dividends from foreign companies

Include:

- dividends from foreign companies
- dividends from offshore funds constituted as companies. Your dividend voucher will provide the information needed.

On 22 April 2009 there was an important change to the way dividends from offshore funds which are substantially invested in interest-bearing assets (commonly known as 'bond funds') are treated for tax purposes. Where an offshore fund holds more than 60% of assets in interest-bearing (or economically similar) form, any distribution received by the trust or estate is treated as a payment of yearly interest. The trust or estate will not qualify for a dividend tax credit – see 'Dividend tax credits' on page TFN5 – and the rates applying will be those applying to interest. Your fund manager should be able to tell you if the fund is a 'bond fund'.

Other distributions from overseas sources

If the trust or estate has received a distribution from a foreign company other than in the form of a cash dividend, for example, if the company has released some of its assets (such as shares it holds in another company) to its shareholders, you should enter the currency value of such assets at the date of distribution, **unless** the assets are released on liquidation or represent a return of capital.

Where a distribution was not made in shares and you have accepted an option from a foreign company to receive cash instead of shares, the cash is taxable and should be included on page TF1.

If you are not sure whether the distributions received by the trust or estate fall into any of the above categories, ask us or your tax adviser for help.

Foreign savings

Fill in columns A to E, and tick the box in column E if you want to claim Foreign Tax Credit Relief.

	Country A	tick box if income is unremittable	Amount before tax B	Foreign tax C	Special Withholding Tax D	Amount chargeable E	tick box to claim Foreign Tax Credit Relief
Interest and other savings income - see Notes page TFN4	USA [O]		£ 120	£ 18	£	£ 120	✓
	Germany [O]		£ 60	£ 9	£	£ 60	✓
	Germany [O]		£ 500	£ 75	£	£ 500	✓
	Jersey [I]		£ 120	£ 0	£ 24	£ 120	

- Dividend tax credits

Dividends from foreign companies may carry entitlement to a dividend tax credit equal to $^1/_9$ of the dividend in certain circumstances. The dividend tax credit is only available where the shareholding is in a foreign company.

The law relating to dividend tax credits changed from 22 April 2009. If you received a foreign dividend before then, a beneficiary qualified for the $^1/_9$ tax credit if their total shareholding, including shares held by the trust, was less than 10% of the issued share capital of the company paying the dividend and the company was not an offshore fund. (Most investors own less than 10% of the issued share capital of the company that paid the dividend.)

From 22 April 2009, to qualify for the $^1/_9$ tax credit you must pass one of the following tests. These are that:

1 the company paying the dividend is not an offshore fund and you own less than 10% of the issued share capital, or any class of share, **or**

2 the company that has paid the dividend to you is an equity based 'offshore fund' (see Note 1 below on distributions from offshore funds) **or**

3 the company paying the dividend is not an offshore fund and is resident for tax purposes in a territory with which the UK has a Double Taxation Agreement (DTA) that includes a 'non-discrimination' article. Go to **www.hmrc.gov.uk** and look for *DT Digest* within the *Search* facility for a list of treaty territories.

The tax credit is also not available if the company that has paid the dividend is a conduit company and not all the companies in the chain of distributions are resident in a qualifying territory, or the only purpose of paying the dividend was obtaining a tax advantage. You should consult your tax adviser if you think that it is possible that the reason the dividend was paid was either to enable you to obtain a tax advantage or to allow any person to obtain any other relief from tax.

Some companies resident in a country with which the UK has a Double Taxation Agreement are excluded from the benefit of that agreement. Dividends from these companies ('excluded companies') do not qualify for the $^1/_9$ tax credit - see 'Note 3'.

Note 1
On 22 April 2009 there was an important change to the way dividends from offshore funds which are substantially invested in interest bearing assets are treated for tax purposes. Where an offshore fund holds more than 60% of assets in interest bearing (or economically similar) form, any distribution you receive is treated as a payment of yearly interest (see 'Interest and other income from overseas savings and investments' on page TFN4). The beneficiaries will not qualify for the dividend tax credit and the tax rates applying will be those applying to interest.

Note 2
The DTAs with the following territories do not include a 'non-discrimination' article:
Antigua and Barbuda
Belize
Brunei
Grenada
Guernsey
Isle of Man
Jersey
Kiribati
Malawi
Montserrat
St Kitts and Nevis
Sierra Leone
Solomon Islands
Tuvalu

Note 3
The excluded companies are:
- Barbados – companies established under the International Business Companies Act(s)
- Cyprus – companies entitled to any special tax benefits under various Cyprus enactments
- Jamaica – companies established under enactments relating to International Business Companies and International Finance Companies
- Luxembourg – holding companies established under the Luxembourg 1929 and 1937 Acts
- Malaysia – companies carrying on offshore business activity under the Labuan Offshore Business Activity Act 1990
- Malta – companies entitled to special tax benefits under various enactments.

Example 2
A UK resident trust receives a dividend from a foreign company. The dividend is £900, inclusive of withholding tax (WHT). The WHT rate is 10%.

Dividend (including WHT of £90)	£900
Tax credit ($^1/_9$)	£100
Gross income for tax	£1,000
UK tax charged at 42.5%	£425
minus: WHT at 10%	£90
Tax credit	£100
Net UK liability	£235

box 4.2B If you have foreign dividend income that does not qualify for the dividend tax credit then you need to complete this box.

- Remittance basis

If the beneficiary(ies) of the trust has an absolute interest in the trust (including a life tenant) and it is known that they will make a claim for the tax year to be taxed only on the amount of their foreign income and gains that is remitted to the UK, include foreign savings income on page TF2 (not page TF1).

Add up all the dividends and distributions from overseas sources included in column E on page TF2. Use the 'Additional information' box 4.39 on page TF5 to make the following declaration.

> The amount in box 4.4 on page TF2 includes a total of £ (x) in dividends and distributions from overseas sources.

If you have foreign dividend income that does not qualify for the dividend tax credit, you also need to make a further declaration in box 4.39.

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The amount of this income which does not qualify for the dividend tax credit is £ (y)

You do not need to do this if all your foreign dividends arise from shareholdings of less than 10% in companies other than offshore funds.

- Filling in the columns

column A Enter the name of the country where the trust or estate's income arose and in which tax has been withheld at source when the dividend was paid.

columns B to D Each share or unit holding in a different company constitutes a separate source for tax purposes. Enter the income from each holding on a separate line.

- Dividends received

Enter the amounts of the gross dividend received and the foreign tax paid in the year ended 5 April 2011 as shown on the agent's voucher.

- Income from overseas unit trusts and other investment funds

The information you need to complete these columns will be shown on the trust or estate's unit trust or fund voucher. Where the income of the unit trust or fund is automatically reinvested in the fund, you may still have to enter the appropriate income arising to you and any tax deducted. If you do not have a tax voucher ask the fund administrator for one.

- Other distributions from overseas sources

If you have received a distribution from a foreign company other than in the form of a cash dividend, for example, if the company has released some of its assets (such as shares it holds in another company) to its shareholders, enter the sterling value of such assets at the date of distribution unless the assets are released on liquidation or represent a return of capital. If you are in doubt, ask us or your tax adviser for help.

column E Enter in column E the amount in column B *minus*, if you are not claiming Foreign Tax Credit Relief for the trust or estate, any foreign tax included in column C.

If you are claiming Foreign Tax Credit Relief for the trust or estate, copy the figure in column B to column E, without deducting any part of the amount in columns C or D, and tick the box in column E.

box 4.2 Add up the figures in column E and enter the total in box 4.2.

box 4.2A Add up the figures in column D and enter the total in box 4.2A. Please note that there should only be entries of Special Withholding Tax in this column if the income arises in one of the territories listed on page TFN3 in the section headed Special Withholding Tax.

Other overseas income

Disposals of holdings in offshore funds

box 4.5 Any **income** received by the trust or estate from the offshore fund should be returned on page TF2 in **box 4.5** or on page 4 of the Trust and Estate Tax Return, as appropriate. The voucher or fund manager will give relevant details about the type of income arising.

The trust or estate may need to make an entry in box 9.38 if it has disposed of an interest in an offshore fund. The rules relating to this can be quite complex; HM Revenue & Customs has published guidance in its Offshore Funds Manual and Savings & Investments Manual, which are available from **www.hmrc.gov.uk** or alternatively you should ask your tax adviser. The following is only a general overview.

The term 'offshore fund' is defined in UK tax legislation; broadly such a fund is an investment scheme of which the trustees or operators are not resident in the UK (for example, unit trusts operated under Jersey laws and Belgian SICAVs are offshore funds). Other than 'open ended' investment companies, non-resident companies *generally* are not offshore funds but you should check this with the fund manager or your tax adviser.

In certain circumstances, gains on disposals of holdings in offshore funds are charged to tax as income instead of being taxed as capital gains. Where that is not the case, then any gain or loss on disposal should be returned on the Trust and Estate Capital Gains pages and **not in box 9.38**. If this applies, you can download those pages from **www.hmrc.gov.uk** or obtain copies from the SA Orderline.

Income received from non-resident trusts and income received by trusts or companies abroad

box 4.5 If the trustees have an absolute entitlement to the income from a non-UK resident trust, only the foreign source income should be entered here. UK source income should be entered on the tax return as though the income arose directly to you. For example, dividend income from a UK company should be entered in boxes 9.15 to 9.17 on page 5 of the Trust and Estate Tax Return. If the trustees have received a discretionary payment from the non-UK resident trust, enter all of the income in box 4.5.

Gains on foreign life insurance policies, life annuities and capital redemption policies

boxes 4.6 to 4.8 Boxes 4.6 to 4.8 are for gains on foreign life insurance policies, foreign life annuities and foreign capital redemption policies.

If during the year any of the following applied in connection with a foreign life insurance policy, life annuity or capital redemption policy held by the trust or estate then there may be a gain to include in boxes 4.6 to 4.8:

- cash or other benefits were received from the policy or life annuity by part-withdrawal or on a surrender, maturity or death
- the whole or part of the policy or life annuity was sold
- a loan was made to the personal representatives or trustees or, at their direction, to someone else, either by the insurer or by arrangement with the insurer
- the policy or life annuity was a Personal Portfolio Bond in the year (even if the insurer has not paid cash or other benefits during the year in connection with that bond).

'Gains' in relation to foreign life insurance policies, life annuities and capital redemption policies are chargeable event gains which are sometimes referred to as 'chargeable gains'. They are taxable as income not capital gains so capital losses and the annual exempt amount cannot be set against them. This means that chargeable event gains should not be included on the Trust and Estate Capital Gains pages.

In many cases, the foreign insurer will send you a chargeable event certificate including the date and nature of the chargeable event, the amount of the gain and whether basic rate tax is treated as having been paid. For policies taken out before 6 April 2000, information may be limited to the date and nature of the event and benefits payable.

Notes on TRUST AND ESTATE FOREIGN

The purpose of these notes is to help you decide whether there is a gain, whether it needs to be entered on the Trust and Estate Foreign Pages and, if so, what to include.

There is further guidance about what are foreign insurance policies and contracts or Personal Portfolio Bonds both below and in *Helpsheet 321: Gains on foreign life insurance policies*. The helpsheet is available from the SA Orderline and at **www.hmrc.gov.uk**

Is the policy a 'foreign policy'?

A foreign policy is normally one issued by an insurer from outside the UK.

A UK insurer may also issue a foreign policy as part of its 'Overseas Life Assurance Business'. This is a type of policy sold by a UK insurer to a person who, at the time it was taken out, was residing outside the UK. Gains from this type of policy are treated as gains from a foreign policy if the policy was taken out **on or after 17 March 1998**. However, gains from Overseas Life Assurance Business policies which were taken out **before** 17 March 1998 are treated as arising from UK policies and you should enter details of these gains in boxes 9.29 to 9.31 of the Trust and Estate Tax Return. If you think that a gain might have been made on an Overseas Life Assurance Business policy taken out before **17 March 1998**, contact your insurer to confirm the position.

General guidance for trustees and personal representatives

Not all payments from, or assignments of, foreign policies or other contracts give rise to gains. In particular (but not exclusively) there is likely to be no gain where:

- a payment has been received from a 'qualifying' life insurance policy (most foreign policies are not qualifying policies but there is further guidance on this in *Helpsheet 321: Gains on foreign life insurance policies*), **or**
- a payment has been received from a policy for which a single premium was paid and the payment received is 5% or less of the premium, **or**
- a payment has been received from a pension annuity.

Helpsheet 321: Gains on foreign life insurance policies contains more information and general guidance about how gains are taxed. The helpsheet also explains how the rules apply to a trust created by more than one person and says more about 'enhancements'. It is available from the SA Orderline and at **www.hmrc.gov.uk**

Does the gain need to be included on the Trust and Estate Return?

A gain may be taxable on some person other than the trustees or the personal representatives. To determine whether a gain needs to be included on the Trust and Estate Foreign Pages go to the section below headed 'Personal representatives' or the section headed 'Trustees' as appropriate.

Personal representatives

Many policies and life annuities terminate as a result of the death of their beneficial owner. If so, the gain is treated as income of the deceased taxpayer arising immediately before death. Such a gain arising on death is also treated as income of the deceased taxpayer if the policy is held in a trust that the deceased created or contributed to. This is also the case where the policy which is held in trust continues to run after death and is surrendered or matures after death but **before** the start of the next tax year on the following 6 April. It is not income of the estate or the trustees.

But, where the foreign life insurance policy, foreign life annuity or foreign capital redemption policy:

- continues to run after death, **and**
- is not held in trust

the gain treated as arising in connection with the continuing policy or annuity is treated as income of the Estate when it is surrendered or sold.

Most gains on foreign policies are **not** treated as having been taxed at the basic rate. Enter details of these gains in box 4.6. There is guidance below and in *Helpsheet 321: Gains on foreign life insurance policies* (available from the SA Orderline and at **www.hmrc.gov.uk**) about when exceptionally a gain on a foreign policy is treated as having had basic rate tax paid.

Trustees

If the rights under a policy or life annuity are held in trust, any gain is usually treated as income of the person who created the trust, not of the trust itself. **If this is the case, you should send a copy of any certificate reporting the chargeable event gain to that person**.

If the trust is a charity then any gain is treated as income of the trustees of the charity and is taxable on them at the basic rate of 20%. The trustees should fill in boxes 4.6 to 4.8 in accordance with the guidance below.

The gain is deemed to be income of the trustees of a trust, which is resident in the UK and is not a charity, if the trust or trusts were created by:

- an individual who is not resident in the UK, **or**
- an individual who was deceased at the time of the chargeable event unless the gain arose before the end of the year of assessment in which the creator of the trust died, in which case it is treated as income of the deceased, **or**
- a company or other entity that is non-resident, has been dissolved, wound up or has otherwise come to an end, **or**
- a body or person other than a company or individual, such as another trust (but only if the policy was taken out on or after 9 April 2003).

This rule also applies where the rights under a policy or life annuity are held as security for a debt owed by UK trustees.

Trustees should not however include gains made on the foreign life insurance policy, foreign life annuity or foreign capital redemption policy on the foreign pages of the Trust and Estate Tax Return in the following two situations.

The first situation is where the trust is a bare trust. A gain on a foreign policy or life annuity held in a bare trust is treated as income of the beneficiary of the trust. It should be included in the pages of the beneficiary's tax return as chargeable event gains – boxes 43 to 45 on the *Foreign* pages (for individuals) for foreign policies and life annuities. **You should send copies of any certificates which you have received reporting such gains to the relevant beneficiary.**

The second situation is where:

- the foreign policy or life annuity was taken out before 17 March 1998, **and**
- it has not been 'enhanced' on or after 17 March 1998 by paying further non-contractual premiums or in any other way, **and**
- the trust or trusts were created by an individual who died before 17 March 1998, or if created by more than one person, at least one of those persons was an individual who died before this date.

In these circumstances neither the trustees nor the creators of the trust are liable for tax on the gain.

Completion of boxes 4.6 to 4.8

If a certificate has been received showing the benefits paid or chargeable event gain to be treated as income of the personal representatives or trustees then that will assist you in completing these boxes.

In some cases the insurer may have sent you more than one certificate relating to a particular gain, with the later certificate showing a revised figure of benefits paid or amount of chargeable event gain. In this case you should use the details on that later certificate.

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You should enter the whole amount of the gain on the return. There is guidance, if you need it, in *Helpsheet 321: Gains on foreign life insurance policies*, which is available from the SA Orderline or at **www.hmrc.gov.uk** on how to calculate the gain in all common circumstances.

A Personal Portfolio Bond is treated as giving rise to an annual gain even if the insurer has not paid any benefits and none of the policy has been sold. In general, a Personal Portfolio Bond is a life insurance policy where the benefits payable are determined by the value of certain property chosen directly or indirectly by the policyholder, rather than investment funds generally available to other policyholders. If in doubt, ask your insurer to tell you what sort of policy or annuity you have, and whether there has been a chargeable event and a gain. There is further guidance in *Helpsheet 321*: *Gains on foreign life insurance policies*.

Box 4.6 – no tax treated as paid on the gain

Most gains from foreign policies and life annuities are taxable in full. Where, as will most commonly be the case, no tax is treated as having been paid on the gain, trustees and personal representatives should enter the amount of the gain in box 4.6.

Boxes 4.7 and 4.8 – tax treated as paid on the gain

In rare cases, tax may be treated as having been paid on gains from foreign policies or life annuities. If you think that the gain may be entitled to have tax treated as paid on it, you should refer to *Helpsheet 321: Gains on foreign life insurance policies*. If, exceptionally, tax is treated as having been paid then trustees should enter the gain in box 4.8 and the tax treated as paid in box 4.7. The tax treated as paid is 20% of the amount in box 4.8. Personal representatives have no further liability to tax on such gains and should not make any entry for them in boxes 4.6, 4.7 and 4.8.

The rules for completing boxes 4.6 to 4.8 may be different if the gain arises in connection with:

- a foreign life policy taken out **on or before** 17 November 1983 and not 'enhanced' since that date, **or**
- a capital redemption policy taken out **on or before** 22 February 1984 and not 'enhanced' since that date.

If you have one of these types of policy, *Helpsheet 321: Gains on foreign life insurance policies* contains more information about what entries to make on the Trust and Estate Foreign pages.

Multiple gains

If in your capacity as personal representative or trustee there is more than one gain to include on the Trust and Estate Foreign pages, add together the amounts of the gains and any tax treated as paid and enter the totals for each in boxes 4.6 to 4.8 as appropriate according to the guidance above.

Filling in page TF3

The entries you make on page TF3 are for the purpose of calculating Foreign Tax Credit Relief, with one exception. Please read the note for box 4.9 on page TFN9.

This section allows you to calculate Foreign Tax Credit Relief. Only fill in page TF3 if you have completed the Trust and Estate pages for:

- Trade, **or**
- Partnerships, **or**
- Capital gains, **or**
- boxes 9.29 to 9.31 on page 5 of the Trust and Estate Tax Return – Other income,

and the trust or estate has paid foreign tax on that income or those gains, **and** you want to claim Foreign Tax Credit Relief for the foreign tax. Remember you cannot claim Foreign Tax Credit Relief for any foreign tax deducted when calculating the taxable amount of any of the trust or estate's income (or gains).

Foreign Tax Credit Relief for foreign tax paid on trade, partnership and other income

For income from membership of Lloyd's please see *Helpsheet 240: Lloyd's underwriters* for guidance on completing this part of the Trust and Estate Foreign pages.

column A Enter the name of the country where the trust or estate's income arose and whose tax has been deducted from that income.

column C Enter in sterling the amount of foreign tax paid.

column E Enter the gross amount of income you have reported elsewhere and on which foreign tax has been paid.

If the trust or estate carried on a trade, profession or vocation in the UK, and the gross receipts of the business include income on which it has paid foreign tax, you need to calculate the amount of the overall profits attributable to the overseas receipts. Do this by attributing the profit in proportion to geographical turnover, or by a more precise allocation of business expenses against the foreign receipts.

If the source of income is the overseas branch of a UK business, enter in column E the gross profits earned by the branch. You might be asked later for a copy of the branch accounts.

Trades, professions and vocations set up – overlap profits and Foreign Tax Credit Relief

If the trust or estate earned profits from a trade, profession or vocation in 2010–11 and its basis period overlaps with the basis period for 2009–10, you may be able to claim Foreign Tax Credit Relief in 2010–11 for any foreign tax paid on the profits of the overlap period, even though relief for the same tax may already have been allowed in working out the tax liability for 2009–10.

Example 3

If the business started on 1 October 2009 and the trust or estate's first account is for the 12 months to 30 September 2010, the basis periods are:

2009–10	1 October 2009 to 5 April 2010
2010–11	1 October 2009 to 30 September 2010

The period of overlap is 1 October 2009 to 5 April 2010 (six months). So if the profit of the 12 months to 30 September 2010 is £12,000, the 'overlap profit' is ($^6/_{12}$ x £12,000) £6,000 (over six months). This is the same as the assessable amount for 2009–10.

Suppose the profits for the 12 months to 30 September 2010 include overseas profits of £4,000 on which the trust or estate has paid foreign tax of £1,500. The total foreign tax available for Foreign Tax Credit Relief in the two years 2009–10 and 2010–11 will be:

12 months to 30 September 2010	£1,500
+ overlap period ($^6/_{12}$ x £1,500)	£750
	£2,250

The amount eligible for Foreign Tax Credit Relief in 2010–11 is £2,250, *minus* the amount of Foreign Tax Credit Relief allowed for the overlap profit in 2009–10. So, if £1,000 relief was allowed in 2009–10, £1,250 will be available for relief in 2010–11.

If the basis periods for 2009–10 and 2010–11 overlap in this way, ask the SA Orderline for *Helpsheet 260: Overlap,* to work out the amount of foreign tax to be entered in column C on page TF3.

Overlap relief and Foreign Tax Credit Relief

Overlap profits which arose in an earlier year can be deducted as 'overlap relief' in working out taxable business profits for 2010–11 if either:

- the trust or estate sold or closed down the business in 2010–11, **or**
- following a change of accounting date, the basis period for 2010–11 is more than 12 months.

If the trust or estate is claiming overlap relief for 2010–11 and the overlap profits available include profits for which Foreign Tax Credit Relief for foreign tax paid was allowed in an earlier year, all or part of that Foreign Tax Credit Relief is recoverable in 2010–11.

The amount to be recovered is the amount of additional Foreign Tax Credit Relief that was allowed in earlier years in respect of the overlap profits deducted as overlap relief in 2010–11.

Example 4

There are overlap profits of £5,000 available that had been subject to foreign tax of £1,300.

In the two years when the overlap profits were taxable, a total of £1,950 Foreign Tax Credit Relief (that is, additional Foreign Tax Credit Relief of £1,950 *minus* £1,300 = £650) was allowed for that foreign tax.

If £2,500 (that is, half) of the overlap profits are deducted as 'overlap relief' in 2009–10, half of the additional Foreign Tax Credit Relief ($^{650}/_{2}$ = £325) is recoverable in 2009–10.

If:

- you have entered a figure for overlap relief in box 1.78 of the Trust and Estate Trade pages, **and**
- relief by way of credit for foreign tax was previously allowed for the overlap profits now deducted, **and**
- you want to calculate your tax

ask the SA Orderline for *Helpsheet 260: Overlap*. This gives you a figure for Foreign Tax Credit Relief which needs to be recovered. **Copy it to box 17.2 of the Trust and Estate Tax Return.**

Calculating your Foreign Tax Credit Relief

boxes 4.9 and 4.9A If you calculate the Foreign Tax Credit Relief on the trust or estate's income, enter the total in box 4.9. You should also complete box 4.9A, enter zero if appropriate. The notes below explain how to do this.

Where only part of the trust income is chargeable at the trust rate, you will need to calculate the Foreign Tax Credit Relief on that part **whether or not** you are calculating the overall tax bill of the trust.

Foreign Tax Credit Relief for foreign tax paid on chargeable gains

Enter the following details for each event that has given rise to a chargeable gain in the columns of page TF3 of your Trust and Estate Foreign pages as follows:

- the amount in sterling of the chargeable gain worked out following UK rules (see the Trust and Estate Capital Gains pages)
- the amount in sterling of foreign tax paid.

Please note that the middle three columns of page TF3 are now obsolete. This follows a change in the way that the amount of Foreign Tax Credit Relief, available to set against UK tax on certain chargeable gains, is calculated – see Revenue & Customs Brief 17/10.

If you are calculating the trust or estate's tax and wish to claim relief for foreign tax by way of credit against UK Capital Gains Tax liability, ask the SA Orderline for Helpsheet 390 *Trusts and estates of deceased persons: Foreign Tax Credit Relief for capital gains.*

box 4.10 If you have calculated Foreign Tax Credit Relief on the gains, include the total in box 4.10.

You only need to read the rest of these notes if you want to calculate the trust or estate's tax or if only part of the trust income is chargeable to tax at the trust rate. Otherwise ignore what follows and finish filling in the Trust and Estate Tax Return.

Income from land and property abroad

Furnished holiday lettings in the European Economic Area (EEA)

On 22 April 2009 there was a change in the treatment for furnished holiday lettings in the European Economic Area (EEA). If you have income from the commercial letting of furnished holiday accommodation in the EEA, you can claim the same reliefs that apply to commercially let holiday accommodation in the UK.
If you let qualifying holiday accommodation in the EEA and want to claim reliefs currently available under the furnished holiday lettings rules, you will need to complete the Trust and Estate UK Property pages. The notes for those pages tell you how to do this.

If you want to claim Foreign Tax Credit Relief for any foreign tax paid, you should complete page TF3.

Filling in page TF2

How you fill in page TF2 for overseas land and property depends on whether the income is taxable on the **remittance basis**, or the **arising basis**.

- Remittance basis

column A Enter the name of the country where the property is situated.

column B Enter the full amount of income from property you brought to the UK.

column C Enter the amount of any foreign tax paid that is attributable to the income shown in column B. If not all the trust or estate's overseas rental income was brought to the UK, any foreign tax paid on the total letting income should be apportioned accordingly.

column D Leave column D blank.

Example 5

The trust's overseas rents are £10,000, on which foreign tax of £2,000 was paid to the overseas tax authority. If £6,000 of the net after tax income (£8,000) was brought to the UK, the foreign tax attributable to that amount is:

$$\frac{£6{,}000}{£8{,}000} \quad \text{x} \quad £2{,}000 \quad = \quad £1{,}500$$

Enter £7,500 (that is £6,000 plus £1,500) in column B and £1,500 in column C.

column E If you wish to claim Foreign Tax Credit Relief (see the notes on page TFN2), copy the figure in column B to column E. This is the amount on which UK tax is charged. Tick the box in column E.

If you do not wish to claim Foreign Tax Credit Relief, deduct the figure in column C from that in column B and enter the net amount in column E. Do not tick the box in column E.

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- Arising basis

If the income is not taxable on the remittance basis, then the arising basis applies (see the notes on page TFN2) and the full amount of overseas rental income for the year ended 5 April 2011 is taxable whether or not the income is brought to the UK.

Before you fill in columns A to E on page TF2, complete pages TF4 and TF5. Fill in page TF4 if there is only one overseas let property or if there is more than one but they are all in the same foreign country, or if there is more than one but there has been no foreign tax deducted from the income.

Otherwise fill in a copy of page TF4 for each overseas let property. Either take copies of page TF4 before you start filling it in or ask the SA Orderline for extra copies of the Trust and Estate Foreign pages. Please put the trust or estate's name and tax reference next to the property address box on each copy of page TF4 you fill in.

Filling in page TF4

First, enter the full address of the property, or if page TF4 is to be used for more than one let property, the address of the first property. Use the 'Additional information' box, box 4.39 on page TF5 for the addresses of the other properties.

Income

box 4.11 If you enter into any transaction that produces rents or other receipts from any rights or interests held in land or property situated abroad, those rents and receipts are taxable.

Enter in box 4.11 the full amount of the receipts from the property in question, but excluding **any chargeable premiums**. These go straight onto page TF2. See the notes below.

Income includes receipts in cash or in kind. It is taxed when it is earned, even if the money or goods were not received until later.

Include any rent received (or to be received) after 5 April 2011, that is payment for the year ended 5 April 2011 (because it is paid in arrears). **Exclude** any rent received that relates to any period after 5 April 2011 (because it is paid in advance). For example, if the tenant is required to pay rent in advance, the proportion paid that is related to the period after 5 April 2011 should be excluded. It must be included in the income for the year to which it relates.

Make sure you do not count money the trust or estate received in this year if it was included in an earlier year.

Broadly, most income will be rental income from a tenancy, leasing, or licensing agreements over the trust or estate's land or property. Rental income from furnished, unfurnished, commercial and domestic accommodation, and from any land, should all be included in the overall total. If the property is let furnished, any sums that a tenant may pay for the use of furniture will be taxable as income from the trust or estate's business. All this income should be added together and entered in box 4.11.

Receipts other than rents are also taxable. Examples are rent charges and ground rents, income arising from the grant of sporting rights, and income from waste tipping. If you are in doubt about whether a particular sum should be included as income, ask us or your tax adviser.

- Chargeable premiums

Premiums paid for the grant of a lease and certain other lump sum payments and other forms of consideration given in connection with the right to possession of a property abroad are also taxable, but on a special basis.

Broadly, for leases over 50 years the entire premium is treated as a capital receipt and so does not form part of taxable income. For leases of less than 50 years, the premium is treated as partly capital and partly rent and only the rent is taxable.

Use the Working Sheet below to calculate the taxable amount.

Working Sheet: chargeable premiums - leases up to 50 years

Premium	**A**	£
Number of complete periods of 12 months in the lease (ignore the first 12 months of the lease)	**B**	
50 *minus* box B	**C**	
Box C *divided* by 50	**D**	
Box A *multiplied* by box D	**E**	£

Copy the figure in box E to the 'Chargeable premiums' row in column B on page TF2.

If the trust or estate has paid foreign tax on the premium, apportion the foreign tax as appropriate and enter the amount attributable to the part of the premium which is taxable in the UK (box E) in column C.

If you want to claim relief by way of credit for foreign tax paid, copy the figure in column B to column E and tick the box in column E.

If you do not want to claim Foreign Tax Credit Relief, deduct the figure in column C from that in column B and enter the difference in column E. Do not tick the box in column E.

If you are in doubt about whether any payment received constitutes a premium, ask us or your tax adviser for help.

If you receive a payment or other benefit as an inducement to take an interest in any property, other than your main residence, for letting, the receipt will be chargeable as income from property. Include the receipt in box 4.11. If you receive an inducement in respect of premises from which you are to trade, see the note for box 1.91 on page TTN6 of the notes on Trust and Estate Trade.

If you are in any doubt about the proper tax treatment of a reverse premium, ask us or your tax adviser.

box 4.11A Tick box 4.11A if box 4.11 contains income from more than one overseas let property.

box 4.11B Tick box 4.11B if box 4.11 contains income that is unremittable. Fill in a separate page TF4 for each property producing unremittable income. Exclude the box 4.26 or box 4.27 figure from the 'Taxable profit or loss' column on page TF5.

Expenses

If total property income in the year before expenses is less than £15,000 annually, you do not have to list expenses separately. Instead put total expenses in box 4.17.

The following guidelines give an indication of the main types of expenses that are likely to arise in a rental business and what usually can or cannot be claimed as a deduction.

Below are some examples of expenses you cannot deduct and those you may.

Non-allowable expenses:

- personal expenses (see the notes about box 4.20 on page TFN12)
- capital costs, such as expenses relating to the purchase of the land or property the trust or estate intends to let, or for the cost of purchasing machinery, furnishings or furniture

- any loss made on the sale of a property.

Allowable expenses:

- in general any costs the trust or estate incurs for the sole purpose of earning business profits
- the trust or estate may be able to claim capital allowances or a renewals deduction on the cost of buying a capital asset, or a wear and tear allowance for furnished lettings.

Remember that the expenses must be allocated to the correct return period and it may be necessary to apportion certain expenses to arrive at the correct amount.

• Rent, rates, insurance, etc.

box 4.12 If the trust or estate holds a leasehold interest in a property that is let to someone else, any rent the trust or estate pays under the lease can be deducted in working out the taxable income. Other similar expenses connected with the property, such as local rates or ground rents, are also allowable.

Include in the figure at box 4.12 any expenses that the trust or estate is obliged to incur as landlord insuring the let property and its contents. Insurance against loss of rents is also an allowable cost but you must include in box 4.11 any income the trust or estate receives as a result of taking out such insurance. The cost of insurances not connected with the letting business, such as personal policies or those insuring private belongings are not, however, allowable expenses.

• Repairs, maintenance and renewals

box 4.13

Repairs and maintenance

Expenses that prevent the property from deteriorating can be deducted as a repair. Examples of allowable repairs include exterior and interior painting, stone-cleaning, damp treatment, roof repairs, furniture repairs, and repairs to lifts and other machines which form part of the property.

Where maintenance and repairs of property are made unnecessary by improvements, additions or alterations, part of the outlay equal to the estimated cost of the maintenance and repairs can be claimed as an expense. No expense can be claimed, however, where:

- the alterations, etc. are so extensive they amount to the reconstruction of the property, **or**
- there has been a change in the use of the property that made the maintenance or repairs unnecessary.

Renewals

A deduction may be allowed for the cost of replacing furniture and machinery supplied with your property where capital allowances (see the notes below) are not claimed. It also covers the renewal of small items such as knives and forks. If you opt for a renewals deduction, you may deduct the cost of replacing any such equipment, but not the cost of the original purchase. Deduct from the replacement cost any sum the trust or estate has received for the item scrapped or sold. Also deduct any part of the replacement cost which represents an improvement or addition to the original item.

Enter in box 4.13 the total of any such expenses on repairs, maintenance and renewals incurred in 2010–11 for the property in question. If you are in doubt about whether any work undertaken on the property constitutes a repair, or what sum to claim as a renewal, ask us or your tax adviser.

• Finance charges, including interest

box 4.14 Enter in box 4.14 any expenses incurred in obtaining a loan or an alternative finance arrangement to buy the property that the trust or estate lets, together with any interest payable on such a loan or alternative finance payments under an alternative finance arrangement for 2010–11. An alternative finance payment is the charge made by your finance provider over and above the original cost of the asset in the alternative finance arrangement.

If the whole of the property was not let, or if the property was not available for letting for the whole of the year, apportion the interest payable or alternative finance payments. Only the amount that is attributable to the letting of the property should be shown in box 4.14.

• Legal and professional costs

box 4.15 Below are some examples of expenses you cannot deduct and those you may.

Non-allowable expenses:

- expenses in connection with the first letting or subletting of a property for **more than one year**. These include, for example, legal expenses (such as the cost of drawing up the lease), agents' and surveyors' fees and commission
- any proportion of the legal, etc. costs which relate to the payment of a premium on the renewal of a lease
- fees incurred in obtaining planning permission or on the registration of title when buying a property.

Allowable expenses:

- expenses for the let of a year or less
- the normal legal and professional fees incurred by the trust or estate on the renewal of a lease, if the lease is for less than 50 years
- professional fees in drawing up accounts
- professional fees incurred evicting an unsatisfactory tenant, with a view to reletting, or those on an appeal against a compulsory purchase order.

If you are unsure whether any legal or professional fee is allowable as a deduction, ask us or your tax adviser.

• Cost of services provided including wages

box 4.16 If, in addition to letting the property, the trust or estate provides services to a tenant, such as gardening, porterage, or cleaning, you can claim the cost of these services to the extent that they are provided wholly and exclusively for the purposes of the letting.

Enter in box 4.16 the cost of services provided in connection with the letting of the property in question. If the tenant makes a separate payment for the services over and above the normal rent, ensure that the payments are included as income in box 4.11.

• Other expenses

box 4.17 Enter in box 4.17 all expenditure incurred wholly and exclusively for the purposes of the letting that has not already been included at boxes 4.12 to 4.16. Examples include the cost of rent collection, advertising for tenants, stationery, phone calls and other miscellaneous expenditure.

Personal expenditure is not allowable. If money is spent on something only partly used for the purposes of the letting, you must exclude the amount not attributable to the letting or enter the whole amount in box 4.17 and deduct in box 4.20 the proportion of the cost which represents private use.

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Tax adjustments to net profit (or loss)

Private use proportions

box 4.20 Personal and private expenditure is not allowable as a deduction. If you spend money on something that is only partly used for your property business and partly for a non-business reason you must **either:**

- enter the amount expended for the purposes of the letting in boxes 4.12 to 4.17, **or**
- enter the full amount of the expenses in those boxes and deduct in box 4.20 the proportion of the cost which represents the private or non-letting element.

For example, where the property was let for only eight months of the year and you used it yourself, or allowed friends or relatives to use it for the rest of the year, if you enter the full annual cost of insuring the property in box 4.12, you should add back $^{1}/_{3}$ of that amount in box 4.20.

If you are in any doubt about whether a particular expense needs to be apportioned between business and private use, ask the trust or estate's HM Revenue & Customs office or tax adviser.

Capital allowances and balancing charges

boxes 4.21 and 4.23 The cost of buying, altering, building, installing or improving fixed assets, or depreciation or losses which arise when the trust or estate sells or otherwise disposes of them, are not allowable deductions in calculating rental income.

Instead you may sometimes claim capital allowances in box 4.23. These **reduce** a profit or **increase** a loss. An adjustment, known as a 'balancing charge', may arise when the trust or estate sells an item, gives it away or simply stops using it in its letting business. Enter the amount of a balancing charge in box 4.21. This will **increase** profits or **reduce** losses.

If, however, the property that the trust or estate lets is a dwelling house (including a flat) let furnished, capital allowances are **not** available on any plant or machinery, furniture or fittings supplied.

Your tax adviser, if you have one, will tell you how to calculate capital allowances and balancing charges. If you do not have a tax adviser, ask the SA Orderline for *Helpsheet 252: Capital allowances and balancing charges*.

box 4.23A Tick box 4.23A if box 4.23 includes enhanced capital allowances for spending on designated environmentally beneficial technologies. See *Helpsheet 252: Capital allowances and balancing charges*.

Landlord's energy saving allowance

box 4.23B Enter in box 4.23B the amount you are claiming for installing:

- loft, floor, cavity wall or solid wall insulation
- draughtproofing and insulation for hot water systems

in any foreign residential property which the trust or estate lets. The maximum amount you can claim for the total expenditure on these items is £1,500 for each property which contains residential property.

If the trust or estate has installed the insulation or draughtproofing in a single building which only partly comprises let residential property, you should only claim for the part of the expenditure incurred (or of £1,500 if the total expenditure exceeded that amount) which relates to the let residential property in the building.

If the trust or estate owns the property with other persons (or the trust or estate and other persons have different interests or rights in the same building), you should only claim for the trust's or estate's share of the expenditure which has been incurred in respect of the let residential property in the building (or for its share of the part of the £1,500 maximum which relates to the let residential property in the building).

10% wear and tear

box 4.24 If the trust or estate lets any **furnished** residential accommodation (such as a house or flat), capital allowances are not available. Instead, you may claim a deduction for **either:**

- the net cost of replacing a particular item of furniture, but not the cost of the original purchase (see the notes on page TFN11 about 'Renewals'), **or**
- an allowance amounting to 10% of the rent received *minus* charges or services which would normally be borne by a tenant but which are, in fact, borne by the trust or estate (for example, local rates and water rates). This allowance, known as wear and tear allowance, is accepted as broadly covering the cost of normal renewals of furniture.

The trust or estate can claim capital allowances if it lets furnished, but not residential, accommodation. If capital allowances can be claimed, you cannot claim the 10% wear and tear allowance.

boxes 4.26 and 4.27

If you filled in one page TF4

Enter any net profit in box 4.26. If there is a net loss, enter '0' in box 4.26 and the amount of the loss in box 4.27. Go on to page TF5.

If you filled in more than one page TF4

Enter any net profit in box 4.26. If there is a net loss, enter '0' in box 4.26 and the amount of the loss in box 4.27. Go on to page TF5. If you completed one page TF4 fill in boxes 4.28 to 4.32. If you completed more than one page TF4 provide details about each let property, using a separate line of the grid for each, and then fill in boxes 4.33 to 4.38.

Filling in page TF5

Taxable profit for the year if you filled in only one page TF4

boxes 4.28 and 4.29 If you completed only one page TF4 and there is more than one let property then the profits and losses of all the rented properties must be pooled in order to calculate the overall result. Any losses from overseas let property that were unrelieved at 5 April 2010 may be deducted from, or added to, the overall profit or loss, respectively.

box 4.30 If box 4.28 is a profit take away any losses brought forward in box 4.29 and enter the result in box 4.30. Copy box 4.30 to column B on page TF2.

Loss offset against total income

box 4.30A The trust or estate can claim to have the loss from its rental business set off against its total income if the loss arises from certain capital allowances claims. Relief is limited to the lowest of the following three figures:

- the amount of any capital allowances in box 4.23 after deduction of any balancing charge in box 4.21, **or**
- the amount of the loss in box 4.27, **or**
- the amount of the other income.

If the capital allowances do not exceed the balancing charge no sideways relief is available.

- Losses to carry forward

box 4.31 This will be the total of any loss from this year at box 4.27 plus any losses brought forward in box 4.29 less any loss set against total income, box 4.30A. Make a note of the amount. You will need this figure when completing next year's Trust and Estate Tax Return.

box 4.32 If you have paid foreign tax enter the amount of foreign tax paid in box 4.32. Copy box 4.32 to column C on page TF2 and fill in columns A and E as appropriate.

- Loss offset against total income

box 4.37A The trust or estate can claim to have the loss from its rental business set off against its total income if the loss arises from certain capital allowances claims. Relief is limited to the lowest of the following three figures:

- the amount of any capital allowances in box 4.23 after deduction of any balancing charge in box 4.21, **or**
- the amount of the loss in box 4.27, **or**
- the amount of the other income.

If the capital allowances do not exceed the balancing charge no sideways relief is available.

- Filling in the columns on page TF2

column A Enter the name of the country where the property is situated.

column B Enter the amount of profit for the year from box 4.30.

column C Enter the amount of any foreign tax paid in respect of income chargeable to UK tax from box 4.32.

column D Enter any UK tax deducted.

column E If you are **not** claiming Foreign Tax Credit Relief enter the amount in column B *minus* any foreign tax in column C.

If you **are** claiming Foreign Tax Credit Relief, copy the figure in column B to column E. Tick the box in column E to claim Foreign Tax Credit Relief.

- Taxable profit for the year if you filled in more than one page TF4

boxes 4.33 and 4.35 Profits and losses of all the let properties must be pooled in order to calculate the overall result. Any losses from overseas let properties that were unrelieved at 5 April 2010 may be deducted from, or added to, the overall profit or loss respectively.

Normally, the tax authorities of the country where the let property is situated will also charge tax on the letting profits. If no further relief was given this would mean that you would pay tax on the same profits both here and abroad. But the double charge is relieved by deducting the overseas tax paid on the property income from the UK tax due on the same income. This is done either under the terms of a Double Taxation Treaty with the overseas country or, where no treaty exists, under separate UK rules.

If the overseas income has suffered foreign tax and a claim to Foreign Tax Credit Relief is made, it will be necessary to identify the amount of UK tax attributable to income from each particular property. Where, therefore, Foreign Tax Credit Relief is claimed, separate computations of profits and losses for each property will be required.

For the purposes of calculating Foreign Tax Credit Relief, losses should be deducted in the order most favourable to your claim. Normally, this will mean that losses should be allocated first against the source that has suffered the lowest rate of foreign tax. For example:

	Country A	Country B	Country C	Total
Income	£6,000	£4,000	£6,000	
Expenses	£1,000	£6,000	£4,000	
Profit (loss)	£5,000	£(2,000)	£2,000	£5,000

The following amounts of foreign tax have been paid:

	Profit (loss)	Rate of foreign tax	Tax deducted
Country A	£5,000	10%	£500
Country B	£(2,000)		
Country C	£2,000	30%	£600
Total foreign tax			£1,100

Assuming that all of the income is wholly chargeable at 20% the Income Tax due will be as follows:

Country A

£5,000 @ 20% = £1,000

Allocate all the losses that arose in Country B to Country A as that has suffered the lowest rate of foreign tax:

Profit	£5,000
Losses	£2,000
Net	£3,000 @ 20% = £600

All of the foreign tax paid of £500 is available for Foreign Tax Credit Relief.

Country C

£2,000 @ 20% = £400

Although foreign tax of £600 has been paid, the amount available for Foreign Tax Credit Relief is limited to the amount of UK tax charged on the same income, that is £400.

Summary

Income Tax due	£600 + £400	=	£1,000
Foreign Tax Credit Relief	£500 + £400	=	£900
Net UK tax payable		=	£100

If you need any assistance in calculating the relief due, please contact your HM Revenue & Customs office.

If the trust is liable at the trust rate (50%) rework the example to ensure you claim the losses in the most favourable way. If box 4.33 is a profit take off any losses brought forward in box 4.34 and enter the result in box 4.35. Copy box 4.35 to column B on page TF2.

- Foreign tax paid on the rental income

box 4.36 Add up the foreign tax deducted and enter the total in box 4.36.

box 4.37 After allocating any losses in the most favourable way add up the amounts chargeable and enter the total in box 4.37.

box 4.37A The trust or estate can claim to have the loss from its rental business set off against its total income if the loss arises from certain capital allowances claims. Relief is limited to the lowest of the following three figures:

- the amount of any capital allowances in box 4.23 after deduction of any balancing charge in box 4.21, **or**
- the amount of the loss in box 4.27, **or**
- the amount of the other income.

continued over

If the capital allowances do not exceed the balancing charge no sideways relief is available.

box 4.38 If the overall result is a loss, enter the loss in box 4.38. Keep a note of the amount because you will need it for next year's tax return.

- Filling in the columns on page TF2

column A Enter 'see page TF5'.

column B Enter the overall amount of profit for the year from box 4.35.

column C Enter the amount of any foreign tax paid in respect of income subject to UK tax from box 4.36.

column D Enter any UK tax deducted.

column E If you are **not** claiming Foreign Tax Credit Relief, enter the amount in column B *minus* any foreign tax entered in column C. If you are claiming Foreign Tax Credit Relief, copy box 4.37 to column E. Tick the box in column E to claim Foreign Tax Credit Relief.

Part B - calculating Foreign Tax Credit Relief

Relief against Income Tax

If the trust or estate has paid foreign tax on an item of income that is also chargeable to UK tax and you have not deducted the foreign tax in arriving at the amount of income chargeable to UK tax (see page TFN2 of these notes), you can claim Foreign Tax Credit Relief for all or part of the foreign tax up to the amount of the UK tax chargeable on the same item of income.

Relief must therefore strictly be calculated separately for each item of overseas income. This may mean that you are not always able to obtain relief for the full amount of foreign tax paid.

Method

To ensure that the amount of credit relief allowed for foreign tax on any particular item of income does not exceed the UK tax chargeable on that income, it is first necessary to work out the UK tax chargeable on that item. This figure is then compared with the foreign tax eligible for credit relief.

If the foreign tax eligible for credit is less than the amount of UK tax chargeable on the particular item of income, the whole of the foreign tax is allowed as Foreign Tax Credit Relief.

But if the foreign tax eligible for credit exceeds the amount of UK tax chargeable on the same item of income, credit relief is limited to the amount of UK tax, after it is reduced by any UK tax credits due on that income, and the excess foreign tax cannot be repaid or deducted in arriving at the amount of income chargeable to UK tax.

In order to maximise the amount of Foreign Tax Credit Relief in cases where the trust or estate has more than one item of foreign income (including, for example, dividends from more than one foreign company), it is necessary to work out separately the UK tax chargeable on each item in turn, beginning with the item which has suffered the highest rate of foreign tax. The calculation should then be repeated for the item with the next highest rate of foreign tax imposed, and so on, for each successive item. As each item is dealt with, it is excluded from the next calculation, so that eventually the item which has been subjected to the lowest rate of foreign tax is reached.

The total amount of Foreign Tax Credit Relief due should be entered at box 4.9 in the Trust and Estate Foreign pages, and then copied to box T7.4 in the Trust and Estate Tax Calculation Guide.

Example 6

A discretionary trust's income comprises overseas interest of £3,000 from which foreign tax of £450 has been withheld – all of which is 'admissible' for credit against UK tax and rental income from a foreign property of £10,000 on which foreign tax at a rate of 60% (£6,000) has been paid. No deductions are due and the whole of the income is liable to UK tax at 50%.

The property income has been subjected to foreign tax at 60% and so Foreign Tax Credit Relief is restricted as follows:

		UK tax at 50%		Tax credit relief
Interest	£3,000	£1,500		£450
Property	£10,000	£5,000	(Max)	£5,000
		£6,500		£5,450

The balance of the foreign tax paid on the property income (£6,000 minus £5,000 = £1,000) is not available to credit against the UK tax on the interest income, nor can it be repaid or carried forward or back.

Personal representatives of a deceased person's estate and trusts not liable to pay tax at the trust rate

There is no benefit to claiming Foreign Tax Credit Relief (FTCR) on dividends that qualify for UK dividend tax credits. The UK tax due on this income is already covered by the UK tax credits, FTCR cannot reduce it any further.

This is also the case for gains on foreign life insurance policies, life annuities and capital redemption policies – on which tax is treated as paid (boxes 4.7 and 4.8).

Trusts with an entry in box 9.40 (Company purchase of its own shares) may still benefit from FTCR.

Trusts which are liable to pay tax at the trust rate

If you are a trustee and have ticked box 8.16 in question 8 on page 3 of the Trust and Estate Tax Return, you pay Income Tax at the special trust rates (the trust rate of 50% or the dividend trust rate of 42.5%).

If the entry in box T3.28 in the Trust and Estate Tax Calculation Guide (or T3.29 for dividends) is more than the foreign tax paid and no more than 20% foreign tax has been deducted then the whole of the foreign tax paid will be allowable as credit.

If the above conditions are met, there is no need to calculate the Foreign Tax Credit Relief. Enter the foreign tax paid in box 4.9 on the Trust and Estate Foreign pages.

Calculating Foreign Tax Credit Relief (FTCR)

You only need to calculate FTCR if you self-calculate the tax liability for the trust or estate.

The SA951 *Trust and Estate Tax Calculation Guide* can be used to calculate FTCR. You will need one more copy of the SA951 than the number of items of foreign income for which you are claiming FTCR.

Start by completing the SA951 with all your income etc. up to box T7.3. (This will be the master copy for calculating your final liability to tax.)

Complete a second SA951 but this time enter all your income except the item of foreign income for which you are claiming FTCR. Complete this SA951 up to box T7.3.

Compare the figures of T7.1 minus (T7.2 + T7.3) from both SA951. The difference between these figures is UK liability on the item of foreign income.

The figure on the second SA951 will usually be lower than the first, treat the difference as a positive amount. (If every figure on the second SA951 is higher than the first, treat the difference as zero.)

The amount of Foreign Tax Credit Relief on the item is the smaller of the UK liability on the item or the foreign tax paid.

If a claim is made for FTCR on a second item of foreign income complete a third SA951. Enter the figures of income from the second SA951 minus the item foreign income on this third SA951.

Complete the third SA951 up to box T7.3.

Compare the figures of T7.1 minus (T7.2 + T7.3) from the second and third SA951.

The difference between these figures is UK liability on the second item of foreign income.

The amount of Foreign Tax Credit Relief on the item is the smaller of the UK liability on the item or the foreign tax paid.

When FTCR has been calculated on all items add together the FTCR on each item and put the total in box 4.9 on the Trust and Estates Foreign pages and continue completing the first (master) SA951 from box T7.4, including the figure from box 4.9. This will give your tax liability for the year.

You can also ask your tax adviser or HMRC office to do the calculation for you.

Example 7

A discretionary trust income comprises £10,000 interest received. The SA951 is completed to box T7.3 with all the Trust's income. The figure for T7.1 minus (T7.2 + T7.3) is £3,800.

A claim for FTCR is made on £1,000 foreign interest.
A second SA951 is completed to box T7.3 with the remaining £9,000 interest.

The figure for T7.1 minus (T7.2 + T7.3) is £3,400.

The UK liability on the item of foreign income is (£3,800 minus £3,400) £400.

If £450 foreign tax had been paid on the £1,000 foreign interest then the FTCR due will be £400 (the smaller of the foreign tax paid or the UK liability on that item of income).

A further claim for FTCR is made on £500 foreign interest. A third SA951 is completed to box T7.3 with the remaining (£9,000 minus £500) £8,500 interest. The figure for T7.1 minus (T7.2 + T7.3) is £3,200.

This is compared with the equivalent figure from the second SA951. The UK liability on the item of foreign income is (£3,400 minus £3,200) £200.

If the foreign tax paid on this item is £150 the FTCR due is £150 (as the foreign tax paid is less than the UK liability on the income). The total FTCR due on the two items is (£400 + £150) £550. This is copied to box 4.9 on the Trust and Estates Foreign Pages and T7.4 on the first SA951.

The £3,800 at T7.1 on the first SA951 will be reduced by the £550 FTCR entered in T7.4.

*These notes are for guidance only and reflect the position at the time of writing, They do not affect any rights of appeal. Any subsequent amendments to these notes can be found at **www.hmrc.gov.uk***