

Chapter X: Corporate beneficiaries under trusts

1. This Chapter contains rules that apply to the income of corporate beneficiaries of trusts. The first clause concerns payments made at the discretion of the trustees. The other clause concerns cases where the beneficiary is entitled to a share of the trust income as it arises (often described as having an “interest in possession”).

Clause {j4151rm}: Discretionary payments by trustees to companies

2. This clause provides that discretionary payments by trustees (other than those received by charitable and similar bodies) are ignored in calculating the beneficiary’s liability to corporation tax. It is based on section 687A of ICTA.

3. The disregard is in *subsection (3)(b)*. The payments are income for corporation tax purposes under section 493 of ITA but are ignored for the purpose of determining the income that is chargeable to corporation tax.

4. The beneficiary is still treated under section 494 of ITA as having paid income tax on the grossed-up amount of the discretionary payment and the trustees are liable for that tax under section 496 of ITA. But *subsection (3)(a)* provides that the tax is not available for set-off against corporation tax or any other income tax for which the beneficiary has to account. And *subsection (3)(c)* provides that the income tax is not repaid to the company.

Clause {j4151Arm}: Income tax provisions to apply in relation to trustees’ expenses

5. This clause applies the rules in sections 500 and 503 of ITA. These sections are concerned with the treatment of trustees’ expenses in a case where the beneficiary is entitled to trust income as it arises. This is where the beneficiary has an interest in possession (IIP).

6. It is very rare for a company to be an IIP beneficiary of a trust but this clause will cover that eventuality.

7. Much of the content of sections 500 and 503 ITA was new as there was very little statutory guidance before ITA was enacted about how trustees’ expenses affect the measure of a beneficiary’s income. The principles were mainly derived from trust and tax law, but were well understood and the subject of guidance issued by HMRC. See *Change {jc610}* in Annex 1

Q1. We welcome comments on the way that the treatment of trustees’ expenses as set out in sections 500 and 503 ITA apply for corporation tax purposes.