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*Changes to legislation: Income and Corporation Taxes Act 1988, CHAPTER II is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIII

#### MISCELLANEOUS SPECIAL PROVISIONS

#### CHAPTER II

##### LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

###### Modifications etc. (not altering text)

- C1** Pt. 13 Ch. 2 restricted (with effect in accordance with s. 105(1) of the affecting Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 13 para. 3\(2\)](#) (with [Sch. 13 para. 16](#))

#### 539 Introductory.

- (1) <sup>M1</sup>This Chapter shall have effect for the purposes of imposing, in the manner and to the extent therein provided, charges to tax, <sup>F1</sup> . . . , in respect of gains to be treated in accordance with this Chapter as arising in connection with policies of life insurance, contracts for life annuities and capital redemption policies.
- (2) <sup>M2</sup>Nothing in this Chapter shall apply—
- (a) to any policy of life insurance having as its sole object the provision on an individual's death or disability of a sum substantially the same as any amount then outstanding under a mortgage of his residence, or of any premises occupied by him for the purposes of a business, being a mortgage the principal amount secured by which is repayable by instalments payable annually or at shorter regular intervals; or
  - (b) to any policy of life insurance issued in connection with an approved scheme, as defined in Chapter I of Part XIV; or
  - (c) <sup>M3</sup>to a policy of insurance which constitutes, or is evidence of, a contract for the time being approved under section 621.

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In the application of this subsection to Scotland, for the reference to a mortgage there shall be substituted a reference to a heritable security within the meaning of the <sup>M4</sup>Conveyancing (Scotland) Act 1924 (but including a security constituted by ex facie absolute disposition or assignation).

(3) <sup>M5</sup>In this Chapter—

“assignment”, in relation to Scotland, means an assignation;

“capital redemption policy” means any insurance effected in the course of a capital redemption business as defined in section 458(3); and

“life annuity” means any annuity to which sections 656 and 657 apply and any annuity the contract for which is made on or after 1st June 1984 by a friendly society or branch thereof in the course of life or endowment business as defined in section 466.

(4) <sup>M6</sup>For the purposes of this Chapter the falling due of a sum payable in pursuance of a right conferred by a policy or contract to participate in profits shall be treated as the surrender of rights conferred by the policy or contract.

(5) <sup>M7</sup>This Chapter shall have effect only as respects policies of life insurance issued in respect of insurances made after 19th March 1968, contracts for life annuities entered into after that date, and capital redemption policies effected after that date.

(6) A policy of life insurance issued in respect of an insurance made on or before 19th March 1968 shall be treated for the purposes of subsection (5) above and the following provisions of this Chapter as issued in respect of one made after that date if it is varied after that date so as to increase the benefits secured or to extend the term of the insurance.

(7) A variation effected before the end of the year 1968 shall be disregarded for the purposes of subsection (6) above if its only effect was to bring into conformity with paragraph 2 of Schedule 9 to the Finance Act 1968 (which is re-enacted, as amended, by paragraph 2 of Schedule 15 to this Act) a policy previously conforming therewith except as respects the amount guaranteed on death, and no increase was made in the premiums payable under the policy.

(8) Subsections (1) to (7) above do not apply in relation to section 554.

[<sup>F2</sup>(9) A policy of life insurance issued in respect of an insurance made before 14th March 1989 shall be treated for the purposes of sections 540(5A), 547(8) and 548(3A) as issued in respect of one made on or after that date if it is varied on or after that date so as to increase the benefits secured or to extend the term of the insurance; and any exercise of rights conferred by the policy shall be regarded for this purpose as a variation.]

#### Textual Amendments

- F1** Words in s. 539(1) repealed (with effect in accordance with Sch. 17 Pt. 5 Note 6 of the repealing Act) by [Finance Act 1989 \(c. 26\)](#), [Sch. 17 Pt. 5](#)
- F2** [S. 539\(9\)](#) inserted (with effect in accordance with [Sch. 9 para. 8](#) of the amending Act) by [Finance Act 1989 \(c. 26\)](#), [Sch. 9 para. 2](#)

#### Marginal Citations

- M1** Source-1970 s.393(1); 1971 Sch.6 41; 1972 Sch.24 23
- M2** Source-1970 s.393(2)(a), (c); 1971 Sch.3 11
- M3** Source-1970 s.393(2A); 1971 Sch.2 6

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- M4** 1924 c. 27.  
**M5** Source-1970 s.393(3); 1985 s.41(8)  
**M6** Source-1975 Sch.2 15  
**M7** Source-1970 s.393(4), (5)

VALID FROM 06/04/2005

**[<sup>F3</sup>539ZA Application of this Chapter etc. to policies and contracts in which persons other than companies are interested**

- (1) This section applies where, for the purposes of determining the application of this Chapter in relation to a policy or contract at any time, it is necessary to have regard to its application at another time.
- (2) It makes no difference to the application of this Chapter at that other time whether liability in respect of a gain arising at that time would have arisen or (as the case may be) would arise because of the application of this Chapter or Chapter 9 of Part 4 of ITTOIA 2005 (which makes provision for income tax purposes corresponding to that made by this Chapter).
- (3) References in this section to this Chapter include references to paragraph 20 of Schedule 15 to this Act and section 79 of the Finance Act 1997 (payments under certain life insurance policies).]

**Textual Amendments**

- F3** S. 539ZA inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 211** (with Sch. 2)

VALID FROM 09/04/2003

**[<sup>F4</sup>539A The conditions for being an excepted group life policy**

- (1) The conditions mentioned in section 539(2)(f) (excepted group life policies) are those set out in the following provisions of this section.
- (2) Condition 1 is that under the terms of the policy a sum or other benefit of a capital nature is payable or arises on the death of each of the individuals insured under the policy who dies without attaining an age which is specified in the policy and is not greater than 75 years.  
  
In determining whether this condition is satisfied, disregard any terms of the policy which exclude from benefit the death of a person in specified circumstances, if the exclusion applies in relation to death in those circumstances in the case of each of the individuals insured under the policy.
- (3) Condition 2 is that under the terms of the policy—
  - (a) the same method is to be used for calculating the sums or other benefits of a capital nature payable or arising on each death, and

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(b) if there is any limitation on those sums or other benefits, the limitation is the same in the case of any death.

(4) Condition 3 is that the policy does not have, and is not capable of having, on any day—

(a) a surrender value that exceeds the proportion of the premiums paid which, on a time apportionment, is referable to the unexpired paid-up period beginning with that day, or

(b) if there is no such period, any surrender value.

For the purposes of this subsection the unexpired paid-up period beginning with any day is the period (if any) which—

(i) begins with that day, and

(ii) ends with the earliest subsequent day on which—

(a) a payment of premium falls due under the policy, or

(b) the term of the policy ends.

(5) Condition 4 is that no sums or other benefits may be paid or conferred under the policy, except as mentioned in condition 1 or condition 3.

(6) Condition 5 is that any sums payable or other benefits arising under the policy must (whether directly or indirectly) be paid to or for, or conferred on, or applied at the direction of—

(a) an individual or charity beneficially entitled to them, or

(b) a trustee or other person acting in a fiduciary capacity who will secure that the sums or other benefits are paid to or for, or conferred on, or applied in favour of, an individual or charity beneficially.

In this subsection “charity” means any body of persons or trust established for charitable purposes only.

(7) Condition 6 is that no person—

(a) who is an individual whose life is insured under the policy, or

(b) who is, within the meaning of section 839, connected with an individual whose life is so insured,

may, by virtue of a group membership right relating to that individual, receive (directly or indirectly) any death benefit in respect of another group member.

In this subsection—

(i) “group membership right”, in relation to an individual, means any right (including the right of any person to be considered by trustees in their exercise of a discretion) that is referable to that individual’s being one of the individuals whose lives are insured by the policy; and

(ii) “death benefit in respect of another group member” means—

(a) any sums or other benefits payable or arising under the policy on the death of any other of those individuals, or

(b) anything representing any such sums or benefits.

(8) Condition 7 is that a tax avoidance purpose is not the main purpose, or one of the main purposes, for which a person is at any time—

(a) the holder, or one of the holders, of the policy, or

(b) the person, or one of the persons, beneficially entitled under the policy.

In this subsection—

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- (i) “tax avoidance purpose” means any purpose that consists in securing a tax advantage (whether for the holder of the policy or any other person); and
- (ii) “tax advantage” has the same meaning as in Chapter 1 of Part 17 (tax avoidance).]

#### Textual Amendments

F4 S. 539A inserted (9.4.2003) by Finance Act 2003 (c. 14), s. 171(1)(3), Sch. 34 para. 2

### 540 Life policies: chargeable events.

- (1) <sup>M8</sup>Subject to the provisions of this section, in this Chapter “chargeable event” means, in relation to a policy of life insurance—
- (a) if it is not a qualifying policy, any of the following—
    - (i) any death giving rise to benefits under the policy;
    - (ii) the maturity of the policy;
    - (iii) the surrender in whole of the rights conferred by the policy;
    - (iv) the assignment for money or money’s worth of those rights; and
    - (v) an excess of the reckonable aggregate value mentioned in subsection (2) of section 546 over the allowable aggregate amount mentioned in subsection (3) of that section, being an excess occurring at the end of any year (as defined in subsection (4) of that section) except, if it ends with another chargeable event, the final year; and
  - (b) if it is a qualifying policy (whether or not the premiums thereunder are eligible for relief under section 266), any of the above events, but—
    - (i) in the case of death or maturity, only if the policy is converted into a paid-up policy before the expiry of ten years from the making of the insurance, or, if sooner, of three-quarters of the term for which the policy is to run if not ended by death or disability;
    - (ii) in the case of a surrender or assignment or such an excess as is mentioned in paragraph (a)(v) above, only if it is effected or occurs within that time, or the policy has been converted into a paid-up policy within that time.
- (2) <sup>M9</sup>The maturity of a policy is not a chargeable event in relation thereto if—
- (a) a new policy is issued in consequence of the exercise of an option conferred by the maturing policy, and
  - (b) the whole of the sums becoming payable under the maturing policy are retained by the company with whom the insurance was made and applied in the payment of one or more premiums under the new policy,
- unless the circumstances are such that the person making the insurance in respect of which the new policy is issued was an infant when the former policy was issued, and the former policy was one securing a capital sum payable either on a specified date falling not later than one month after his attaining 25 or on the anniversary of the policy immediately following his attainment of that age.
- (3) <sup>M10</sup>Except as provided by section 544, no event is a chargeable event in relation to a policy issued in respect of an insurance made before 26th June 1982 if the rights conferred by the policy have at any time before that date and before the event been

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assigned for money or money's worth and are not at the time of the event held by the original beneficial owner.

- (4)<sup>M11</sup>No account shall be taken for the purposes of [<sup>F5</sup>subsections (1) and (3) above] of any assignment effected by way of security for a debt, or on the discharge of a debt secured by the rights or share concerned, or of any assignment between spouses living together.
- (5) Where subsection (1)(b) applies to a policy which has been varied so as to increase the premiums payable thereunder, it shall so apply as if the references in subsection (1)(b)(i) to the making of the insurance and the term of the policy were references respectively to the taking effect of the variation and the term of the policy as from the variation.
- [<sup>F6</sup>(5A) Sub-paragraphs (i) and (ii) of subsection (1)(b) above shall not apply in relation to a policy issued in respect of an insurance made on or after 14th March 1989 if, immediately before the happening of the event, the rights conferred by the policy were in the beneficial ownership of a company, or were held on trusts created, or as security for a debt owed, by a company.]
- (6)<sup>M12</sup>This section has effect subject to paragraph 20 of Schedule 15.

#### Textual Amendments

- F5** Words in s. 540(4) substituted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 3(2)
- F6** S. 540(5A) inserted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 3(3)

#### Marginal Citations

- M8** Source-1970 s.394(1), (2); 1975 Sch.2 9(1), (2)
- M9** Source-1970 s.394(3); 1984 s.75(1)
- M10** Source-1970 s.394(4); 1983 s.18(1) 1975 Sch.2 10
- M11** Source-1970 s.394(5), (6); 1975 Sch.2 10
- M12** Source-1982 s.34

### 541 Life policies: computation of gain.

- (1)<sup>M13</sup>On the happening of a chargeable event in relation to any policy of life insurance, there shall be treated as a gain arising in connection with the policy—
- (a) if the event is a death, the excess (if any) of the surrender value of the policy immediately before the death, plus the amount or value of any relevant capital payments, over the sum of the following—
    - (i) the total amount previously paid under the policy by way of premiums; and
    - (ii) the total amount treated as a gain by virtue of paragraph (d) below on the previous happening of chargeable events;
  - (b) if the event is the maturity of the policy, or the surrender in whole of the rights thereby conferred, the excess (if any) of the amount or value of the sum payable or other benefits arising by reason of the event, plus the amount or value of any relevant capital payments, over the sum of the following—

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- (i) the total amount previously paid under the policy by way of premiums; and
  - (ii) the total amount treated as a gain by virtue of paragraph (d) below on the previous happening of chargeable events;
- (c) if the event is an assignment, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments or of any previously assigned share in the rights conferred by the policy, over the sum of the following—
- (i) the total amount previously paid under the policy by way of premiums; and
  - (ii) the total amount treated as a gain by virtue of paragraph (d) below on the previous happening of chargeable events;
- (d) if the event is the occurrence of such an excess as is mentioned in section 540(1)(a)(v), the amount of the excess.
- (2) <sup>M14</sup>Where, in a case falling within subsection (1)(b) above, a right to periodical payments arises by reason of the event, there shall be treated as payable by reason thereof an amount equal to the capital value of those payments at the time the right arises.
- (3) Where, in a case falling within subsection (1)(c) above, the assignment is between persons who are connected with each other within the meaning of section 839, the assignment shall be deemed to have been made for a consideration equal to the market value of the rights or share assigned.
- (4) <sup>M15</sup>Where there is an assignment, otherwise than for money or money's worth, of all the rights conferred by the policy, the calculations required to be made by section 546 shall be made, in the first instance, without regard to any surrender or assignment of part of or a share in those rights which takes place after the assignment, and any gain treated as arising under subsection (1)(d) above on the calculation so made shall be treated as arising to the assignor.
- [<sup>F7</sup>(4A) Where, immediately before the happening of the chargeable event, the rights conferred by a qualifying endowment policy are held as security for a debt owed by a company, then, if—
- (a) the conditions in subsection (4B) below are satisfied,
  - (b) the amount of the debt exceeds the total amount previously paid under the policy by way of premiums, and
  - (c) the company makes a claim for the purpose within two years after the end of the accounting period in which the chargeable event happens,
- this section shall have effect as if the references in subsection (1)(a) and (b) to that total amount were references to the amount of the debt.
- (4B) The conditions referred to in subsection (4A) above are—
- (a) that, throughout the period beginning with the making of the insurance and ending immediately before the happening of the chargeable event, the rights conferred by the policy have been held as security for a debt owed by the company;
  - (b) that the capital sum payable under the policy in the event of death during the term of the policy is not less than the amount of the debt when the insurance was made;



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- (c) that any sum payable under the policy by reason of the chargeable event is applied in repayment of the debt (except to the extent that its amount exceeds the amount of debt);
  - (d) that the debt was incurred to defray money applied—
    - (i) in purchasing an estate or interest in land to be occupied by the company for the purposes of a trade carried on by it, or
    - (ii) for the purpose of the construction, extension or improvement (but not the repair or maintenance) of buildings which are or are to be so occupied.
- (4C) If the amount of the debt is higher immediately before the happening of the chargeable event than it was at some earlier time during the period mentioned in subsection (4B) (a) above, the amount to be taken into account for the purposes of subsection (1) above shall be the lowest amount at which it stood during that period.
- (4D) If during the period mentioned in subsection (4B)(a) above the company incurs a debt by borrowing in order to repay another debt, subsections (4B) and (4C) above shall have effect as if, where appropriate, references to either debt included references to the other.]
- (5) <sup>M16</sup>In this section—
- (a) “relevant capital payments” means, in relation to any policy, any sum or other benefit of a capital nature, other than one attributable to a person’s disability, paid or conferred under the policy before the happening of the chargeable event; and
  - (b) references in this subsection and (in relation to premiums) in subsection (1) above to “the policy” include references to any related policy, that is to say, to any policy in relation to which the policy is a new policy within the meaning of paragraph 17 of Schedule 15, and any policy in relation to which that policy is such a policy, and so on; [<sup>F8</sup>and
  - (c) “qualifying endowment policy” means a policy which is a qualifying policy by virtue of paragraph 2 of Schedule 15;]
- and the provisions of this section are subject to paragraph 20 of Schedule 15.
- (6) There shall be disregarded for the purposes of this section any amount which was treated under section 72(9) of the <sup>M17</sup>Finance Act 1984 as an additional premium.

#### Textual Amendments

- F7** S. 541(4A)-(4D) inserted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 4(2)
- F8** S. 541(5)(c) and word inserted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 4(3)

#### Modifications etc. (not altering text)

- C2** S. 541 extended (retrospectively and with effect in accordance with s. 79(7)(8) of the extending Act) by Finance Act 1997 (c. 16), s. 79(3)(b)

#### Marginal Citations

- M13** Source-1970 s.395(1); 1975 Sch.2 11(1)
- M14** Source-1970 s.395 (2), (3)
- M15** Source-1970 s.395(3A); 1975 Sch.2 11(2)



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**M16** Source-1970 s.395(4); 1982 s.34; 1975 Sch.2 10

**M17** 1984 c. 43

## 542 Life annuity contracts: chargeable events.

- (1) <sup>M18</sup>Subject to subsections (2) and (3) below, in this Chapter “chargeable event” means, in relation to any contract for a life annuity—
- (a) the surrender in whole of the rights conferred by the contract, or
  - (b) the assignment for money or money’s worth of those rights, or
  - (c) an excess of the reckonable aggregate value mentioned in subsection (2) of section 546 over the allowable aggregate amount mentioned in subsection (3) of that section, being an excess occurring at the end of any year (as defined in subsection (4) of that section) except, if it ends with another chargeable event, the final year.
- (2) Where the terms of a contract provide for the payment of a capital sum as an alternative, in whole or in part, to payments by way of annuity, the taking of the capital sum shall be treated for the purposes of this section and section 543 as a surrender in whole or in part of the rights conferred by the contract, and where the terms of the contract provide for the payment of a capital sum on death and the contract was made on or after 10th December 1974, the death shall be treated for those purposes as a surrender in whole of the rights conferred by the contract.
- (3) <sup>M19</sup>Except as provided by section 544, an event referred to in subsection (1) above is not a chargeable event in relation to any contract made before 26th June 1982 if the rights conferred by the contract have at any time before that date and before the event been assigned for money or money’s worth and are not at the time of the event held by the original beneficial owner.
- (4) Subsection (4) of section 540 shall, with any necessary modifications, apply for the purposes of this section as it applies for the purposes of that section.

### Marginal Citations

**M18** Source-1970 s.396(1); 396(1); 1975 Sch.2 9(3), 12

**M19** Source-1970 s.396(2), (3); 1983 s.18(2); 1975 Sch.2 12

## 543 Life annuity contracts: computation of gain.

- <sup>M20</sup>(1) On the happening of a chargeable event in relation to any contract for a life annuity, there shall be treated as a gain arising in connection with the contract—
- (a) if the event is the surrender in whole of the rights conferred by the contract, the excess (if any) of the amount payable by reason of the event plus the amount or value of any relevant capital payments over the sum of the following—
    - (i) the total amount previously paid under the contract, whether by way of premiums or as lump sum consideration, reduced, if before the happening of the event one or more payments have been made on account of the annuity, by the capital element in that payment or payments, as determined in accordance with section 656; and
    - (ii) the total amount treated as a gain by virtue of paragraph (c) below on the previous happening of chargeable events;

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- (b) if the event is an assignment, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments or of any previously assigned share in the rights conferred by the contract, over the sum of the following—
    - (i) the amount specified paragraph (a)(i) above; and
    - (ii) any amount treated as a gain by virtue of paragraph (c) below on the previous happenings of chargeable events;
  - (c) if the event is the occurrence of such an excess as is mentioned in section 542(1), the amount of the excess.
- (2) Subsection (3) of section 541 shall apply for the purposes of subsection (1) above as it applies for the purposes of subsection (1)(c) of that section, and subsection (4) of that section shall apply for the purposes of this section with the substitution of references to the contract for references to the policy.
- (3) In this section “relevant capital payments” means, in relation to any contract, any sum or other benefit of a capital nature paid or conferred under the contract before the happening of the chargeable event.

#### **Marginal Citations**

**M20** Source-1970 s.397; 1975 Sch.2 13

#### **544 Second and subsequent assignment of life policies and contracts.**

- (1)<sup>M21</sup> In this section “assigned policy” means a policy of life assurance—
- (a) which was issued in respect of an insurance made before 26th June 1982; and
  - (b) the rights conferred by which have been assigned for money or money’s worth before that date; and
  - (c) in relation to which an event occurring on or after that date would not, apart from this section, be a chargeable event.
- (2) In this section “assigned contract” means a contract for a life annuity—
- (a) which was made before 26th June 1982; and
  - (b) the rights conferred by which have been assigned for money or money’s worth before that date; and
  - (c) in relation to which an event occurring on or after that date would not, apart from this section, be a chargeable event.
- (3)<sup>M22</sup> In any case where after 23rd August 1982—
- (a) the rights conferred by an assigned policy or, as the case may be, an assigned contract are again assigned for money or money’s worth; or
  - (b) a payment is made by way of premium or as lump sum consideration under the policy or contract; or
  - (c) subject to subsections (5) and (7) below, a sum is lent by or by arrangement with the body issuing the policy or, as the case may be, the body with which the contract was made;

section 540(3) shall cease to apply to the policy or section 542(3) shall cease to apply to the contract, as the case may be.

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- (4) <sup>M23</sup>No account shall be taken for the purposes of subsection (3)(a) above of any assignment effected by way of security for a debt, or on the discharge of a debt secured by the rights concerned, or of an assignment between spouses living together.
- (5) <sup>M24</sup>Subsection (3)(c) above does not apply unless—
- (a) the policy was issued in respect of an insurance made after 26th March 1974 or, as the case may be, the contract was entered into after that date; and
  - (b) the sum concerned is lent to or at the direction of the individual who, in accordance with subsection (6) below, is at the time of the loan the chargeable individual.
- (6) The individual who is at any time the chargeable individual for the purposes of subsection (5)(b) above shall be determined as follows—
- (a) if at the time the rights conferred by the policy or contract are vested in an individual as beneficial owner or are held on trusts created by an individual (including such trusts as are referred to in section 547(1)(a)), that individual is the chargeable individual; and
  - (b) if at that time those rights are held as security for a debt owed by an individual, that individual is the chargeable individual.
- (7) Subsection (3)(c) above does not apply in relation to a policy if—
- (a) it is a qualifying policy; and
  - (b) either interest at a commercial rate is payable on the sum lent or the sum is lent to a full-time employee of the body issuing the policy for the purpose of assisting him in the purchase or improvement of a dwelling-house to be used as his only or main residence.
- (8) <sup>M25</sup>Where section 540(3) or 542(3) ceases to apply to an assigned policy or assigned contract by virtue of paragraph (c) of subsection (3) above, the lending of the sum concerned shall be regarded for the purposes of the Income Tax Acts (other than that paragraph) as taking place immediately after the time at which section 540(3) or, as the case may be, 542(3) ceases so to apply.

#### Marginal Citations

- M21** Source-1983 Sch.4 1  
**M22** Source-1983 s.18(3), Sch.4 2(1)  
**M23** Source-1983 Sch.4 2(2)  
**M24** Source-1983 Sch.4 2(3)  
**M25** Source-1983 Sch.4 2(4)

#### 545 Capital redemption policies.

- <sup>M26</sup>(1) Subject to subsection (2) below, in this Chapter “chargeable event” means, in relation to a capital redemption policy, any of the following—
- (a) the maturity of the policy, except where the sums payable on maturity are annual payments chargeable to tax under Schedule D;
  - (b) the surrender in whole of the rights conferred by the policy;
  - (c) the assignment for money or money’s worth of those rights; and
  - (d) an excess of the reckonable aggregate value mentioned in subsection (2) of section 546 over the allowable aggregate amount mentioned in subsection (3)

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of that section, being an excess occurring at the end of any year (as defined in subsection (4) of that section), except, if it ends with another chargeable event, the final year.

- (2) Subsection (4) of section 540 shall apply for the purposes of this section as it applies for purposes of that section.
- (3) The provisions of section 541, except subsection (3), shall, so far as appropriate and subject to subsection (4) below, apply to capital redemption policies as they apply to policies of life assurance.
- (4) Where a chargeable event happens in relation to a capital redemption policy which has previously been assigned for money or money's worth, section 541 shall have effect in relation thereto as if, for the references to the total amount previously paid under the policy by way of premiums, there were substituted references to the amount or value of the consideration given for the last such assignment, plus the total amount of the premiums paid under the policy since that assignment.

#### **Marginal Citations**

**M26** Source-1970 s.398; 1975 Sch.2 14, 9(4)

#### **546 Calculation of certain amounts for purposes of sections 540, 542 and 545.**

- (1) <sup>M27</sup>For the purposes of sections 540, 542 and 545, there shall be calculated as at the end of each year—
  - (a) the value, as at the time of surrender or assignment, of any part of or share in the rights conferred by the policy or contract which has been assigned or surrendered during the period ending with the end of that year and beginning with the commencement of the first year which falls wholly after 13th March 1975; and
  - (b) the appropriate portion of any payment made up to the end of that period by way of premium or as a lump sum consideration;
 and the appropriate portion of any payment shall be one-twentieth for the year in which it is made, increased by a further one-twentieth for each of the subsequent years, up to a maximum of nineteen, but excluding therefrom any such one-twentieth for any year before that first year.
- (2) <sup>M28</sup>The reckonable aggregate value referred to in those sections shall be—
  - (a) the sum of the values calculated under subsection (1) above; less
  - (b) the sum of the values so calculated for a previous year and brought into account on the previous happening of a chargeable event.
- (3) The allowable aggregate amount referred to in those sections shall be—
  - (a) the aggregate of the appropriate portions calculated under subsection (1) above; less
  - (b) the aggregate of the appropriate portions so calculated for a previous year and brought into account on the previous happening of a chargeable event.
- (4) <sup>M29</sup>In this section “year” means the 12 months beginning with the making of the insurance or contract and any subsequent period of 12 months; except that—

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- (a) death, the maturity of the policy or the surrender of the rights conferred by the policy or contract shall be treated as ending the final year; and
  - (b) if the final year would by virtue of paragraph (a) above begin and end in the same year of assessment, the final year and the year preceding it shall together be one year.
- (5) There shall be disregarded for the purposes of this section any amount which was treated under section 72(9) of the <sup>M30</sup>Finance Act 1984 as an additional premium.

#### Marginal Citations

**M27** Source-1975 Sch.2 9(5), (8)

**M28** Source-1975 Sch.2 9(6), (7)

**M29** Source-1975 Sch.2 9(9)

**M30** 1984 c. 43

VALID FROM 11/05/2001

#### **[<sup>F9</sup>546A Treatment of certain assignments etc involving co-ownership**

- (1) This section applies in any case where—
- (a) as a result of any transaction (the “material transaction”) the whole or part of or a share in the rights conferred by a policy or contract (“the material interest”) becomes beneficially owned by one person or by two or more persons jointly or in common (“the new ownership”);
  - (b) immediately before the material transaction, the material interest was in the beneficial ownership of one person or of two or more persons jointly (“the old ownership”); and
  - (c) at least one person who is a member of the old ownership is also a member of the new ownership.
- (2) In any such case, the material transaction shall, in accordance with the following provisions of this section, be taken for the purposes of this Chapter (other than this section) to be one or more assignments, of part only of the rights conferred by the policy or contract.
- (3) For the purposes of this Chapter (other than this section), the members of the old ownership shall be treated—
- (a) where the old ownership consists of two or more persons beneficially entitled jointly, as if the material interest had been in their beneficial ownership in equal shares instead of jointly;
  - (b) where the new ownership consists of two or more persons beneficially entitled jointly, as if the result of the material transaction had been that the material interest was in the beneficial ownership of those persons in equal shares instead of jointly; and
  - (c) as if the material transaction had been the assignment by each member of the old ownership of so much (if any) of his old share as exceeds his new share (or, if he does not have a new share, the whole of his old share).
- (4) In this section—

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“new share”, in relation to the material interest and a person who is a member of the new ownership, means—

- (a) if there is only one member of the new ownership, the material interest;
- (b) if there are two or more members of the new ownership beneficially entitled to the material interest in common, the member’s share in the material interest; or
- (c) if there are two or more members of the new ownership beneficially entitled to the material interest jointly, the share attributed to the member by subsection (3)(b) above;

“old share”, in relation to the material interest and a person who is a member of the old ownership, means—

- (a) if there is only one member of the old ownership, the material interest; or
- (b) if there are two or more members of the old ownership, the share attributed to the member by subsection (3)(a) above.]

#### Textual Amendments

- F9** S. 546A inserted (with effect in accordance with s. 83(2) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 28 para. 9](#)

VALID FROM 11/05/2001

#### <sup>F10</sup> 546B Special provision in respect of certain section 546 excesses

- (1) This section applies in relation to a policy or contract in any case where—
  - (a) a section 546 excess occurs at the end of any year (including the final year, whether or not ending with a terminal chargeable event); and
  - (b) the condition in subsection (2) below is satisfied in relation to that year.
- (2) The condition is that—
  - (a) during the year there has been an assignment for money or money’s worth of part of or a share in the rights conferred by the policy or contract; or
  - (b) during the year there has been both—
    - (i) an assignment, otherwise than for money or money’s worth, of the whole or part of or a share in the rights conferred by the policy or contract; and
    - (ii) an earlier surrender of part of or a share in the rights conferred by the policy or contract.
- (3) Where this section applies—
  - (a) the occurrence of the section 546 excess shall be treated for the purposes of this Chapter as not being a chargeable event; but
  - (b) the amount of the section 546 excess shall be charged to tax in accordance with the provisions of section 546C.
- (4) In this section—
  - “final year” has the meaning given by section 546(4);

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“section 546 excess”, in relation to any year, means an excess, occurring at the end of the year, of—

- (a) the reckonable aggregate value mentioned in subsection (2) of section 546, over
- (b) the allowable aggregate amount mentioned in subsection (3) of that section;

“terminal chargeable event” means any chargeable event other than—

- (a) an assignment for money or money’s worth of the whole of the rights conferred by the policy or contract;
- (b) the occurrence of a section 546 excess; or
- (c) a chargeable event by virtue of section 546C(7)(a);

“year” has the meaning given by section 546(4).]

### Textual Amendments

**F10** Ss. 546B-546D inserted (with effect in accordance with s. 83(2) of the amending Act) by Finance Act 2001 (c. 9), Sch. 28 para. 10

VALID FROM 11/05/2001

### [<sup>F10</sup>546C Charging the section 546 excess to tax where section 546B applies

- (1) This section applies where, in relation to any policy or contract, the amount of a section 546 excess occurring at the end of any year falls to be charged to tax in accordance with this section by virtue of section 546B(3)(b).
- (2) The following amounts shall be calculated as at the end of that year—
  - (a) the aggregate of the values calculated under section 546(1)(a) in respect of any part of or share in the rights conferred by the policy or contract which has been assigned for money or money’s worth, or surrendered, during the year;
  - (b) the amount by which—
    - (i) the reckonable aggregate value mentioned in section 546(2), as at the end of the year, exceeds
    - (ii) the aggregate calculated under paragraph (a) above;
 and
  - (c) the amount by which—
    - (i) the allowable aggregate amount mentioned in section 546(3), as at the end of the year, exceeds
    - (ii) the amount calculated under paragraph (b) above.
- (3) In this section—
  - (a) “relevant transaction” means any assignment for money or money’s worth, or any surrender, of a part of or share in the rights conferred by the policy or contract which has happened during the year;
  - (b) “transaction value”, in relation to any relevant transaction, means the value calculated in accordance with section 546(1)(a) in the case of that transaction;



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- (c) “the amount of available premium” means—
- (i) in relation to the earliest relevant transaction, the amount calculated under subsection (2)(c) above (that amount being taken to be nil if there is no such excess as is there mentioned); and
  - (ii) in relation to each successive relevant transaction, that amount as successively reduced under subsections (5) to (7) below.
- (4) Subsection (5) below shall apply successively to each of the relevant transactions that happened in the year, in the order in which they happened.
- If the year is the final year and ends with a terminal chargeable event, this subsection is subject to section 546D.
- (5) Where this subsection applies in relation to a relevant transaction—
- (a) the transaction value shall be compared to the amount of available premium; and
  - (b) if the amount of available premium exceeds or is equal to the transaction value, subsection (6) below shall apply in relation to the transaction; but
  - (c) if the transaction value exceeds the amount of available premium, subsection (7) below shall apply in relation to the transaction.
- (6) Where this subsection applies in relation to a relevant transaction—
- (a) the amount of available premium shall be reduced (or further reduced) by the transaction value; and
  - (b) that reduction shall have effect in relation to the next subsequent relevant transaction.
- (7) Where this subsection applies in relation to a relevant transaction—
- (a) the relevant transaction shall for the purposes of this Chapter be a chargeable event in relation to the policy or contract, except as provided by sections 540(3) and 542(3);
  - (b) a gain of an amount equal to that by which the transaction value exceeds the amount of available premium shall be treated for the purposes of this Chapter as arising in connection with the policy or contract on the happening of that chargeable event; and
  - (c) in relation to any subsequent relevant transaction, the amount of available premium shall be reduced to nil.
- (8) Where the whole or any part of the amount of any gain treated as arising by subsection (7)(b) above falls to be treated under any provision of section 547 as forming part of the income of any body or person for—
- (a) the year of assessment in which the chargeable event in question happened, or
  - (b) the accounting period in which it happened,
- that year of assessment or accounting period shall be taken to be the one which includes the end of the year as at which the section 546 excess in question occurs, instead of the one (if different) in which the relevant transaction happened.
- (9) Where this section applies in relation to the final year and that year ends with a terminal chargeable event—
- (a) effect shall be given to this section before applying the provisions of this Chapter in relation to the terminal chargeable event; and

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- (b) in applying this Chapter in relation to the terminal chargeable event, any chargeable event by virtue of subsection (7)(a) above accordingly falls to be regarded as having occurred before the terminal chargeable event.

(10) This section shall be construed as one with section 546B.]

#### Textual Amendments

**F10** Ss. 546B-546D inserted (with effect in accordance with s. 83(2) of the amending Act) by Finance Act 2001 (c. 9), Sch. 28 para. 10

VALID FROM 11/05/2001

#### **[<sup>F10</sup>546D Modifications of s.546C for final year ending with terminal chargeable event**

- (1) This section applies in any case where the year mentioned in section 546C(4) is the final year and that year ends with a terminal chargeable event.
- (2) In any such case there shall be calculated, as at the end of the year, the amount of the gain (“the gains limit”) that would have been treated as arising on the happening of the terminal chargeable event, apart from the application of sections 546B and 546C in relation to that year.
- (3) Subsection (5) of section 546C shall apply successively to each of the relevant transactions that happened in the year, in the order in which they happened, unless and until the transaction in question (the “final transaction”) is such that the aggregate of—
  - (a) its transaction value apart from subsection (4) below, and
  - (b) the sum of the transaction values of any relevant transactions to which subsection (5) of that section has previously applied,exceeds the gains limit.
- (4) If, in the case of the final transaction,—
  - (a) the aggregate mentioned in subsection (3) above exceeds the gains limit, but
  - (b) the sum mentioned in paragraph (b) of that subsection is less than that limit,subsection (5) of section 546C shall apply in relation to that transaction, but for the purposes of subsections (5) to (7) of that section its transaction value shall be reduced to an amount equal to the difference between the gains limit and the sum mentioned in paragraph (b) above.
- (5) Except as provided by subsection (4) above, subsection (5) of section 546C shall not apply in relation to the final transaction or any subsequent relevant transaction.
- (6) This section shall be construed as one with sections 546B and 546C.]

#### Textual Amendments

**F10** Ss. 546B-546D inserted (with effect in accordance with s. 83(2) of the amending Act) by Finance Act 2001 (c. 9), Sch. 28 para. 10

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## 547 Method of charging gain to tax.

- (1) <sup>M31</sup>Where under section 541, 543 or 545 a gain is to be treated as arising in connection with any policy or contract—
- (a) if, immediately before the happening of the chargeable event in question, the rights conferred by the policy or contract were vested in an individual as beneficial owner, or were held on trusts created by an individual (including trusts arising under section 11 of the <sup>M32</sup>Married Women's Property Act 1882, section 2 of the <sup>M33</sup>Married Women's Policies of Assurance (Scotland) Act 1880 or section 4 of the <sup>M34</sup>Law Reform (Husband and Wife) Act (Northern Ireland) 1964 or as security for a debt owed by an individual, the amount of the gain shall be deemed to form part of that individual's total income for the year in which the event happened;
  - [<sup>F11</sup>(b) if, immediately before the happening of that event, those rights were in the beneficial ownership of a company, or were held on trusts created, or as security for a debt owed, by a company, the amount of the gain shall be deemed to form part of the company's income (chargeable under Case VI of Schedule D) for the accounting period in which the event happened;]
  - (c) if, immediately before the happening of that event, those rights were vested in personal representatives, within the meaning of Part XVI, the amount of the gain shall be deemed for the purposes of that Part to be part of the aggregate income of the estate of the deceased.
- (2) Nothing in subsection (1) above shall apply to any amount which is chargeable to tax apart from that subsection.
- (3) <sup>M35</sup>Where, immediately before the happening of a chargeable event, the rights conferred by any policy or contract were vested beneficially in two or more persons, or were held on trusts created, or as security for a debt owed, by two or more persons, subsection (1)(a) and (b) above shall have effect in relation to each of those persons as if he had been the sole owner, settlor or debtor, but with references to the amount of the gain construed as references to the part of it proportionate to his share in the rights at the time of the event or, as the case may require, when the trusts were created.
- (4) References in subsections (1) and (3) above to the rights conferred by a policy or contract are, in the case of an assignment of a share only in any rights, references to that share.
- (5) <sup>M36</sup>Subject to subsections (6) and (7) below and section 550, where by virtue of subsection (1) above, a sum is included in an individual's total income—
- (a) no assessment shall be made on him in respect of income tax at the basic rate on that sum but he shall be treated as having paid income tax at the basic rate on that sum or, if his total income is reduced by any deductions, on so much of that sum as is part of his total income as so reduced;
  - (b) no repayment shall be made of the income tax treated by virtue of paragraph (a) above as having been paid; and
  - (c) the sum so included shall be treated for the purposes of sections 348 and 349(1) as not brought into charge to income tax.
- (6) <sup>M37</sup>Where under section 543 a gain is to be treated as arising in connection with a contract for a life annuity made after 26th March 1974—
- (a) this section shall have effect, in relation to the gain, as if subsection (5) were omitted; and

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- (b) the gain shall be chargeable to tax under Case VI of Schedule D; but
  - (c) any relief under section 550 shall be computed as if this subsection had not been enacted.
- (7)<sup>M38</sup> Where under section 541 or 543 a gain is to be treated as arising in connection with a policy issued by a friendly society in the course of tax exempt life or endowment business, this section shall have effect in relation to the gain as if subsection (5) were omitted, but any relief under section 550 shall be computed as if this subsection had not been enacted.

[<sup>F12</sup>(8) Subsection (1)(b) above shall not have effect as respects—

- (a) a policy of life insurance issued in respect of an insurance made before 14th March 1989,
- (b) a contract for a life annuity made before that date, or
- (c) a capital redemption policy issued in respect of an insurance made before that date, or issued by a company resident in the United Kingdom in respect of an insurance made on or after that date.]

#### Textual Amendments

- F11** S. 547(1)(b) substituted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26 ), Sch. 9 para. 5(3)
- F12** S. 547(8) inserted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 5(3)

#### Marginal Citations

- M31** Source-1970 s.399(1); 1972 Sch.24 24
- M32** 1882 c. 75.
- M33** 1880 c. 56.
- M34** 1964 c. 23 (N.I.).
- M35** Source-1970 s.399(2), (3)
- M36** Source-1970 s.399(4); 1971 Sch.6 42
- M37** Source-1975 Sch.2 17
- M38** Source-1985 s.41(9); 1987 s.30(8)

VALID FROM 31/07/1998

#### [<sup>F13</sup>547A Method of charging gain to tax: multiple interests.

- (1) Where, immediately before the happening of a chargeable event, two or more persons have relevant interests in the rights conferred by the policy or contract in question, section 547 shall have effect in relation to each of those persons as if that person had been the only person with a relevant interest in those rights, but with references to the amount of the gain construed as references to his proportionate share of the amount of the gain.
- (2) References in this section to the rights conferred by a policy or contract are, in the case of an assignment of a share only in any rights, references to that share.
- (3) For the purposes of this section, a person has a “relevant interest” in the rights conferred by a policy or contract—

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- (a) in the case of an individual, if a share in the rights is vested in him as beneficial owner, or is held on trusts created, or as security for a debt owed, by him;
  - (b) in the case of a company, if a share in the rights is in the beneficial ownership of the company, or is held on trusts created, or as security for a debt owed, by the company;
  - (c) in the case of personal representatives, if a share in the rights is vested in them;
  - (d) in the case of trustees—
    - (i) if a share in the rights is held by them, and the person who created the trusts is not resident in the United Kingdom or has died or (in the case of a company or foreign institution) has been dissolved or wound up or has otherwise come to an end; or
    - (ii) if a share in the rights is held as security for a debt owed by them;
  - (e) in the case of a foreign institution, if a share in the rights is in the beneficial ownership of the foreign institution, or is held as security for a debt owed by the foreign institution.
- (4) For the purposes of subsection (1) above, a person's "proportionate share" of the amount of a gain is that share of it which is proportionate to the share of the rights by reference to which he has the relevant interest in question.
- (5) Where, immediately before the happening of a chargeable event, the rights conferred by the policy or contract in question are, or a share in those rights is, held as security for one or more debts owed by two or more persons, this section shall effect in relation to the chargeable event as if—
- (a) each of those persons were instead the sole debtor in respect of a separate debt; and
  - (b) the security for that separate debt were the appropriate share of the security for the actual debt or debts (so far as consisting of the rights, or a share in the rights, conferred by the policy or contract);
- and for the purposes of paragraph (b) above the appropriate share, in the case of any person, is a share which is proportionate to that share of the actual debt or, as the case may be, the aggregate of the two or more actual debts, for which he is liable as between the debtors.
- (6) Where, immediately before the happening of a chargeable event, the rights conferred by the policy or contract in question are, or a share in those rights is, held on trusts created by two or more persons, this section shall have effect in relation to that chargeable event as if—
- (a) each of those persons had instead been the sole settlor in relation to a separate share of the rights or share so held; and
  - (b) that separate share were proportionate to the share which originates from him of the whole of the property subject to the trusts immediately before the happening of the chargeable event.
- (7) The reference in subsection (6)(b) above to the share of the property which originates from a person is a reference to the share of the property which consists of—
- (a) property which that person has provided directly or indirectly for the purposes of the trusts;
  - (b) property representing property which that person has so provided; and

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- (c) so much of any property which represents both property so provided and other property as, on a just apportionment, represents the property so provided.
- (8) References in subsection (7) above to property which a person has provided directly or indirectly—
- (a) include references to property which has been provided directly or indirectly by another in pursuance of reciprocal arrangements with the person, but
- (b) do not include references to property which the person has provided directly or indirectly in pursuance of reciprocal arrangements with another.
- (9) References in subsection (7) above to property which represents other property include references to property which represents accumulated income from that other property.
- (10) Where immediately before the happening of a chargeable event—
- (a) the rights conferred by the policy or contract in question are, or a share in those rights is, held subject to any trusts, and
- (b) different shares of the whole of the property subject to those trusts originate (within the meaning of subsection (6)(b) above) from different persons,
- the rights or share shall, in relation to that chargeable event, be taken for the purposes of this section to be held on trusts created by those persons.
- (11) Where the rights conferred by a policy or contract are, or an interest in any such rights is, in the beneficial ownership of two or more persons jointly, the rights or interest shall be treated for the purposes of this section as if they were in the beneficial ownership of those persons in equal shares.
- (12) A non-fractional interest in the rights conferred by a policy or contract shall be treated for the purposes of this section as if it were instead such a share in those rights as may justly and reasonably be regarded for those purposes as representing the non-fractional interest.
- (13) For the purposes of subsection (12) above, a “non-fractional interest” in the rights conferred by a policy or contract is an interest in some or all of those rights which is not a share in all of those rights (otherwise than by virtue only of subsection (2) above).
- (14) This section applies in a case where the same person has two or more relevant interests in the rights conferred by a policy or contract as it applies in a case where two or more persons have separate relevant interests, unless—
- (a) that person is the only person with a relevant interest in those rights, and
- (b) he has all the relevant interests in the same capacity,
- in which case section 547 applies.
- (15) In this section—
- “foreign institution” has the same meaning as in section 547;
- “personal representatives” has the same meaning as in Part XVI.
- (16) Subsections (12) and (14) of section 547 apply for the purposes of this section as they apply for the purposes of that section.]



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### Textual Amendments

**F13** S. 547A inserted (with effect in accordance with Sch. 14 para. 7(5) of the amending Act) by Finance Act 1998 (c. 36), Sch. 14 para. 2

## 548 Deemed surrender of certain loans.

- (1) Where—<sup>M39</sup>
- (a) under section 547 a gain arising in connection with a policy or contract would be treated as forming part of an individual's total income [<sup>F14</sup>or the income of a company] ; and
  - (b) the policy was issued in respect of an insurance made after 26th March 1974 or the contract was made after that date; and
  - (c) any sum is at any time after the making of the insurance or contract lent to or at the direction of that individual [<sup>F15</sup>or company] by or by arrangement with the body issuing the policy or, as the case may be, the body with which the contract was made;

then, subject to [<sup>F16</sup>subsections (3) and (3A)] below, the same results shall follow under this Chapter as if at the time the sum was lent there had been a surrender of part of the rights conferred by the policy or contract and the sum had been paid as consideration for the surrender.

- (2) If the whole or any part of the sum is repaid the repayment shall be treated, for the purpose of computing any gain arising on the happening, at the end of the final year, of a chargeable event, as a payment of a premium or lump sum consideration.
- (3) Subsections (1) and (2) above do not apply in relation—
  - (a) to a policy if—
    - (i) it is a qualifying policy; and
    - (ii) either interest at a commercial rate is payable on the sum lent or the sum is lent to a full-time employee of the body issuing the policy for the purpose of assisting him in the purchase or improvement of a dwelling used or to be used as his only or main residence;
  - (b) to a contract if and to the extent that interest on the sum lent is eligible for relief under section 353 by virtue of section 365.

[<sup>F17</sup>(3A) Subsections (1) and (2) do not apply where the rights conferred by the policy or contract are in the beneficial ownership of a company, or are held on trusts created, or as security for a debt owed, by a company, if the policy was issued in respect of an insurance made before 14th March 1989 or the contract was made before that date.]

- (4) In this section “final year” has the same meaning as in section 546.

### Textual Amendments

**F14** Words in s. 548(1)(a) inserted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 6(2)(a)

**F15** Words in s. 548(1)(c) inserted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 6(2)(b)

**F16** Words in s. 548(1) substituted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 6(2)(c)



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**F17** S. 548(3A) inserted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 6(3)

#### Marginal Citations

**M39** Source-1975 Sch.2 16; 1976 s.35

VALID FROM 19/07/2007

#### **[<sup>F18</sup>548A] Effect of rebated or reinvested commission in certain cases**

- (1) This section applies if—
  - (a) a relevant chargeable event occurs in respect of a policy or contract,
  - (b) commission in respect of the policy or contract has at any time been rebated or reinvested, and
  - (c) condition A or B is met.
- (2) For the purposes of performing the calculation under section 541(1)(b) or (c) or 543(1)(a) or (b) for the chargeable event, the total amount paid under the policy or contract by way of premiums in any period is to be reduced by the total amount of commission attributable to those premiums that has been rebated or reinvested.
- (3) Condition A is that the total amount paid under the policy or contract by way of premiums in a relevant period exceeds £100,000.
- (4) Condition B is that—
  - (a) at a time when the policy or contract was the taxable person's, the taxable person's policies and contracts exceeded the relevant threshold as respects a relevant period, and
  - (b) payments under the policy or contract by way of premiums were made in that relevant period.
- (5) In subsection (4)(a) “taxable person” means the person whose policy or contract the policy or contract is, immediately before the chargeable event.
- (6) For the purposes of subsection (4)(a) a person's policies and contracts “exceed the relevant threshold” as respects a relevant period if the total amount of payments under them by way of premiums in that relevant period exceeds the sum specified in subsection (3).
- (7) In this section “relevant chargeable event” means a chargeable event within—
  - (a) any of sub-paragraphs (ii) to (iv) of section 540(1)(a) (including those sub-paragraphs as they apply in relation to a qualifying policy),
  - (b) section 542(1)(a) or (b), or
  - (c) section 545(1)(a) to (c).
- (8) In this section “relevant period” means—
  - (a) the period beginning with the beginning of the year of assessment in which the chargeable event occurs and ending with the chargeable event, or
  - (b) any of the 3 preceding years of assessment.
- (9) References in this section to a premium include, in relation to a contract for a life annuity, lump sum consideration.

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- (10) The Treasury may by order—
- (a) substitute another sum for the sum for the time being specified in subsection (3);
  - (b) amend the definition of “relevant period”.]

#### Textual Amendments

**F18** Ss. 548A, 548B inserted (with effect in accordance with s. 29(4) of the amending Act) by Finance Act 2007 (c. 11), s. 29(1)

VALID FROM 19/07/2007

#### **[<sup>F18</sup>548B] Section 548A: further definitions**

- (1) This section supplements section 548A.
- (2) “Commission”, in relation to a policy or contract, includes any passing of value to or for the benefit of an intermediary, or a person connected with an intermediary, that can reasonably be taken to represent a reward in respect of the policy or contract.
- (3) Commission in respect of a policy or contract is “reinvested” if, as a result of a waiver of an entitlement to it, there is an increase in the total value of a relevant person's policies and contracts.
- (4) The amount of commission reinvested is the amount of the increase.
- (5) Commission in respect of a policy or contract is “rebated” if—
  - (a) value passes (directly or indirectly) from an intermediary, or a person connected with an intermediary, to or for the benefit of a relevant person (and the passing of value does not amount to the reinvestment of the commission), and
  - (b) the passing of value can reasonably be taken to be in respect of the commission.
- (6) The amount of commission rebated is the amount of value passed.
- (7) A policy or contract is a person's policy or contract if a gain arising in connection with it would be—
  - (a) a gain for which the person, or (if the person is an individual) the person's spouse or civil partner, would be liable to tax under Chapter 9 of Part 4 of ITTOIA 2005, or
  - (b) treated by virtue of section 547(1) above as forming part of the person's income.
- (8) Any necessary apportionment is to be made (on a just and reasonable basis) as regards—
  - (a) commission which is attributable to two or more premiums, and
  - (b) any part of such commission that has been rebated or reinvested.

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- (9) Commission which is in respect of one or more policies or contracts (but is not attributable to particular premiums) is to be attributed to such premiums as is just and reasonable.
- (10) In subsections (3) and (5), “relevant person” means—
- (a) any of the policyholders (including any of the persons who hold the contract),
  - (b) a person who beneficially owns the rights under the policy or contract,
  - (c) if those rights are held on trust, any of the trustees, or
  - (d) a person connected (within the meaning of section 839) with a person within any of paragraphs (a) to (c).
- (11) In subsections (8) and (9), references to a premium include, in relation to a contract for a life annuity, lump sum consideration.]

#### Textual Amendments

- F18** Ss. 548A, 548B inserted (with effect in accordance with s. 29(4) of the amending Act) by Finance Act 2007 (c. 11), s. 29(1)

### 549 Certain deficiencies allowable as deductions.

- <sup>M40</sup>(1) Subject to subsection (2) below, where such an excess as is mentioned in section 541(1) (a) or (b) or 543(1)(a)—

- (a) would be treated as a gain arising in connection with a policy or contract, and
- (b) would form part of an individual’s total income for the year of assessment in which the final year ends,

a corresponding deficiency occurring at the end of the final year shall be allowable as a deduction from his total income for that year of assessment, so far as it does not exceed the total amount treated as a gain by virtue of section 541(1)(d) or 543(1)(c) on the previous happenings of chargeable events.

- (2) Except where the deficiency mentioned in subsection (1) above occurs in connection with a contract for a life annuity made after 26th March 1974, the deduction allowable under that subsection shall be made only for the purposes of ascertaining the individual’s excess liability, that is to say, the excess (if any) of his liability to income tax over what it would be if all income tax were chargeable at the basic rate to the exclusion of any higher rate.

- (3) In this section “final year” has the same meaning as in section 546.

#### Marginal Citations

- M40** Source-1975 Sch.2 19; 1975 (No.2) s.40

### 550 Relief where gain charged at a higher rate.

- (1) <sup>M41</sup>The following provisions of this section shall have effect for the purposes of giving relief, on a claim in that behalf being made by him to the Board, in respect of any increase in an individual’s liability to tax which is attributable to one or more amounts

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being included in his total income for a year of assessment by virtue of section 547(1)(a).

- (2) Where one amount only is so included, there shall be computed—
- (a) the tax which would be chargeable in respect of the amount if relief under this section were not available and it constituted the highest part of the claimant's total income for the year, and
  - (b) the tax (if any) which would be chargeable in respect of the amount if calculated, in accordance with subsection (3) below, by reference to its appropriate fraction;
- and the relief shall consist of a reduction or repayment of tax equal to the difference between the two amounts of tax so computed, or, if tax would not be chargeable on a calculation by reference to the appropriate fraction, of a reduction or repayment of the tax equal to the tax computed under paragraph (a) above.
- (3) In subsection (2) above “appropriate fraction” means, in relation to any amount, such a sum as bears thereto the same proportion as that borne by one to the number of complete years for which the policy or contract has run before the happening of the chargeable event; and the computation required by paragraph (b) of that subsection shall be made by applying to the amount in question such rate or rates of income tax, other than the basic rate, as would apply if it were reduced to that fraction and, as so reduced, still constituted the highest part of the claimant's total income for the year.
- (4) For the purposes of subsection (3) above the number of years for which a policy of life insurance has run before the happening of a chargeable event shall be calculated, where appropriate, from the issue of the earliest related policy, meaning, any policy in relation to which the policy is a new policy within the meaning of paragraph 17 of Schedule 15, any policy in relation to which that policy is such a policy, and so on.
- (5) <sup>M42</sup>Where a chargeable event on the happening of which an amount is included in an individual's total income by virtue of section 547(1)(a) follows the happening of another chargeable event in relation to the same policy or contract, and each of those events is such an excess as is mentioned in section 540(1)(a)(v), 542(1) or 545(1)(d), subsections (3) and (4) above shall have effect in relation to that amount as if the number of complete years referred to in subsection (3) were the number of complete years elapsing between that other event (or, if more than one, the last of them) and the first-mentioned event.
- (6) <sup>M43</sup>Where by virtue of section 547(1)(a) two or more amounts are included in an individual's total income for any year of assessment, subsections (2) and (3) above shall apply as if they together constituted a single amount, but with the appropriate fraction of the whole determined by adding together the appropriate fractions of the individual amounts.
- (7) A provision of this section requiring tax to be calculated as if an amount constituted the highest part of a claimant's total income shall apply notwithstanding any other provision of the Income Tax Acts directing any other amount to be treated as the highest part thereof, but, for the purposes of this section, a claimant's total income shall be deemed not to include any amount in respect of which he is chargeable to tax under section 34, 35, 36 or 148.

#### Marginal Citations

**M41** Source-1970 s.400(1)-(3); 1971 Sch.6 43

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**M42** Source-1975 Sch.2 18

**M43** Source-1970 s.400(4), (5); 1971 Sch.6 43

## 551 Right of individual to recover tax from trustees.

<sup>M44</sup>(1) Where—

- (a) an amount is included in an individual's income by virtue of section 547(1)(a), and
- (b) the rights or share in question were held immediately before the happening of the chargeable event on trust,

the individual shall be entitled to recover from the trustees, to the extent of any sums, or to the value of any benefits, received by them by reason of the event, an amount equal to that (if any) by which the tax with which he is chargeable for the year of assessment in question, reduced by the amount of any relief available under section 550 in respect of the amount so included, exceeds the tax with which he would have been chargeable for the year if that amount had not been so included.

- (2) Where, for the purposes of relief under section 550, two or more amounts are to be treated as one, the reduction required by subsection (1) above on account of the relief available in respect of any of them shall consist of a proportionate part of the relief available in respect of their aggregate.
- (3) An individual may require the Board to certify any amount recoverable by him by virtue of this section, and the certificate shall be conclusive evidence of the amount.

### Marginal Citations

**M44** Source-1970 s.401

VALID FROM 31/07/1998

## <sup>F19</sup>551A Right of company to recover tax from trustees.

(1) Where—

- (a) an amount is included in a company's income by virtue of section 547(1)(b), and
- (b) the rights or share in question were held immediately before the happening of the chargeable event on trust,

the company shall be entitled to recover from the trustees, to the extent of any sums, or to the value of any benefits, received by them by reason of the event, the amount (if any) by which T1 exceeds T2.

(2) For the purposes of subsection (1) above—

T1 is the tax with which the company is chargeable for the accounting period in question; and

T2 is the tax with which the company would have been chargeable for the accounting period if the amount mentioned in subsection (1)(a) above had not been included as there mentioned.

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- (3) A company may require the Board to certify any amount recoverable by the company by virtue of this section, and the certificate shall be conclusive evidence of the amount.]

#### Textual Amendments

- F19** Ss. 551A inserted (with effect in accordance with Sch. 14 para. 7(5) of the amending Act) by Finance Act 1998 (c. 36), Sch. 14 para. 3

### 552 Information: duty of insurers.

- (1) <sup>M45</sup>Subject to subsections (2) to (5) below, where a chargeable event within the meaning of this Chapter has happened in relation to any policy or contract, the body by or with whom the policy or contract was issued, entered into or effected shall, within three months of the event or, if it is a death or an assignment, within three months of their receiving written notification thereof, deliver to the inspector a certificate specifying—
- (a) the name and address of the policy holder;
  - (b) the nature of the event, and the date on which it happened;
  - (c) as may be required for computing the gain to be treated as arising by virtue of this Chapter—
    - (i) the surrender value of the policy, or the sum payable, or other benefits to be conferred, by the body in question by reason of the event;
    - (ii) the amount or value of any relevant capital payments;
    - (iii) the amounts previously paid under the policy or contract by way of premiums, or otherwise by way of consideration for an annuity; and
    - (iv) the capital element in any payment previously made on account of an annuity;
  - (d) the number of years relevant for computing the appropriate fraction of the gain for the purposes of section 550(3).
- (2) Subsection (1) above shall not apply where—
- (a) the body in question are satisfied that no gain is to be treated as arising by reason of the event, or
  - (b) the amount of the surrender value or sum, or the value of the other benefits, referred to in paragraph (c)(i) of that subsection, together with the amount or value of any payments within paragraph (c)(ii) of that subsection, does not exceed £500, [<sup>F20</sup>or
  - (c) the event is a chargeable event only because of section 540(5A).]
- but the inspector may by notice require a like certificate in any such case, and it shall be the duty of the body to deliver the certificate within 30 days of receipt of the notice.
- (3) <sup>M46</sup>Where the chargeable event is an assignment of all the rights conferred by the policy or contract the certificate shall also specify any such excess as is mentioned in section 540(1)(a)(v), 542(1) or 545(1)(d) which has occurred since the relevant date, the date on which it occurred and the value of the part of or share in the rights which have been surrendered or assigned since the relevant date.

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- (4) Where the chargeable event is the occurrence of such an excess as is mentioned in section 540(1)(a)(v), 542(1) or 545(1)(d), subsections (1) and (2) above shall apply with the omission of paragraph (b) of subsection (2) and the certificate shall also specify the value of the part of or share in the rights surrendered or assigned in any year since the relevant date and the amounts paid by way of premiums in any year since the relevant date.
- (5) In subsections (3) and (4) above—
- “year” has the same meaning as in section 546(4); and
  - “the relevant date”, in relation to any certificate, means the date of the chargeable event in respect of which the last certificate under this section was delivered or, if none was delivered, the commencement of the policy or contract.

#### Textual Amendments

**F20** S. 552(c) and word inserted (with effect in accordance with Sch. 9 para. 8 of the amending Act) by Finance Act 1989 (c. 26), Sch. 9 para. 7

#### Marginal Citations

**M45** Source-1970 s.402

**M46** Source-1975 Sch.2 20

VALID FROM 11/05/2001

#### **[<sup>F21</sup>552Z] Information: supplementary provisions**

- (1) This section supplements section 552 and shall be construed as one with it.
- (2) Where the obligations under any policy or contract of the body that issued, entered into or effected it (“the original insurer”) are at any time the obligations of another body (“the transferee”) to whom there has been a transfer of the whole or any part of a business previously carried on by the original insurer, section 552 shall have effect in relation to that time, except where the chargeable event—
- (a) happened before the transfer, and
  - (b) in the case of a death or an assignment, is an event of which the notification mentioned in subsection (6) or (7) of that section was given before the transfer,
- as if the policy or contract had been issued, entered into or effected by the transferee.
- (3) Where, in consequence of section 546C(7)(a), paragraph (a) or (b) of section 552(1) requires certificates to be delivered in respect of two or more surrenders, happening in the same year, of part of or a share in the rights conferred by the policy or contract, a single certificate may be delivered under the paragraph in question in respect of all those surrenders (and may treat them as if they together constituted a single surrender) unless between the happening of the first and the happening of the last of them there has been—
- (a) an assignment of part of or a share in the rights conferred by the policy or contract; or



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- (b) an assignment, otherwise than for money or money's worth, of the whole of the rights conferred by the policy or contract.
- (4) Where the appropriate policy holder is two or more persons—
  - (a) section 552(1)(a) requires a certificate to be delivered to each of them; but
  - (b) nothing in section 552 or this section requires a body to deliver a certificate under subsection (1)(a) of that section to any person whose address has not been provided to the body (or to another body, at a time when the obligations under the policy or contract were obligations of that other body).
- (5) A certificate under section 552(1)(b) or (3)—
  - (a) shall be in a form prescribed for the purpose by the Board; and
  - (b) shall be delivered by any means prescribed for the purpose by the Board; and different forms, or different means of delivery, may be prescribed for different cases or different purposes.
- (6) The Board may by regulations make such provision as they think fit for securing that they are able—
  - (a) to ascertain whether there has been or is likely to be any contravention of the requirements of section 552 or this section; and
  - (b) to verify any certificate under that section.
- (7) Regulations under subsection (6) above may include, in particular, provisions requiring persons to whom premiums under any policy are or have at any time been payable—
  - (a) to supply information to the Board; and
  - (b) to make available books, documents and other records for inspection on behalf of the Board.
- (8) Regulations under subsection (6) above may—
  - (a) make different provision for different cases; and
  - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.]

#### Textual Amendments

**F21** Ss. 552, 552ZA substituted for s. 552 (with effect in accordance with s. 83(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 28 para. 18**

VALID FROM 17/07/2013

#### <sup>F22</sup>552Z Regulations in relation to qualifying policies

- (1) The Commissioners for Her Majesty's Revenue and Customs may make regulations—
  - (a) requiring relevant persons—
    - (i) to provide prescribed information to persons who apply for the issue of qualifying policies or who are, or may be, required to make statements under paragraph B3(2) of Schedule 15;

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- (ii) to provide to an officer of Revenue and Customs prescribed information about qualifying policies which have been issued by them or in relation to which they are or have been a relevant transferee;
- (b) making such provision (not falling within paragraph (a)) as the Commissioners think fit for securing that an officer of Revenue and Customs is able—
- (i) to ascertain whether there has been or is likely to be any contravention of the requirements of the regulations or of paragraph B3(2) of Schedule 15;
- (ii) to verify any information provided to an officer of Revenue and Customs as required by the regulations.
- (2) The provision that may be made by virtue of subsection (1)(b) includes, in particular, provision requiring relevant persons to make available books, documents and other records for inspection by or on behalf of an officer of Revenue and Customs.
- (3) The regulations may—
- (a) make different provision for different cases or circumstances, and
- (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.
- (4) In this section—
- “prescribed” means prescribed by the regulations,
- “qualifying policy” includes a policy which would be a qualifying policy apart from—
- (a) paragraph A1(2), B1(2), B2(2) or B3(3) of Schedule 15, or
- (b) paragraph 17(2)(za) of that Schedule (including as applied by paragraph 18), and
- “relevant person” means a person—
- (a) who issues, or has issued, qualifying policies, or
- (b) who is, or has been, a relevant transferee in relation to qualifying policies.
- (5) For the purposes of this section a person (“X”) is at any time a “relevant transferee” in relation to a qualifying policy if the obligations under the policy of its issuer are at that time the obligations of X as a result of there having been a transfer to X of the whole or any part of a business previously carried on by the issuer.]

#### Textual Amendments

**F22** S. 552ZB inserted (17.7.2013) by Finance Act 2013 (c. 29), Sch. 9 para. 10

VALID FROM 31/07/1998

#### [<sup>F23</sup>552A Tax representatives.

- (1) This section has effect for the purpose of securing that, where it applies to an overseas insurer, another person is the overseas insurer’s tax representative.

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- (2) In this section “overseas insurer” means a person who is not resident in the United Kingdom who carries on a business which consists of or includes the effecting and carrying out of—
- (a) policies of life insurance;
  - (b) contracts for life annuities; or
  - (c) capital redemption policies.
- (3) This section applies to an overseas insurer—
- (a) if the condition in subsection (4) below is satisfied on the designated day; or
  - (b) where that condition is not satisfied on that day, if it has subsequently become satisfied.
- (4) The condition mentioned in subsection (3) above is that—
- (a) there are in force relevant insurances the obligations under which are obligations of the overseas insurer in question or of an overseas insurer connected with him; and
  - (b) the total amount or value of the gross premiums paid under those relevant insurances is £1 million or more.
- (5) In this section “relevant insurance” means any policy of life insurance, contract for a life annuity or capital redemption policy in relation to which this Chapter has effect and in the case of which—
- (a) the holder is resident in the United Kingdom;
  - (b) the obligations of the insurer are obligations of a person not resident in the United Kingdom; and
  - (c) those obligations are not attributable to a branch or agency of that person’s in the United Kingdom.
- (6) Before the expiration of the period of three months following the day on which this section first applies to an overseas insurer, the overseas insurer must nominate to the Board a person to be his tax representative.
- (7) A person shall not be a tax representative unless—
- (a) if he is an individual, he is resident in the United Kingdom and has a fixed place of residence there, or
  - (b) if he is not an individual, he has a business establishment in the United Kingdom,
- and, in either case, he satisfies such other requirements (if any) as are prescribed in regulations made for the purpose by the Board.
- (8) A person shall not be an overseas insurer’s tax representative unless—
- (a) his nomination by the overseas insurer has been approved by the Board; or
  - (b) he has been appointed by the Board.
- (9) The Board may by regulations make provision supplementing this section; and the provision that may be made by any such regulations includes provision with respect to—
- (a) the making of a nomination by an overseas insurer of a person to be his tax representative;
  - (b) the information which is to be provided in connection with such a nomination;

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- (c) the form in which such a nomination is to be made;
  - (d) the powers and duties of the Board in relation to such a nomination;
  - (e) the procedure for approving, or refusing to approve, such a nomination, and any time limits applicable to doing so;
  - (f) the termination, by the overseas insurer or the Board, of a person's appointment as a tax representative;
  - (g) the appointment by the Board of a person as the tax representative of an overseas insurer (including the circumstances in which such an appointment may be made);
  - (h) the nomination by the overseas insurer, or the appointment by the Board, of a person to be the tax representative of an overseas insurer in place of a person ceasing to be his tax representative;
  - (j) circumstances in which an overseas insurer to whom this section applies may, with the Board's agreement, be released (subject to any conditions imposed by the Board) from the requirement that there must be a tax representative;
  - (k) appeals to the Special Commissioners against decisions of the Board under this section or regulations under it.
- (10) The provision that may be made by regulations under subsection (9) above also includes provision for or in connection with the making of other arrangements between the Board and an overseas insurer for the purpose of securing the discharge by or on behalf of the overseas insurer of the relevant duties, within the meaning of section 552B.
- (11) Section 839 (connected persons) applies for the purposes of this section.
- (12) In this section—
- “the designated day” means such day as the Board may specify for the purpose in regulations;
  - “tax representative” means a tax representative under this section.]

#### Subordinate Legislation Made

**P1** S. 552A(12) power exercised: 6.4.1999 appointed by S.I. 1999/881, **reg. 3**

#### Textual Amendments

**F23** Ss. 552A, 552B inserted (31.7.1998) by Finance Act 1998 (c. 36), **s. 87**

#### Modifications etc. (not altering text)

**C3** S. 522A restricted (6.4.1999) by The Overseas Insurers (Tax Representatives) Regulations 1999 (S.I. 1999/881), **reg. 11(2)**

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VALID FROM 31/07/1998

**[<sup>F23</sup>552B Duties of overseas insurers' tax representatives.**

- (1) It shall be the duty of an overseas insurer's tax representative to secure (where appropriate by acting on the overseas insurer's behalf) that the relevant duties are discharged by or on behalf of the overseas insurer.
- (2) For the purposes of this section "the relevant duties" are—
  - (a) the duties imposed by section 552,
  - (b) any duties imposed by regulations made under subsection (4A)(a) of that section, and
  - (c) any duties imposed by regulations made under subsection (4A)(b) of that section by virtue of subsection (4B) of that section,
 so far as relating to relevant insurances under which the overseas insurer in question has any obligations.
- (3) An overseas insurer's tax representative shall be personally liable—
  - (a) in respect of any failure to secure the discharge of the relevant duties, and
  - (b) in respect of anything done for purposes connected with acting on the overseas insurer's behalf,
 as if the relevant duties were imposed jointly and severally on the tax representative and the overseas insurer.
- (4) In the application of this section in relation to any particular tax representative, it is immaterial whether any particular relevant duty arose before or after his appointment.
- (5) This section has effect in relation to relevant duties relating to chargeable events happening on or after the day by which section 552A(6) requires the nomination of the overseas insurer's first tax representative to be made.
- (6) Expressions used in this section and in section 552A have the same meaning in this section as they have in that section.]

**Textual Amendments**

**F23** Ss. 552A, 552B inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 87](#)

**553 Non-resident policies and off-shore capital redemption policies.**

- <sup>M47</sup>(1) If, in the case of a substitution of policies falling within paragraph 25(1) or (3) of Schedule 15, the new policy is a qualifying policy, section 540 shall have effect with the following modifications—
- (a) the surrender of the rights conferred by the old policy shall not be a chargeable event (within the meaning of that section); and
  - (b) the new policy shall be treated as having been issued in respect of an insurance made on the day referred to in paragraph 26 of that Schedule.
- (2) If at any time neither the conditions in sub-paragraph (3) nor those in sub-paragraph (4) of paragraph 24 of Schedule 15 are fulfilled with respect to a new non-resident policy

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which has previously become a qualifying policy, then, from that time onwards, this Chapter shall apply in relation to the policy as if it were not a qualifying policy.

- (3) Subject to subsection (5) below, on the happening of a chargeable event in relation to a new non-resident policy or a new offshore capital redemption policy, the amount which, apart from this subsection, would by virtue of section 541 be treated as a gain arising in connection with the policy shall be reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is the number of days on which the policy holder was resident in the United Kingdom in the period for which the policy has run before the happening of the chargeable event; and

B is the number of days in that period.

- (4) The calculation of the number of days in the period referred to in subsection (3) above shall be made in like manner as is provided in section 550(4), substituting a reference to the number of days for the reference to the number of years.
- (5) If, on the happening of the chargeable event referred to in subsection (3) above or at any time during the period referred to in that subsection, the policy is or was held by a trustee resident outside the United Kingdom or by two or more trustees any of whom is or was so resident, no reduction shall be made under that subsection unless—
- (a) the policy was issued in respect of an insurance made on or before 19th March 1985; and
  - (b) on that date the policy was held by a trustee who was so resident or, as the case may be, by two or more trustees any of whom was so resident.
- (6) Subject to subsection (7) below, where, under section 541, a gain (reduced in accordance with subsection (3) above) is to be treated as arising in connection with a new non-resident policy or a new offshore capital redemption policy—
- (a) section 547 shall have effect, in relation to the gain, as if subsection (5) were omitted; and
  - (b) the gain shall be chargeable to tax under Case VI of Schedule D;
- but any relief under section 550 shall be computed as if this subsection had not been enacted.
- (7) Paragraphs (a) and (b) of subsection (6) above do not apply to a gain arising in connection with a new non-resident policy if the conditions in either sub-paragraph (3) or sub-paragraph (4) of paragraph 24 of Schedule 15 are fulfilled at all times between the date on which the policy was issued and the date on which the gain is treated as arising.
- (8) Where a claim is made under section 550 in respect of the amount of a gain treated as arising in connection with a new non-resident policy or a new offshore capital redemption policy (with or without other amounts), the “appropriate fraction” which, in accordance with subsection (2) of that section, is to be applied to that amount shall be modified by deducting from the number of complete years referred to in subsection (3)



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of that section any complete years during which the policy holder was not resident in the United Kingdom.

(9) Subsection (5) of section 550 shall not apply in relation to a new non-resident policy or a new offshore capital redemption policy.

(10) In this section—

“chargeable event” has, subject to subsection (1) above, the meaning given by section 540 or, as the case may be, 545;

“new non-resident policy” has the meaning given by paragraph 24 of Schedule 15; and

“new offshore capital redemption policy” means a capital redemption policy, as defined in section 539(3), which—

(a) is issued in respect of an insurance made after 22nd February 1984; and

(b) is so issued by a company resident outside the United Kingdom.

#### Marginal Citations

**M47** Source-1984 Sch.15 Part III; 1984 s.76(5); 1985 s.51

VALID FROM 31/07/1998

#### <sup>F24</sup>553A Overseas life assurance business: life policies.

(1) A policy of life insurance which, immediately before the happening of a chargeable event or a relevant event—

(a) is an overseas policy, but

(b) is not a new non-resident policy,

shall, in relation to that event, be treated for the purposes of this Chapter as if it were a new non-resident policy.

(2) A policy of life insurance which, immediately before the happening of a relevant event—

(a) is an overseas policy, and

(b) is a new non-resident policy,

shall, in relation to that event, be taken for the purposes of this Chapter not to be a qualifying policy.

(3) Where a chargeable event happens in relation to a new non-resident policy, section 553(7) shall not have effect in relation to the gain treated as arising in connection with the policy on the happening of the chargeable event.

(4) In this section—

“new non-resident policy” means a new non-resident policy as defined in paragraph 24 of Schedule 15 (and in subsections (2) and (3) above includes a policy treated as such by virtue of subsection (1) above);

“overseas policy” means a policy of life insurance which, by virtue of section 431D(1)(a), forms part of the overseas life assurance business of an insurance company or friendly society;



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“relevant event”, in relation to a policy of life insurance, means an event which would be a chargeable event in relation to that policy if the policy were assumed not to be a qualifying policy.

- (5) This section applies in relation to chargeable events and relevant events happening on or after 17th March 1998 in relation to policies of life insurance issued in respect of insurances made on or after that date.
- (6) A policy of life insurance issued in respect of an insurance made before 17th March 1998 shall be treated for the purposes of this section as issued in respect of one made on or after that date if it is varied on or after that date so as to increase the benefits secured or to extend the term of the insurance; and any exercise of rights conferred by the policy shall be regarded for this purpose as a variation.]

#### Textual Amendments

**F24** S. 553A inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 88\(1\)](#)

VALID FROM 31/07/1998

#### [<sup>F25</sup>553B Overseas life assurance business: capital redemption policies.

- (1) A capital redemption policy which immediately before the happening of a chargeable event—
- is an overseas policy, but
  - is not a new offshore capital redemption policy,
- shall, in relation to that event, be treated for the purposes of this Chapter as if it were a new offshore capital redemption policy.
- (2) In this section—
- “new offshore capital redemption policy” has the same meaning as in section 553;
- “overseas policy” means a capital redemption policy which, by virtue of section 431D(1)(a), forms part of the overseas life assurance business of an insurance company.
- (3) This section applies in relation to capital redemption policies where the contract is made after the coming into force of the first regulations under section 458A in consequence of which capital redemption business forms part of the overseas life assurance business of an insurance company.]

#### Textual Amendments

**F25** S. 553B inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 88\(2\)](#)

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VALID FROM 31/07/1998

**[<sup>F26</sup>553C] Personal portfolio bonds.**

- (1) The Treasury may by regulations make provision imposing a yearly charge to tax in relation to personal portfolio bonds (“yearly” being construed for this purpose by reference to years as defined in section 546(4)).
- (2) Subject to any provision to the contrary made by the regulations, any charge to tax under this section is in addition to any other charge to tax under this Chapter.
- (3) The regulations may make provision with respect to or in connection with all or any of the following—
  - (a) the method by which the charge to tax, or any relief, allowance or deduction against or in respect of the tax, is to be imposed or given effect;
  - (b) the person who is to be liable for the tax;
  - (c) the periods for or in respect of which the tax is to be charged;
  - (d) the amounts in respect of which, or by reference to which, the tax is to be charged;
  - (e) the period or periods by reference to which those amounts are to be determined;
  - (f) the rate or rates at which the tax is to be charged;
  - (g) any reliefs, allowances or deductions which are to be given or made against or in respect of the tax;
  - (h) the administration of the tax.
- (4) The provision that may be made by the regulations includes provision for imposing the charge to tax by a method which involves—
  - (a) treating an event described in the regulations as if it were a chargeable event;
  - (b) treating an amount determined in accordance with the regulations as if it were a gain treated as arising on the happening of a chargeable event;
  - (c) deeming an amount determined in accordance with the regulations to be income of a person or body of persons (or to be part of the aggregate income of the estate of a deceased person); or
  - (d) applying section 740, with or without modification, in relation to an amount determined in accordance with the regulations.
- (5) The provision that may be made in the regulations includes provision for the amount or amounts in respect of which, or by reference to which, the tax is to be charged for periods beginning after the coming into force of the regulations to be determined in whole or in part by reference to periods beginning or ending, premiums paid, or events happening, before, on or after the day on which the Finance Act 1998 is passed.
- (6) The regulations may make provision excluding, or applying (with or without modification), other provisions of this Chapter in relation to policies or contracts which are also personal portfolio bonds.
- (7) In this section, “personal portfolio bond” means a policy of life insurance, contract for a life annuity or capital redemption policy under whose terms—

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- (a) some or all of the benefits are determined by reference to the value of, or the income from, property of any description (whether or not specified in the policy or contract) or fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and
- (b) some or all of the property, or such an index, may be selected by, or by a person acting on behalf of, the holder of the policy or contract or a person connected with him (or the holder of the policy or contract and a person connected with him);

but a policy or contract is not a personal portfolio bond if the only property or index which may be so selected is of a description prescribed for this purpose in the regulations.

- (8) The regulations may prescribe additional conditions which must be satisfied if a policy or contract is to be a personal portfolio bond.
- (9) The regulations—
  - (a) may make different provision for different cases, different circumstances or different periods; and
  - (b) may make incidental, consequential, supplemental or transitional provision.
- (10) In this section, “holder”, in the case of a policy or contract held by two or more persons, includes a reference to any of those persons.
- (11) Section 839 (connected persons) applies for the purposes of this section.]

#### Textual Amendments

**F26** S. 553C inserted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 89

### 554 Borrowings on life policies to be treated as income in certain cases.

<sup>M48</sup>(1) Where—

- (a) under any contract or arrangements made on or after 7th April 1949, provision is made for the making to any person, at intervals until the happening of an event or contingency dependent on human life, of payments by way of loan; and
- (b) under the contract or arrangements, the loans are secured upon a policy of life assurance which assures moneys payable on the happening of such an event or contingency and need not be repaid until the policy moneys become payable; and
- (c) the amount of the moneys payable on the happening of the event or contingency is made by the policy to increase by reference to the length of a period ending on the happening of that event or contingency;

the payments made by way of loan shall be treated for tax purposes as annual payments falling within Case III of Schedule D, or, if they are made to a person residing in the United Kingdom and the contract or arrangements were made outside the United Kingdom, as income from a possession out of the United Kingdom and, for income tax, as falling within section 65(1).

- (2) The amount of the moneys payable under a policy of life assurance shall not be deemed for the purposes of this section to be made to increase by reference to the length of a

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period ending on the happening of an event or contingency dependent on human life by reason only that those moneys are to increase from time to time if profits are made by the person liable under the policy.

- (3) This section shall not apply to any payments by way of loan if the Board are satisfied as respects those payments that it is not one of the objects of the contract or arrangements under which the payments are made that the recipient of them should enjoy the advantages which would, apart from any question of liability to tax, be enjoyed by a person in receipt of payments of the same amounts paid at the same times by way of annuity.

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**Marginal Citations**

**M48** Source-1970 s.405

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