Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 4

SAVINGS AND INVESTMENT INCOME

CHAPTER 9

GAINS FROM CONTRACTS FOR LIFE INSURANCE ETC.

Charge to tax under Chapter 9

461 Charge to tax under Chapter 9

(1) Income tax is charged on gains treated as arising from policies and contracts to which this Chapter applies.

(2) For the policies and contracts to which this Chapter applies, see sections 473 to 483.

(3) See also sections 530 to 538 (provisions relating to tax treated as paid on gains and to reliefs).

(4) For exemptions, see in particular Chapter 3 of Part 6 (income from individual investment plans).

(5) For the application of this Chapter where corresponding provision for corporation tax purposes is also relevant, see section 544 (application of Chapter to policies and contracts in which companies interested).

462 When gains arise from policies and contracts

(1) For the purposes of this Chapter, a gain from a policy or contract arises when a chargeable event occurs in relation to the policy or contract (see section 484).

(2) But certain chargeable events are only treated as occurring because a calculation required to be made as at a particular time shows that the gain has arisen.

(3) See, in particular—

(a) section 509(1) (under which a chargeable event is treated as occurring where a periodic calculation following a part surrender or assignment shows a gain),

(b) section 514(1) (under which a part surrender or assignment is treated as a chargeable event where a calculation related to it shows a gain), and

(c) section 525(2) (under which a chargeable event is treated as occurring where an annual personal portfolio bond calculation shows a gain).

463 Income charged

(1) Tax is charged under this Chapter on the amount of the gains arising in the tax year.

(2) Subsection (1) is subject to section 514(4) (under which certain gains are charged for a later tax year).

(3) See section 469(3) for the apportionment of gains where two or more persons are interested in a policy or contract.

(4) See sections 491 to 497, 507, 508, 511 to 513, 522 to 524 and 527 to 529 for the rules as to how the gains are calculated.

Person liable etc.

464 Person liable for tax: introduction

(1) The person liable for any tax charged under this Chapter is the person indicated by—

section 465 (person liable: individuals),

section 466 (person liable: personal representatives), and

section 467 (person liable: UK resident trustees),

according to how the rights under the policy or contract are owned or held immediately before the chargeable event in question occurs.

(2) References in those sections to the ownership or holding of those rights are references to their ownership or holding at that time.

(3) If there has been a surrender or assignment of only a part of or share in rights under the policy or contract, the references in this section and those sections to the rights are references to that part or share.

(4) For cases where such surrenders or assignments are taken to occur, see—

section 500 (events treated as part surrenders), and

section 505 (assignments etc. involving co-ownership).

(5) This section and sections 470 to 472 are subject to section 469(4) (application of this section and those sections where two or more persons are interested in the policy or contract in question).

(6) See also—

section 468 (non-UK resident trustees and foreign institutions),

section 471 (determination of shares etc.), and

section 472 (trusts created by two or more persons).

465 Person liable: individuals

(1) An individual is liable for tax under this Chapter if the individual is UK resident in the tax year in which the gain arises and condition A, B or C is met.

(2) Condition A is that the individual beneficially owns the rights under the policy or contract in question.

(3) Condition B is that those rights are held on non-charitable trusts which the individual created.

(4) Condition C is that those rights are held as security for the individual's debt.

(5) For the purposes of calculating the total income of an individual liable for tax under this Chapter, the amount charged is treated as income.

(6) References in this Chapter to trusts which an individual created include references to trusts arising under any of the following provisions (and references to a settlor or to a person creating trusts are to be read accordingly)—

(a) section 11 of the Married Women's Property Act 1882 (c. 75),

(b) section 2 of the Married Women's Policies of Assurance (Scotland) Act 1880 (c. 26), and

(c) section 4 of the Law Reform (Husband and Wife) Act (Northern Ireland) 1964 (c. 23 (N.I.)).

(7) For the right of an individual to recover certain amounts from the trustees of non-charitable trusts, see section 538 (recovery of tax from trustees).

[F1 465A Amounts for which individuals liable to be treated as highest part of total income

(1) This section applies if—

(a) an individual is liable for tax under this Chapter in respect of an amount, and

(b) the individual is treated by section 530 as having paid income tax at the savings rate on the amount.

(2) The amount is treated as the highest part of the individual's total income.

(3) Subsection (2) has effect for all income tax purposes except the purposes of sections 535 to 537 (gains from contracts for life insurance etc: top slicing relief).

(4) See section 1012 of ITA 2007 (relationship between highest part rules) for the relationship between—

(a) the rule in subsection (2), and

(b) other rules requiring particular income to be treated as the highest part of a person's total income.**]**

Textual Amendments

F1 S. 465A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 529** (with transitional provisions and savings in Sch. 2)

466 Person liable: personal representatives

(1) Personal representatives are liable for tax under this Chapter if the rights under the policy or contract are held by them and the condition in subsection (2) is met (and accordingly the gain is treated for income tax purposes as income of the personal representatives in that capacity).

(2) The condition is that if an individual were liable for tax on a gain in respect of the policy or contract, section 530(1) (individual treated as having paid tax at the **[**[F2]savings rate**]**) would be disapplied as a result of—

(a) section 531(1) (exceptions from section 530 for policies and contracts specified in section 531(3)), or

(b) paragraph 109(2) of Schedule 2 (contracts in accounting periods beginning before 1st January 1992).

(3) For cases where the condition in subsection (2) is not met, see section 664 of this Act and section 701(8) of ICTA (under which the gain is treated as part of the aggregate income of the estate for the purposes of Chapter 6 of Part 5 of this Act and Part 16 of ICTA respectively).

Textual Amendments

F2 Words in s. 466(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 530** (with transitional provisions and savings in Sch. 2)

467 Person liable: UK resident trustees

(1) Trustees are liable for tax under this Chapter if immediately before the chargeable event in question occurs they are UK resident and condition A, B, C or D is met.

[[F3](1A) If trustees are liable for tax under this Chapter, the gain is treated for income tax purposes as income of the trustees.**]**

(2) Condition A is that the rights under the policy or contract are held by the trustees on charitable trusts.

(3) Condition B is that—

(a) those rights are held by the trustees on non-charitable trusts, and

(b) one or more of the absent settlor conditions is met.

(4) The absent settlor conditions are that the person who created the trusts—

(a) is non-UK resident,

(b) has died, or

(c) in the case of a company or foreign institution (see section 468(5)), has been dissolved or wound up or has otherwise come to an end.

(5) Condition C is that—
(a) the rights under the policy or contract are held by the trustees on non-charitable trusts,
(b) condition B does not apply, and
(c) neither section 465 or 466 above nor section 547(1)(b) of ICTA (circumstances in which a company is liable for tax under Chapter 2 of Part 13 of ICTA) applies.

(6) Condition D is that the rights under the policy or contract are held as security for a debt owed by the trustees.

[[F4](7) If trustees are liable for tax under this Chapter, it is charged at the savings rate if—
(a) condition A is met, or
(b) condition D is met and the trustees are trustees of a charitable trust.**]**

Textual Amendments

F3 S. 467(1A) inserted (with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 531(2)** (with transitional provisions and savings in Sch. 2)

F4 S. 467(7) substituted (with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 531(3)** (with transitional provisions and savings in Sch. 2)

468 Non-UK resident trustees and foreign institutions

(1) This section applies if a gain is treated as arising under this Chapter and either—
(a) trustees who are non-UK resident would be liable for tax in respect of the gain as a result of section 467 if the trustees were UK resident immediately before the chargeable event in question occurs, or
(b) immediately before that event occurs—
(i) a foreign institution beneficially owns a share in the rights,
(ii) the rights are held for the purposes of a foreign institution, or
(iii) a share in them is held as security for a foreign institution's debt.

(2) **[**[F5]Chapter 2 of Part 13 of ITA 2007**]** of ICTA (which **[**[F6]prevents**]** avoidance of tax where an individual who is ordinarily UK resident benefits from a transfer of assets) **[**[F7]applies**]** with the modifications specified in subsection (3) or (4).

(3) In a case within subsection (1)(a), **[**[F8]Chapter 2 of Part 13 of ITA 2007 applies**]** as if—
(a) the gain were income becoming payable to the trustees, and
(b) that income arose to the trustees in the tax year in which the gain arises.

(4) In a case within subsection (1)(b), **[**[F8]Chapter 2 of Part 13 of ITA 2007 applies**]** as if—
(a) the gain were income becoming payable to the institution, and
(b) that income arose to the institution in the tax year in which the gain arises.

(5) In this Chapter “foreign institution” means a company or other institution resident or domiciled outside the United Kingdom.

(6) If there has been a surrender or assignment of only a part of or share in rights under the policy or contract, the references in this section to those rights are references to that part or share.

Textual Amendments

F5 Words in s. 468(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 532(a)** (with transitional provisions and savings in Sch. 2)

F6 Word in s. 468(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 532(a)** (with transitional provisions and savings in Sch. 2)

F7 Word in s. 468(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 532(a)** (with transitional provisions and savings in Sch. 2)

F8 Words in s. 468(3)(4) substituted (with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 532(b)** (with transitional provisions and savings in Sch. 2)

469 Two or more persons interested in policy or contract

(1) This section applies if immediately before a chargeable event two or more persons have material interests in the rights under the policy or contract.

(2) Section 470 sets out the circumstances in which persons have such interests for the purposes of this section (which correspond to the circumstances referred to in sections 465 to 468 above and section 547(1) of ICTA (persons liable for tax etc.)).

(3) Section 463 (income charged) applies in the case of any of the persons with such interests as if the amount of the gain arising when the event occurs were such part of it as is proportionate to the share of the rights to which the person's interest relates.

(4) Sections 464 to 468 (persons liable for tax etc.) apply in relation to each of those persons as if that person were the only person with such an interest at that time.

(5) Section 539(1) (relief for deficiencies) applies in relation to each of those persons as if the amount of deficiency arising when that event occurs were such part of it as is proportionate to the share of the rights to which that person's interest relates.

(6) If a person ("A") has two or more material interests in the rights under a policy or contract, this section applies in the same way as where two or more persons have separate such interests, unless A—

- (a) is the only person with such interests, and
- (b) has all those interests in the same capacity.

(7) If there has been a surrender or assignment of only a part of or share in rights under the policy or contract, the references to those rights in this section and sections 470 to 472 are references to that part or share.

470 Interests in rights under a policy or contract for section 469

(1) This section sets out the circumstances in which a person has a material interest in the rights under a policy or contract for the purposes of section 469.

(2) An individual has such an interest if—

- (a) the individual beneficially owns a share in the rights,
- (b) a share in them is held on non-charitable trusts which the individual created, or

(c) a share in them is held as security for the individual's debt.

(3) A company has such an interest if—
(a) the company beneficially owns a share in the rights,
(b) a share in them is held on non-charitable trusts which the company created, or
(c) a share in them is held as security for the company's debt.

(4) Personal representatives have such an interest if they hold a share in the rights.

(5) Trustees of a charitable trust have such an interest if a share in the rights—
(a) is held by them, or
(b) is held as security for a debt owed by them.

(6) Trustees of a non-charitable trust have such an interest if—
(a) a share in the rights is held by the trustees and one of the absent settlor conditions specified in section 467(4) is met,
(b) a share in the rights is held by them, none of those conditions is met and no individual, company or personal representatives have an interest in the share, or
(c) a share in them is held as security for a debt owed by the trustees.

(7) A foreign institution has such an interest if—
(a) the institution beneficially owns a share in the rights,
(b) the rights are held for the institution's purposes, or
(c) a share in them is held as security for the institution's debt.

471 Determination of shares etc.

(1) For the purposes of this Chapter—
(a) rights under a policy or contract which are beneficially owned by two or more persons jointly, and
(b) an interest in such rights which is so owned,
are treated as if they were beneficially owned by those persons in equal shares.

(2) Subsections (3) and (4) apply if immediately before a chargeable event the rights under the policy or contract are, or a share in those rights is, held as security for one or more debts owed by two or more persons.

(3) Each of those persons is treated for the purposes of this Chapter as the sole debtor for a separate debt.

(4) The appropriate share of the security for the actual debt or debts, so far as it consists of the rights under the policy or contract or a share in them, is treated for the purposes of this Chapter as the security for each separate debt.

(5) In subsection (4) "the appropriate share" means—
(a) if there is only one actual debt for which the person is liable as between the debtors, a share proportionate to the share of that debt for which the person is so liable, and
(b) if there are two or more such actual debts, a share proportionate to the share of the total such debts for which the person is so liable.

(6) For the purposes of this section, property held for the purposes of a foreign institution is treated as being beneficially owned by the institution.

(7) An interest in some or all of the rights under a policy or contract which is not a share in all those rights is treated for the purposes of this Chapter as such a share in those rights as may, on a just and reasonable apportionment, be regarded as representing the interest.

472 Trusts created by two or more persons

(1) For the purposes of this Chapter, if immediately before a chargeable event—
- (a) the rights under a policy or contract are held on non-charitable trusts created by two or more persons, or
- (b) a share in those rights is so held,

each of the persons is treated as the sole settlor of a separate share of the rights or share held on trusts.

(2) Each settlor's separate share is proportionate to the share originating from that settlor of the whole of the property subject to the trusts immediately before the event.

(3) If immediately before a chargeable event non-charitable trusts apply to property originating from different persons (for example, where property is added by different persons to an existing settlement)—
- (a) as respects that event the trusts are taken to have been created by them all, and
- (b) accordingly, each of them is treated as a sole settlor under subsection (1).

(4) Property originates from a person for the purposes of subsections (2) and (3) if—
- (a) it is property provided by the person for the purposes of the trusts,
- (b) it is property representing such property, or
- (c) in a case where property represents both property within paragraph (a) and other property, it is so much of that property as, on a just and reasonable apportionment, is to be taken to represent the property within paragraph (a).

(5) References in subsection (4) to property representing other property include property representing accumulated income from other property.

(6) For the purposes of this section, property is treated as provided by a person ("A") if—
- (a) it is provided by A directly or indirectly, or
- (b) it is provided directly or indirectly by another person under reciprocal arrangements with A.

(7) Property is not treated as provided by A if it is provided by A directly or indirectly under reciprocal arrangements with another person.

Policies and contracts to which Chapter 9 applies

473 Policies and contracts to which Chapter 9 applies: general

(1) This Chapter applies to—
- (a) policies of life insurance,
- (b) contracts for life annuities, and

(c) capital redemption policies.

(2) In this Chapter—

"capital redemption policy" means a contract made in the course of a capital redemption business, **[**F9within the meaning of Chapter 1 of Part 12**]** of ICTA, and

"life annuity" means—

(a) an annuity that—

(i) is a purchased life annuity for the purposes of Chapter 7 of this Part (see section 423), and

(ii) is not specified in section 718 (annuities excluded from the exemption for part of purchased life annuity payments under section 717), or

(b) an annuity to which section 656 of ICTA (as read with section 657 of that Act) applies.

(3) Subsection (1) is subject to—

section 478 (exclusion of mortgage repayment policies),

section 479 (exclusion of pension policies),

section 480 (exclusion of excepted group life policies), and

section 483 (exclusion of credit union group life policies).

Textual Amendments

F9 Words in s. 473(2) substituted (19.7.2007 with effect as stated in s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), s. 38, **Sch. 7 para. 77** (subject to transitional provisions in Sch. 7 Pt. 2)

474 Special rules: qualifying policies

(1) In the application of this Chapter to policies of insurance that are qualifying policies for the purposes of Chapter 1 of Part 7 of ICTA (policies within the conditions in Schedule 15 to that Act that qualify for special tax treatment) special rules apply.

(2) See, in particular—

section 485 (disregard of certain events in relation to qualifying policies),

section 503 (exception from section 501 for certain loans under qualifying policies),

section 542 (replacement of qualifying policies), and

section 543 (issue time of qualifying policy replacing foreign policy).

(3) Policies within the definition of "foreign policy of life insurance" in section 476(3) that would otherwise be qualifying policies are treated for the purposes of this Chapter as not being qualifying policies in the cases specified in subsections (4) and (5).

(4) Policies within paragraph (a) of that definition are so treated once the conditions in paragraph 24(3) of Schedule 15 to ICTA have ceased to be met with respect to them (conditions that are required to be met for certain policies issued by non-UK resident companies to be qualifying policies).

(5) Policies within paragraph (b) of that definition immediately before an event do not count as qualifying policies in relation to that event.

475 Special rules: personal portfolio bonds

(1) In the application of this Chapter to personal portfolio bonds, certain special rules apply.

(2) See, in particular—

section 515 (requirement for annual calculations in relation to personal portfolio bonds), and

sections 522 to 525 (method for making calculations and chargeable events where calculations show gains).

(3) For the meaning of "personal portfolio bond" see section 516.

476 Special rules: foreign policies

(1) In the application of this Chapter to foreign policies of life insurance and foreign capital redemption policies, certain special rules apply.

(2) See, in particular—

section 474(3) to (5) (certain foreign policies treated as not being qualifying policies),

section 528 (reduction in amount charged: non-UK resident policy holders),

sections 531 to 534 (under which foreign policies are excepted from section 530 (income tax treated as paid etc.) subject to certain reliefs), and

section 536(6) (method of calculating top slicing relief).

(3) In this Chapter—

"foreign policy of life insurance" means—

(a) a policy of life insurance issued by a non-UK resident company, and

(b) a policy of life insurance which forms part of the overseas life assurance business of an insurance company or friendly society as a result of **[**[F10]431D(1)**]** of ICTA (business with a non-UK resident policy holder),

"foreign capital redemption policy" means—

(a) a capital redemption policy issued by a non-UK resident company, and

(b) a capital redemption policy which forms part of the overseas life assurance business of an insurance company as a result of section 431D(1)(a) of ICTA, and

"overseas life assurance business" has the same meaning as in Part 12 of ICTA (see section 431D of that Act).

Textual Amendments

F10 Words in s. 476(3) substituted (19.7.2007 with effect as stated in s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), s. 38, **Sch. 7 para. 78** (subject to transitional provisions in Sch. 7 Pt. 2)

477 Special rules: certain older policies and contracts

(1) In the case of—

(a) certain contracts made before particular dates, and

(b) certain policies issued, or issued in respect of insurances made, before particular dates, this Chapter applies subject to Parts 6 and 7 of Schedule 2 (special provisions for older policies and contracts).

(2) See the table in section 546 for the provisions affected.

478 Exclusion of mortgage repayment policies

(1) This Chapter does not apply to a mortgage repayment policy.

(2) In this section "mortgage repayment policy" means a policy of life insurance with the sole object of providing, on an individual's death or disability, a sum substantially the same as any amount then outstanding under a repayment mortgage—

(a) of the individual's residence, or

(b) of any premises occupied by the individual for the purposes of a business.

(3) In this section "repayment mortgage" means a mortgage securing a principal amount which is repayable by instalments payable annually or at shorter regular intervals.

479 Exclusion of pension policies

This Chapter does not apply to a policy of insurance which—

(a) constitutes a registered pension scheme, or

(b) is issued or held in connection with such a scheme.

480 Exclusion of excepted group life policies

(1) This Chapter does not apply to an excepted group life policy.

(2) In this Chapter "group life policy" means a policy of life insurance whose terms provide—

(a) for the payment of benefits on the death of more than one individual, and

(b) for those benefits to be paid on the death of each of those individuals.

(3) In this section "excepted group life policy" means a group life policy with respect to which the conditions specified in the following sections are met—

(a) section 481 (conditions about benefits), and

(b) section 482 (conditions about persons intended to benefit).

481 Excepted group life policies: conditions about benefits

(1) Conditions A to D are the conditions referred to in section 480(3)(a) (definition of "excepted group life policy").

(2) Condition A is that under the terms of the policy a sum or other benefit of a capital nature is payable or arises—

(a) on the death in any circumstances of each of the individuals insured under the policy who dies under an age specified in the policy that does not exceed 75, or

(b) on the death, except in the same specified circumstances, of each of those individuals who dies under such an age.

(3) Condition B 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
(b) any limitation on those sums or other benefits is the same in the case of any death.

(4) Condition C 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 amount of premiums paid which, on a time apportionment, is referable to the unexpired paid-up period beginning with the day, or
(b) if there is no such period, any surrender value.

(5) In subsection (4) "the unexpired paid-up period", in relation to a period beginning with a day, means the period beginning then and ending with the earliest subsequent day on which a payment of premium falls due under the policy or the term of the policy ends.

(6) Condition D is that no sums or other benefits may be paid or conferred under the policy, except as mentioned in condition A or C.

482 Excepted group life policies: conditions about persons intended to benefit

(1) Conditions A to C are the conditions referred to in section 480(3)(b) (definition of "excepted group life policy").

(2) Condition A 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.

(3) Condition B is that no person who is, or is connected with, an individual whose life is insured under the policy may, as a result of a group membership right relating to that individual, receive (directly or indirectly) any death benefit in respect of another individual whose life is so insured.

(4) In subsection (3)—

"death benefit in respect of an individual" means any sums or other benefits payable or arising under the policy on the individual's death or anything representing any such sums or benefits, and

"group membership right", in relation to an individual insured by a group life policy, 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 being one of the individuals whose lives are insured by the policy.

(5) Condition C 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.

(6) In subsection (5)—

F11 . . . .

"tax avoidance purpose" means any purpose that consists in securing a tax advantage (whether for the holder of the policy or any other person).

[F12(7) In this section "tax advantage" has the meaning given by section 840ZA of ICTA.]

Textual Amendments

F11 S. 482(6): definition of 'tax advantage' repealed (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1031, 1034, Sch. 1 para. 533(a), **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

F12 S. 482(7) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 533(b)**, (with transitional provisions and savings in Sch. 2)

483 Exclusion of credit union group life policies

(1) This Chapter does not apply to a credit union group life policy.

(2) In this section "credit union group life policy" means a group life policy with the sole object of providing, on the death or disability of any of the individuals insured under it, a sum substantially the same as any amount then outstanding under a loan made to that individual by a credit union.

(3) In this section "credit union" means a society registered as a credit union under—

(a) the Industrial and Provident Societies Act 1965 (c. 12), or

(b) the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)).

When chargeable events occur: general

484 When chargeable events occur

(1) The following are chargeable events—

(a) in the case of any kind of policy or contract—

(i) the surrender of all rights under the policy or contract,

(ii) the assignment of all those rights for money or money's worth,

(iii) the falling due of a sum payable as a result of a right under a policy or contract to participate in profits, if there are no remaining rights under it,

(iv) a chargeable event treated as occurring under section 509(1) (chargeable events in certain cases where periodic calculations show gains),

(v) a surrender or assignment treated as a chargeable event under section 514(1) (chargeable events where transaction-related calculations show gains), and

(vi) a chargeable event treated as occurring under section 525(2) (chargeable events where annual personal portfolio bond calculations show gains),

(b) in the case of a policy of life insurance, a death giving rise to benefits under it,

(c) in the case of a policy of life insurance or a capital redemption policy, its maturity,

(d) in the case of a contract for a life annuity which provides for the payment of a capital sum on death, the death, and

(e) in the case of a contract for a life annuity which provides for a capital sum to be taken as a complete alternative to the annuity payments (or any further annuity payments), taking the capital sum.

(2) Subsection (1) is subject to—

section 485 (disregard of certain events in relation to qualifying policies),

section 486 (exclusion of maturity of capital redemption policies in certain circumstances),

section 487 (disregard of certain assignments), and

section 488 (disregard of certain events following alterations of life insurance policy terms).

(3) See also section 490 (last payment under guaranteed income bonds etc. treated as total surrender).

485 Disregard of certain events in relation to qualifying policies

(1) In relation to a qualifying policy, the events that count as chargeable events are restricted as follows.

(2) Death or the maturity of the policy is only a chargeable event if—

(a) the policy has been converted into a paid-up policy before the end of whichever of the following periods ends sooner—

(i) 10 years from the making of the insurance, and

(ii) three-quarters of the term for which the policy is to run (assuming it is not ended by death or disability), or

(b) there is a company interest in the rights under the policy immediately before the event occurs.

(3) An event specified in section 484(1)(a)(i) to (iv) (surrender or assignment of all rights, final participation in profits and chargeable event where periodic calculation shows gain) is only a chargeable event if—

(a) the event occurs or the policy has been converted into a paid-up policy before the end of whichever of the periods specified in subsection (2)(a)(i) and (ii) ends sooner, or

(b) there is a company interest in the rights under the policy immediately before the event occurs.

(4) For the purposes of subsections (2)(b) and (3)(b) there is a company interest in the rights under a policy if—

(a) a company beneficially owns them,

(b) they are held on trusts created by a company, or

(c) they are held as security for a company's debt.

(5) An event specified in section 484(1)(a)(v) (part surrenders and assignments: chargeable events where transaction-related calculations show gains) is only a chargeable event if—

(a) the time as at which the calculation showing the gain is required to be made under section 498(2) is before the end of whichever of the periods specified in subsection (2)(a)(i) and (ii) ends sooner, or

(b) the policy has been converted into a paid-up policy before that time.

(6) If the policy has been varied so as to increase the premiums payable under it, subsections (2), (3) and (5) apply as if they referred instead to the following periods—

(a) 10 years from the variation taking effect, and

(b) three-quarters of the term for which the policy is to run from the variation (assuming it is not ended by death or disability).

(7) If a qualifying policy is substituted for another policy in circumstances where paragraph 25(1) or (3) of Schedule 15 to ICTA applies (replacement of a policy issued by a non-UK resident company by a policy which is not so issued), the surrender of the rights conferred by the other policy is not a chargeable event.

486 Exclusion of maturity of capital redemption policies in certain circumstances

The maturity of a capital redemption policy is not a chargeable event if the sums payable on maturity—

(a) are chargeable to income tax because they fall within—

(i) Chapter 7 (purchased life annuities),

(ii) Chapter 7 of Part 5 (annual payments not otherwise charged),

(iii) section 609 of ITEPA 2003 (annuities for the benefit of dependants),

(iv) section 610 of that Act (annuities under non-registered occupational pension schemes), or

(v) section 611 of that Act (annuities in recognition of another's services), or

(b) are chargeable to corporation tax under Schedule D.

487 Disregard of certain assignments

For the purposes of this Chapter, an assignment of rights under a policy or contract or a share in such rights is ignored if it is—

(a) by way of security for a debt,

(b) on the discharge of a debt secured by the rights or share, or

(c) between spouses **[**[F13]or civil partners**]** living together.

Textual Amendments

F13 Words in s. 487 inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), **reg. 185**

488 Disregard of some events after alterations of life insurance policy terms

(1) This section applies if—

(a) the terms of a policy of life insurance are altered,

(b) the alteration is not itself a chargeable event, and

(c) the conditions specified in section 489 are met.

(2) After the alteration a chargeable event is only treated as occurring in relation to the policy if one would have been treated as occurring had the alteration not occurred.

(3) If the alteration results in the policy being regarded as replaced by another, this section and section 489 apply as if they were a single policy.

489 Conditions applicable to alterations of life insurance policy terms

(1) Conditions A to E are the conditions referred to in section 488.

(2) Condition A is that the policy was issued in respect of an insurance made at least 20 years before the alteration.

(3) Condition B is that the alteration results from a decision by the insurance company that it will not collect further premiums due from any of the holders under a number of policies of the same description if a particular period of time has elapsed since the contracts were made.

(4) Condition C is that no premiums are payable or paid after the date of the alteration.

(5) Condition D is that the benefits to be provided under the policy after the alteration are the same or substantially the same as those before the alteration.

(6) A deduction from the benefits is ignored for the purposes of subsection (5) if it does not exceed the total net premiums which, apart from the alteration, would have been payable under the policy between—

(a) the date of the alteration, and

(b) the date on which the benefits become payable.

(7) In subsection (6) "net premiums" means the premiums reduced by any tax relief which would have been due on the premiums had they been paid.

(8) Condition E is that the premiums payable under the policy before the alteration—

(a) have not been reduced to a nominal amount on the exercise of an option, in circumstances where the reduction is connected with a right to surrender in part the rights conferred by the policy after the date of the reduction, and

(b) are not capable of being so reduced in such circumstances.

490 Last payment under guaranteed income bonds etc. treated as total surrender

(1) This section applies to a payment that would fall within section 500(d) (payments under guaranteed income bonds etc. treated as surrenders of part of the rights under the contract) apart from section 504(5) (which prevents payments comprising the whole of the last benefit to be paid under such contracts from being so treated).

(2) The payment is treated for the purposes of this Chapter as the surrender of all the rights under the contract.

(3) A payment to which this section applies is not regarded as interest or as an annual payment for any income tax purposes.

Calculating gains: general

491 Calculating gains: general rules

(1) This section deals with calculating—

(a) whether a gain has arisen on a chargeable event within section 484(1)(a)(i) to (iii) or (b) to (e) (surrender or assignment of all rights, final participation in profits, death, maturity, or taking a capital sum as a complete alternative to annuity payments), and

(b) if so, the amount of the gain.

(2) There is a gain if TB exceeds the sum of TD and PG where—

TB is the total benefit value of the policy or contract (see section 492),

TD is the total allowable deductions for the policy or contract (see section 494), and

PG is the total amount of gains treated as arising on calculation events occurring in relation to the policy or contract before the chargeable event in question.

(3) The gain is equal to the excess.

(4) In this Chapter—

"calculation event" means an excess event, a part surrender or assignment event or a personal portfolio bond event,

"excess event" means a chargeable event within section 509(1),

"part surrender or assignment event" means a chargeable event within section 514(1), and

"personal portfolio bond event" means a chargeable event within section 525(2).

(5) The reference to the policy in the definition of "PG" in subsection (2) includes any related policy.

(6) For the purposes of this Chapter, a policy ("policy A") is a related policy as respects another ("policy B") if—

(a) policy B is a new policy (as defined in paragraph 17 of Schedule 15 to ICTA (substitutions and variations)) in relation to policy A, or

(b) policy B is a new policy (as so defined) in relation to another policy ("policy C") and policy C is a new policy (as so defined) in relation to policy A,

and so on.

(7) See section 539 (relief for deficiencies) if there is no gain under subsection (2), but a gain arose on a calculation event occurring in relation to the policy or contract before the chargeable event in question.

(8) For the rules about calculating gains on calculation events, see—

section 507 (method for making periodic calculations under section 498),

section 511 (method for making transaction-related calculations under section 510), and

section 522 (method for making annual calculations under section 515).

492 The total benefit value of a policy or contract

(1) To calculate the total benefit value of a policy or contract for the purposes of section 491, add together—

(a) its value in accordance with section 493,

(b) any capital sum paid under the policy or contract before the event,

(c) the value of any other benefit of a capital nature conferred by the policy or contract before the event,

(d) the amount of any loan made before the event, the making of which is treated as the surrender of a part of the rights under the policy or contract under section 500(c) (loans by insurers to which section 501 applies),

(e) in the case of a guaranteed income bond contract, as defined in section 504(7), any amount paid before the event, the payment of which is treated as a surrender of a part of the rights under the contract under section 500(d) of this Act (payments by insurers under such contracts), and

(f) in the case of an assignment, the amount or value of any share in the rights under the policy or contract that was assigned before the event.

(2) References to the policy in subsection (1)(b) to (e) include any related policy.

(3) This section is subject to—

section 495 (disregard of certain amounts in calculating gains under section 491), and

section 497 (disregard of trivial inducement benefits).

493 The value of a policy or contract

(1) In the case of a chargeable event within section 484(1)(a) (i) or (iii), (c), (d) or (e) (surrender of all rights, final participation in profits, maturity or, in the case of a contract for a life annuity that provides for taking a capital sum on death, death or taking a capital sum as a complete alternative to annuity payments), the value of the policy or contract is the total of—

(a) any sum payable because of the event, and

(b) in the case of a policy of life insurance or a capital redemption policy, any value or amount specified in subsection (2).

(2) The value or amount is—

(a) if a right to periodical payments arises because of the event, an amount equal to the capital value of those payments at the time the right arises, and

(b) the amount or value of any other benefits arising because of the event.

(3) Subsection (1) does not apply to a surrender treated as made under section 490 (last payment under guaranteed income bond contracts etc. treated as total surrender).

(4) In that case the value of the rights treated as surrendered is treated as being equal to the amount of the payment treated as the surrender.

(5) In the case of a chargeable event within section 484(1)(a)(ii) (assignment of all rights), the value of the policy or contract is the amount or value of the consideration for the assignment.

(6) But an assignment of a policy of life insurance or a contract for a life annuity between connected persons is treated as made for a consideration equal to the market value of the policy or contract.

(7) In the case of a chargeable event within section 484(1)(b) (death), the value of the policy is its surrender value immediately before the death.

(8) This section is subject to—

section 495 (disregard of certain amounts in calculating gains under section 491), and

section 497 (disregard of trivial inducement benefits).

494 The total allowable deductions for a policy or contract

(1) To calculate the total allowable deductions for a policy or contract for the purposes of section 491—

Step 1

Add together—

(a) the total amount of premiums paid under the policy or contract before the event, and

(b) if the event occurs at the end of the final insurance year (see section 499), the amount of any repayment or partial repayment of a loan treated under section 500(c) as a surrender of a part of the rights under the policy or contract.

Step 2

In the case of a contract for a life annuity under which any annuity payments have been made, reduce the result of step 1 by so much of those payments as is—

(a) exempt under section 717 (exemption for part of purchased life annuity payments), or

(b) determined to be the capital element in those payments under section 658 of ICTA.

(2) In the case of a capital redemption policy which has been assigned for money or money's worth before the event, the reference in paragraph (a) of step 1 in subsection (1) to the total amount of premiums paid under the policy or contract before the event is a reference to the total of—

(a) the amount or value of the consideration given for the last such assignment, and

(b) the total amount of premiums paid under the policy or contract after that assignment and before the event.

(3) References to the policy in paragraphs (a) and (b) of step 1 in subsection (1) and in subsection (2) include any related policy.

(4) Subsection (1) is subject to—

section 495 (disregard of certain amounts in calculating gains under section 491), and

section 496 (modification of this section: qualifying endowment policies held as security for company debts).

495 Disregard of certain amounts in calculating gains under section 491

(1) A retained replacement policy premium is ignored in calculating—

(a) the total benefit value of a policy under section 492(1), or

(b) the total allowable deductions for a policy under section 494(1).

(2) In subsection (1) "retained replacement policy premium" means a sum which—

(a) has been payable under a policy which is one of two or more policies treated as a single policy under section 542(1) (qualifying policies and policies replacing them), and

(b) is such a sum as is mentioned in section 542(4) and meets the condition in that section.

(3) For the purposes of section 492(1)(b) and (c) (total benefit value: capital sums and benefits paid or conferred before the event in question), any sum paid or benefit conferred under a policy is ignored if it is attributable to a person's disability.

(4) For the purposes of section 492(1)(f) (total benefit value: assignments), a share assigned before the event is ignored if—

(a) it was assigned in an insurance year (see section 499) that began on or after 6th April 2001, and

(b) it was not assigned for money or money's worth.

(5) The reference to the policy in subsection (3) includes any related policy.

496 Modification of section 494: qualifying endowment policies held as security for company debts

(1) This section applies if—

(a) a chargeable event within section 484(1)(a)(i), (b) or (c) (surrender of all rights, death or maturity) occurs in relation to a qualifying endowment policy (see subsection (7)),

(b) immediately before the event occurs the rights under the policy are held as security for a debt owed by a company, and

(c) the company debt conditions are met (see subsection (4)).

(2) If—

(a) the amount of the debt exceeds the amounts referred to in paragraph (a) of step 1 in section 494(1) (the total amount of premiums paid before the event), and

(b) the company makes a claim within two years after the end of the accounting period in which the chargeable event occurs,

section 494 applies as if that paragraph referred instead to the amount of the debt.

(3) If the amount of the debt varied during the policy period, it is to be taken for the purposes of subsection (2) as the lowest amount at which it stood during that period.

(4) The company debt conditions are that—

(a) throughout the policy period, the rights conferred by the policy have been held as security for a debt owed by the company referred to in subsection (1)(b),

(b) 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,

(c) any sum payable under the policy as a result of the event is applied in repayment of the debt (except so far as it exceeds the debt), and

(d) the debt was incurred to pay money applied for the purposes of the company's trade premises.

(5) Money is applied for the purposes of a company's trade premises if it is applied—

(a) 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
(b) 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.

(6) If during the policy period the company incurs a debt by borrowing in order to repay another debt, references to a debt in subsections (3) and (4) include both debts where appropriate.

(7) In this section—

"accounting period" is to be read in accordance with section 12 of ICTA,

"the policy period" means the period beginning with the making of the insurance and ending immediately before the chargeable event, and

" qualifying endowment policy" means a policy which is a qualifying policy as a result of paragraph 2 of Schedule 15 to ICTA.

497 Disregard of trivial inducement benefits

(1) A benefit other than a payment of money is ignored for the purposes of calculating any gain under this Chapter if—
(a) it is provided by an insurance company for any person as an inducement for the person to enter into—
(i) a policy or contract to which this Chapter applies, or
(ii) a later transaction in relation to such a policy or contract, and
(b) the condition specified in subsection (2) is met.

(2) The condition is that the total cost to the insurance company of providing the benefit and any other such benefits provided by it at any time in connection with the policy or contract, or any linked policy or contract, does not exceed £30.

(3) The Treasury may by order amend the sum for the time being specified in subsection (2) so as to increase it.

(4) For the purposes of this section, a policy or contract is linked to another policy or contract if—
(a) their terms are substantially identical, and
(b) when one of them is issued or made the issue or making of the other is contemplated.

Part surrenders and assignments: periodic calculations and excess events

498 Requirement for periodic calculations in part surrender or assignment cases

(1) This section applies if—
(a) a part of, or share in, the rights under a policy or contract is surrendered, or
(b) such a part or share is assigned for money or money's worth.

(2) A calculation is to be made in accordance with section 507 in relation to the policy or contract as at the end of the insurance year in which the surrender or assignment occurs (see section 499) to determine—
(a) whether a gain has arisen on the policy or contract, and

(b) if so, the amount of the gain.

(3) For cases where surrenders and assignments of a part of the rights under a policy or contract are treated as occurring where they would not otherwise do so, see sections 500 to 506.

499 Meaning of "insurance year" and "final insurance year"

(1) In this Chapter "insurance year", in relation to a policy or contract, means the 12 months beginning with—

(a) the date on which the insurance or contract is made, or

(b) any anniversary of that date.

(2) Subsection (1) is subject to subsections (3) and (5).

(3) An event referred to in section 484(1)(a)(i) or (iii) or (b) to (e) (surrender of all rights, final participation in profits, death, maturity, or taking a capital sum as a complete alternative to annuity payments) is treated as ending the insurance year in which it occurs.

(4) In this Chapter "final insurance year" means an insurance year that is ended as a result of subsection (3).

(5) But if, as a result of subsection (3), an insurance year would begin and end in the same tax year—

(a) that insurance year and the previous insurance year are treated as one insurance year, and

(b) "final insurance year" needs to be read accordingly.

500 Events treated as part surrenders

The following events are treated for the purposes of this Chapter as a surrender of a part of the rights under the policy or contract in question—

(a) the falling due of a sum payable as a result of a right under a policy or contract to participate in profits where further rights remain under it,

(b) in the case of a contract for a life annuity which provides for a capital sum to be taken as an alternative in part to the annuity payments, taking the capital sum,

(c) the making of a loan to which section 501 applies, and

(d) the making of a payment to which section 504 applies (payments by insurers under guaranteed income bonds etc.).

501 Part surrenders: loans

(1) This section applies to a loan (and so it falls within section 500(c)) if it is made by the insurer under a policy or contract—

(a) to an individual falling within subsection (2),

(b) to trustees falling within subsection (3), or

(c) to a company falling within subsection (4).

(2) An individual falls within this subsection at any time if, were a gain to arise in respect of the policy or contract at that time, the individual would be liable for tax under this Chapter as a result of section 465 (person liable: individuals).

(3) Trustees fall within this subsection at any time if, were a gain to arise in respect of the policy or contract at that time, they would be liable for tax under this Chapter as a result of section 467 (person liable: UK resident trustees).

(4) A company falls within this subsection at any time if, were a gain to arise in respect of the policy or contract at that time, it would be treated as forming part of the company's income under section 547 of ICTA (method of charging gain to corporation tax).

(5) For the purposes of subsection (1), a loan—
  (a) is treated as made by an insurer if it is made by arrangement with it, and
  (b) is treated as made to an individual, trustees or a company if it is made at the individual's, trustees' or company's direction.

(6) In this section "insurer", in relation to a policy or contract, means the body issuing the policy or with which the contract is made.

(7) This section is subject to—
  (a) section 502 (exception for loans to buy life annuities), and
  (b) section 503 (exception for certain loans under qualifying policies).

502 Exception from section 501 for loans to buy life annuities

(1) Section 501 does not apply to a loan made under a contract for a life annuity if all the interest on the loan is eligible for tax relief.

(2) If part of the interest is eligible for tax relief, section 501 only applies to the part of the loan carrying ineligible interest.

(3) For the purposes of this section, interest is eligible for tax relief if it is eligible for relief under section 353 of ICTA (general provision for relief for interest) as a result of section 365 of ICTA (loan to buy life annuity).

503 Exception from section 501 for certain loans under qualifying policies

(1) Section 501 does not apply to a loan made by the body issuing a qualifying policy if either or both of conditions A and B are met.

(2) Condition A is that interest is payable on the loan at a commercial rate.

(3) Condition B is that the loan was made—
  (a) before 6th April 2000,
  (b) to a full-time employee of the body issuing the policy, and
  (c) to assist the employee in purchasing or improving a dwelling to be used as the employee's only or main residence.

504 Part surrenders: payments under guaranteed income bonds etc.

(1) This section applies to so much of any payment of an amount by an insurer under a guaranteed income bond contract as meets conditions A to C (and so it falls within section 500(d)).

(2) Condition A is that it is a sum which, but for subsection (6), would be treated for income tax purposes as interest or an annual payment.

(3) Condition B is that it is not a sum paid or falling to be paid because of provisions of the guaranteed income bond contract which, taken alone, would constitute a contract of insurance—

(a) within Part 1 or 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), but

(b) not within paragraph 1 or 3 of Part 2 of that Schedule (life and annuity contracts including certain linked long-term contracts).

(4) Condition C is that it does not represent late payment interest.

(5) This section does not apply if the payment comprises the whole of the last benefit to be paid under the contract (ignoring late payment interest).

(6) A sum to which this section applies is not regarded as interest or as an annual payment for any income tax purposes.

(7) In this section—

"guaranteed income bond contract" means a policy of life insurance that is a contract of insurance which—

(a) is within paragraph 1 or 3 of Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, and

(b) is neither an annuity contract nor a contract effected in the course of a company's pension business,

"late payment interest", in relation to a contract, means interest on an amount payable under the contract which is paid for a period beginning on or after the date of the occurrence as a result of which the amount is payable, and

"pension business" has the meaning given by section 431B of ICTA (or the corresponding enactment in force when the contract was effected).

505 Assignments etc. involving co-ownership

(1) For the purposes of this Chapter (except this section and section 506)—

(a) a transaction to which this section applies is taken to be one or more assignments of part only of the rights under the policy or contract in respect of which the transaction occurs, and

(b) those assignments are the ones specified in section 506.

(2) If subsection (1) applies to a transaction that is an assignment—

(a) of the whole of the rights under a policy or contract, or

(b) of a part of or a share in those rights,

any reference to the assignment in this Chapter (except this section and section 506) is to be read as a reference to the assignment or assignments that the transaction is taken to be under subsection (1).

(3) This section applies to a transaction in respect of which conditions A and B and either condition C or D or E are met.

(4) Condition A is that—

(a) immediately before the transaction the whole or part of, or a share in, the rights under the policy or contract ("the ownership interest") was in the beneficial ownership of one person or of two or more persons jointly ("the old ownership"), and

(b) as a result of the transaction the ownership interest becomes beneficially owned by one person or by two or more persons jointly or in common ("the new ownership").

(5) Condition B is that at least one person who is a member of the old ownership is also a member of the new ownership.

(6) Condition C is that there is only one member of the old ownership and there are two or more members of the new ownership.

(7) Condition D is that there are two or more members of the old ownership and at least one of them is not a member of the new ownership.

(8) Condition E is that there are two or more members of the old ownership and the share in the ownership interest of at least one of those members (see section 506(5)) exceeds that member's share in the ownership interest as a member of the new ownership (see section 506(6)).

506 Assignments occurring when there is a co-ownership transaction

(1) This section sets out the assignment or assignments that are taken to occur under section 505 when there is a transaction to which that section applies ("a co-ownership transaction").

(2) If there is only one member of the old ownership, that member is to be treated as if the co-ownership transaction had been the assignment by that member of so much of the ownership interest as exceeds that member's share in the ownership interest as a member of the new ownership.

(3) If there are two or more members of the old ownership, each such member who is not a member of the new ownership is to be treated as if the co-ownership transaction had been the assignment by that member of that member's share in the ownership interest.

(4) If there are two or more members of the old ownership, each such member whose share in the ownership interest as a member of the old ownership exceeds that member's share in the ownership interest as a member of the new ownership is to be treated as if the co-ownership transaction had been the assignment by that member of that excess.

(5) If the old ownership consists of two or more persons beneficially entitled jointly, the members of the old ownership are to be treated as if the ownership interest had been in their beneficial ownership in equal shares instead of jointly.

(6) If the new ownership consists of two or more persons beneficially entitled jointly, the members of the old ownership are to be treated as if the result of the co-ownership transaction had been that the ownership interest was in the beneficial ownership of the members of the new ownership in equal shares instead of jointly.

(7) In this section "the ownership interest", "the old ownership" and "the new ownership" are to be read as indicated in section 505(4).

507 Method for making periodic calculations under section 498

(1) This section deals with the calculation required to be made in relation to a policy or contract as at the end of an insurance year under section 498(2) (requirement for periodic calculations in part surrender and assignment cases) to determine—

(a) whether a gain has arisen, and
(b) if so, the amount of the gain.

(2) There is a gain if the net total value of rights surrendered or assigned exceeds the net total allowable payments (see subsections (4) and (5)).

(3) The gain is equal to the excess.

(4) To calculate the net total value of rights surrendered or assigned—

Step 1

Find—

(a) the value, as at the time of its surrender or assignment, of any part of or share in the rights under the policy or contract which has been surrendered at any time or assigned at any time for money or money's worth, and
(b) the value, as at the time of its assignment, of any part of or share in the rights under the policy or contract which has been assigned otherwise than for money or money's worth in an insurance year beginning on or before 5th April 2001,

in each case determining the value in accordance with section 508.

Step 2

Add together those values.

Step 3

If any previous calculation events (other than personal portfolio bond events) have occurred in relation to the policy or contract—

(a) add together each such value which has been brought into account under this subsection on those events, and
(b) subtract the result of paragraph (a) from the result of step 2.

(5) To calculate the net total allowable payments—

Step 1

Find the allowable element in each allowable payment by multiplying the amount of the payment by—

$$\frac{X}{20}$$

where X is the number of insurance years in the period beginning with the year in which the payment is made and ending with the insurance year as at the end of which the calculation under this section is required to be made or, if it is less, 20.

Step 2

Add together the allowable elements for all allowable payments.

Step 3

Add together all the allowable elements brought into account under this subsection on a previous calculation event.

Step 4

Subtract the result of step 3 from the result of step 2.

(6) In this section—

"allowable payment" means a premium, other than a retained replacement policy premium, and

"retained replacement policy premium" has the meaning given in section 495(2).

508 The value of rights partially surrendered or assigned

(1) For the purposes of sections 507, 511 and 512, where any part of or share in rights conferred by a policy or contract is surrendered, the value of the part of or share in the rights surrendered is the amount or value of the sum payable or other benefits arising because of the surrender, except where subsection (2) or (3) applies.

(2) In the case of a surrender within section 500(c) (loans by insurers to which section 501 applies), the value for those purposes is an amount equal to the loan.

(3) In the case of a surrender within section 500(d) (payments by insurers under guaranteed income bonds etc.), the value for those purposes is the amount to which section 504 applies.

(4) For the purposes of sections 507, 511 and 512, where any part of or share in rights conferred by a policy or contract is assigned, the value of the part or share as at the time of the assignment is its surrender value at that time.

(5) For the requirement to ignore certain benefits, see section 497 (disregard of trivial inducement benefits).

509 Chargeable events in certain cases where periodic calculations show gains

(1) If the calculation in section 507 shows that a gain has arisen as at the end of the insurance year, the gain is treated as arising on the occurrence of a chargeable event at the end of that year, unless condition A, B or C is met.

(2) Subsection (1) is subject to section 485(3) (which restricts the circumstances in which such events occur in relation to qualifying policies).

(3) Condition A is that during the insurance 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.

(4) Condition B is that during the insurance year there has been both—

(a) a surrender of part of or a share in the rights conferred by the policy or contract, and

(b) a later 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.

(5) Condition C is that the insurance year is the final insurance year.

(6) See section 510 (transaction-related calculations in certain part surrender and assignment cases) if one or both of conditions A and B are met.

Transaction-related calculations and part surrender or assignment events

510 Requirement for transaction-related calculations in certain part surrender and assignment cases

(1) This section applies if—
  (a) the calculation in section 507 shows that a gain has arisen as at the end of the insurance year, but
  (b) one or both of the conditions specified in section 509(3) and (4) are met (and so no chargeable event is treated as occurring at the end of the year under section 509).

(2) A calculation is to be made in accordance with section 511 in relation to each relevant transaction during the insurance year to determine—
  (a) whether the transaction resulted in a gain arising on the policy or contract, and
  (b) if so, the amount of the gain.

(3) In this section and sections 511 to 514 “relevant transaction” means—
  (a) a surrender of part of or a share in the rights under the policy or contract, or
  (b) an assignment of such a part or share for money or money's worth.

(4) If two or more relevant transactions occurred during the insurance year, a calculation in accordance with section 511 is to be made in relation to each of them successively in the order in which they occurred.

(5) A calculation falling to be made in accordance with section 511 in relation to a relevant transaction occurring in the final insurance year is to be made before any calculation under section 491 for the chargeable event that ends that year.

(6) But, in the case of a relevant transaction so occurring, subsections (2) and (4) are subject to section 513(5) (under which those subsections do not apply to some such relevant transactions).

511 Method for making transaction-related calculations under section 510

(1) This section deals with the calculation required to be made under section 510 to determine—
  (a) whether a relevant transaction which has occurred during an insurance year resulted in a gain arising on the policy or contract, and
  (b) if so, the amount of the gain.

(2) There is a gain if the transaction value for the relevant transaction (see subsection (4)) exceeds the amount of available premium left for the relevant transaction as calculated in accordance with section 512.

(3) The gain is equal to the excess.

(4) The transaction value for the relevant transaction is the value in accordance with section 508, as at the time of its surrender or assignment, of the part of or share in

the rights under the policy or contract which has been surrendered or assigned in the transaction.

(5) Subsections (2) and (4) are subject to section 513(4) (under which the transaction value is to be reduced in certain cases where the relevant transaction occurs in the final insurance year).

512 Available premium left for relevant transaction

(1) For the purposes of section 511(2), the amount of available premium left for a relevant transaction is the amount, if any, by which the available net allowable payments (see subsection (3)) exceed the available net total values for the year (see subsection (4)).

(2) But the amount of available premium left for the relevant transaction is nil if—

(a) one or more other relevant transactions have occurred in respect of the relevant contract earlier in the insurance year, and

(b) for the latest of them the calculation in section 511(2) produced a gain.

(3) To calculate the available net allowable payments—

Step 1

Calculate the net total allowable payments as at the end of the insurance year in accordance with section 507(5).

Step 2

If—

(a) one or more other relevant transactions (“the earlier transactions”) have occurred in respect of the policy or contract earlier in the insurance year, and

(b) for the latest of them the calculation in section 511(2) produced no gain,

subtract the sum of the transaction values for the earlier transactions from the result of step 1.

(4) To calculate the available net total values for the year—

Step 1

Calculate the net total value of rights surrendered or assigned, as at the end of the insurance year, in accordance with section 507(4), ignoring for the purposes of step 3 in that section any relevant transactions in that year that are treated as chargeable events under section 514.

Step 2

Subtract from the result of step 1 the value, as at the time of its surrender or assignment, of any part of or share in the rights under the policy or contract which has been surrendered in the insurance year or assigned in that year for money or money's worth, determining the value in accordance with section 508.

513 Special rules for part surrenders and assignments in final insurance year

(1) This section applies if—

(a) the calculation in section 511 falls to be made in relation to a relevant transaction occurring in the final insurance year,

(b) the total transaction value for that transaction exceeds the gains limit (see subsections (2) and (3)), and

(c) paragraph (b) has not applied to a relevant transaction occurring earlier in the final insurance year in respect of the policy or contract in question.

(2) The total transaction value is the total of—

(a) the transaction value for the transaction in question in accordance with section 511(4), and

(b) the transaction values for any relevant transactions occurring earlier in the final insurance year in respect of the policy or contract in accordance with that section.

(3) The gains limit is the amount calculated, as at the end of the final insurance year, as the amount of the gain that would have been treated as arising on the occurrence of the chargeable event that ends that year if in relation to that year—

(a) section 509(1) did not refer to condition C, and

(b) sections 510(2) and (4) and 514(1) did not apply.

(4) The transaction value for the relevant transaction used for the calculation in section 511(2) is reduced by the excess mentioned in subsection (1)(b).

(5) No calculations are required to be made under section 510(2) and (4) in relation to any subsequent relevant transaction in respect of the policy or contract.

514 Chargeable events where transaction-related calculations show gains

(1) If the calculation in section 511 shows that a relevant transaction resulted in a gain arising on the policy or contract, the relevant transaction is treated as a chargeable event.

(2) Subsection (1) is subject to section 485(5) (which restricts the circumstances in which such events occur in relation to qualifying policies).

(3) Subsection (4) applies if—

(a) a relevant transaction that is a chargeable event occurs in a different tax year from that in which the insurance year ends, and

(b) apart from subsection (4), a person would be liable to tax on the gain under this Chapter for the tax year in which the transaction occurs.

(4) The gain is charged to tax under this Chapter for the tax year in which the insurance year ends instead.

(5) If the relevant transaction occurs in the final insurance year, the chargeable event within subsection (1) is treated as occurring before the chargeable event that ends that year.

Personal portfolio bonds

515 Requirement for annual calculations in relation to personal portfolio bonds 9

(1) This section applies if a policy or contract to which this Chapter applies is a personal portfolio bond at the end of an insurance year.

(2) But this section does not apply if the insurance year is the final insurance year.

(3) A calculation is to be made in accordance with section 522 in relation to the policy or contract as at the end of the insurance year to determine—

(a) whether a gain has arisen on the policy or contract in relation to that year, and
(b) if so, the amount of the gain.

(4) The calculation is in addition to any other calculation which is required to be made under this Chapter in relation to the policy or contract.

516 Meaning of "personal portfolio bond"

(1) In this Chapter "personal portfolio bond" means a policy of life insurance, contract for a life annuity or capital redemption policy which meets conditions A and B.

This is subject to section 517.

(2) Condition A is that, under the terms of the policy or contract, some or all of the benefits are determined by reference to—

(a) fluctuations in, or in an index of, the value of property of any description, or
(b) the value of, or the income from, property of any description.

(3) For this purpose it does not matter whether or not the index or property is specified in the policy or contract.

(4) Condition B is that the terms of the policy or contract permit the selection of the index or some or all of the property by—

(a) the holder of the policy or contract,
(b) a person connected with the holder,
(c) the holder and such a connected person acting together,
(d) a person acting on behalf of the holder,
(e) a person acting on behalf of a person connected with the holder, or
(f) a person acting on behalf of the holder and such a connected person acting together.

(5) In subsection (4) "holder", in the case of a policy or contract held by two or more persons, means any of them.

517 Policies and contracts which are not personal portfolio bonds

(1) A policy or contract is not a personal portfolio bond merely because its terms permit the selection of an index as described in section 516(4) if that index—

(a) falls within one of the categories listed in section 518, and
(b) meets one of the index selection conditions (see section 519).

(2) A policy or contract is not a personal portfolio bond merely because its terms permit the selection of property as described in section 516(4) if all of the property which may be so selected—

(a) falls within one or more of the categories listed in section 520, and
(b) meets one or both of the property selection conditions (see section 521).

518 The index categories

(1) This section sets out the categories of index referred to in section 517(1).

(2) Category 1 is the retail prices index.

(3) Category 2 is any general index which—

(a) is similar to the retail prices index, and

(b) is published by the government of any foreign state or an agent of such a government.

(4) Category 3 is any published index of prices of shares listed on a recognised stock exchange.

519 The index selection conditions

(1) The index selection conditions are—

(a) the general selection condition (see subsection (2)), and

(b) the class selection condition (see subsection (3)).

(2) An index meets the general selection condition if, at the time when it may be selected, the opportunity to select the same index is available to—

(a) all policy holders of the insurance company, or

(b) persons acting on behalf of those policy holders.

(3) An index meets the class selection condition if, at the time when it may be selected, the opportunity to select the same index is available to—

(a) a particular class or classes of policy holders of the insurance company, or

(b) persons acting on behalf of the members of that class or those classes.

(4) A group of policy holders to whom the opportunity to select an index is available is a "class" for the purposes of subsection (3) if—

(a) neither membership of the class nor the opportunity are limited to connected persons,

(b) the question whether a policy holder is a member of the class, or has the opportunity, is determined solely by the insurance company, and

(c) the opportunity is clearly identified in marketing or other promotional material published by the insurance company to members of the public, or members of the public who are intending investors, as available generally to any person falling within its terms.

(5) In this section—

"holder" has the meaning given by section 516(5), and

"policy holder" includes a holder of a life annuity contract.

520 The property categories

(1) The table in subsection (2) sets out the categories of property referred to in section 517(2).

(2) This is the table—

Category	*Property*

Category 1	property which the insurance company has appropriated to an internal linked fund
Category 2	units in an authorised unit trust
Category 3	shares in an investment trust
Category 4	shares in an open-ended investment company
Category 5	cash
Category 6	a policy or contract to which this Chapter applies, other than an excluded policy or contract (see subsection (3))
Category 7	an interest in a collective investment scheme constituted by— (a) a company which is resident outside the United Kingdom (other than an open-ended investment company), (b) a unit trust scheme the trustees of which are non-UK resident, or (c) any other arrangement which takes effect by virtue of the law of a territory outside the United Kingdom, and which under that law creates rights in the nature of co-ownership (without restricting that term to its legal meaning in any part of the United Kingdom)

(3) A policy or contract is "excluded" if—

(a) the policy or contract is itself a personal portfolio bond,

(b) the value of any benefits under the policy or contract is or has at any time been capable of being determined directly or indirectly by reference to a personal portfolio bond, or

(c) a personal portfolio bond is related property in relation to the policy or contract.

(4) In this section—

"cash"—

(a) includes any sum which is deposited—

(i) in a building society account (including a share account) or similar account, or

(ii) in a bank account or similar account, but

(b) does not include cash which is acquired wholly or partly for the purpose of realising a gain from its disposal,

"collective investment scheme" has the meaning given by section 235 of FISMA 2000, and "interest", in relation to such a scheme, means the beneficial entitlement of a participant in such a scheme,

"internal linked fund" has the meaning given by—

(a) the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under FISMA 2000, or

(b) rules made by the Authority under FISMA 2000 and having effect for the time being in place of the Sourcebook,

[[F14]"investment trust" has the meaning given by section 842 of ICTA,**]**

"open-ended investment company" has the meaning given by section 236 of FISMA 2000, and

"related property" has the same meaning as in section 625 (see subsection (5)).

Textual Amendments

F14 S. 520(4): definition of 'investment trust' inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 534** (with transitional provisions and savings in Sch. 2)

521 The property selection conditions

(1) The property selection conditions are—

(a) the general selection condition (see subsection (2)), and

(b) the class selection condition (see subsection (3)).

(2) Property meets the general selection condition if, at the time when it may be selected, the opportunity to select property falling within the same category is available to—

(a) all policy holders of the insurance company, or

(b) persons acting on behalf of those policy holders.

(3) Property meets the class selection condition if, at the time when it may be selected, the opportunity to select property falling within the same category is available to—

(a) a particular class or classes of policy holders of the insurance company, or

(b) persons acting on behalf of the members of that class or those classes.

(4) A group of policy holders to whom the opportunity to select property falling within a particular category is available is a "class" for the purposes of subsection (3) if—

(a) neither membership of the class nor the opportunity are limited to connected persons,

(b) the question whether a policy holder is a member of a class, or has the opportunity, is determined solely by the insurance company, and

(c) the opportunity is clearly identified in marketing or other promotional material published by the insurance company to members of the public, or members of the public who are intending investors, as available generally to any person falling within its terms.

(5) In this section—

"holder" has the meaning given by section 516(5), and

"policy holder" includes a holder of a life annuity contract.

522 Method for making annual calculations under section 515

(1) This section deals with the calculation required to be made in relation to a policy or contract as at the end of an insurance year under section 515 to determine—

(a) whether a gain has arisen in relation to that year, and

(b) if so, the amount of the gain.

(2) There is a gain if, as at the end of the insurance year, the sum of PP and TPE exceeds TSG.

(3) In subsection (2)—

PP is the total amount of premiums paid up to the end of the insurance year,

TPE is the total amount of personal portfolio bond excesses (see section 523), and

TSG is the total amount of part surrender gains (see section 524).

(4) The gain is equal to 15% of the excess.

523 The total amount of personal portfolio bond excesses

(1) To calculate the total amount of personal portfolio bond excesses—

Step 1

Apply the calculation in section 522 in relation to the policy or contract as at the end of each previous insurance year during its existence in succession starting with the first such year.

Step 2

Determine whether in each case the calculation produces a gain and, if so, its amount.

Step 3

Add together all the amounts produced by step 2.

(2) But if there is no previous insurance year during the existence of the policy or contract, the total amount of personal portfolio bond excesses is nil.

524 The total amount of part surrender gains

(1) To calculate the total amount of part surrender gains—

Step 1

Apply the provisions of this Chapter mentioned in subsection (3) as modified by subsections (4) and (5) in relation to the policy or contract as at the end of each previous insurance year during its existence.

Step 2

Determine whether in each case those provisions produce a gain and, if so, its amount.

Step 3

Add together all of the amounts produced by step 2.

(2) But if there is no previous insurance year during the existence of the policy or contract, the total amount of part surrender gains is nil.

(3) The provisions of this Chapter which apply for the purposes of the calculation in subsection (1) are—

(a) subsections (2) to (6) of section 507 (method for making periodic calculations), and

(b) subsections (1) to (3) and (5) of section 508 (the value of rights partially surrendered).

(4) The provisions of section 507 mentioned in subsection (3) apply for the purposes of this section with the omission of all references in that section—

(a) to the assignment of any part of or share in the rights under the policy or contract, or

(b) to the value of any part of or share in the rights under the policy or contract so assigned.

(5) In the application of step 3 in subsection (4) of section 507 for the purposes of this section, the reference in that step to previous calculation events does not include a reference to an excess event consisting of the assignment of a part of or share in the rights under the policy or contract.

525 Chargeable events where annual calculations show gains

(1) This section applies if the calculation in section 522 shows that a gain has arisen in relation to an insurance year.

(2) The gain is treated as arising at the end of the insurance year on the occurrence of a chargeable event at that time.

526 Power to make regulations about personal portfolio bonds

(1) The Treasury may by regulations make provision about the administration of the charge to tax on personal portfolio bonds.

(2) The regulations may modify—

(a) any provision of this Chapter, or

(b) any provision of Chapter 2 of Part 13 of ICTA.

(3) The regulations may—

(a) make different provision for different cases, different circumstances or different periods, and

(b) make incidental, supplemental, consequential or transitional provision or savings.

(4) In this section “modify” includes amend or repeal.

Reductions from gains

527 Reduction for sums taken into account otherwise than under Chapter 9

(1) This section applies if the whole or part of any receipt or other credit item is taken into account in calculating both—

(a) the amount of a gain treated as arising under this Chapter, and

(b) an amount on which income tax is charged otherwise than under this Chapter or on which corporation tax is charged.

(2) The amount of the gain on which tax is charged under this Chapter is reduced by so much of the amount of that receipt or other credit item as is taken into account in both those calculations.

528 Reduction in amount charged: non-UK resident policy holders

(1) The gain from a foreign policy of life insurance or foreign capital redemption policy is reduced for the purposes of this Chapter if the policy holder was not UK resident throughout the policy period.

(2) The amount of the reduction is the appropriate fraction of the gain.

(3) The appropriate fraction is—

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

where—

A is the number of days on which the policy holder was not UK resident in the policy period, and

B is the number of days in that period.

(4) In this section and section 529 (exceptions from this section), "the policy period" means the period for which the policy has run before the chargeable event occurs.

(5) If the gain is from a policy of life insurance which is a new policy in relation to another policy, for the purposes of subsection (4) the new policy is taken to have run—

(a) from the issue of the other policy, or

(b) if it also was a new policy in relation to an earlier policy, from the issue of the earlier policy,

and so on.

(6) In subsection (5) "new policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA.

(7) This section is subject to section 529.

Modifications etc. (not altering text)

C1 S. 528 (as in force immediately before its substitution by Finance Act 2013 (c. 29), **Sch. 8 para. 3**, so far as that section as so in force continues to have effect after the substitution) amended (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 86(7)-(10)**

529 Exceptions to section 528

(1) Section 528 does not apply if, when the chargeable event occurs or at any time during the policy period, the policy is or was held—

(a) by a non-UK resident trustee,

(b) by non-UK resident trustees, or

(c) by a foreign institution.

(2) Section 110 of FA 1989 (residence of trustees) applies for the purposes of subsection (1)(b) despite section 110(6) of that Act (which provides that it only applies for 1989-90 and subsequent tax years).

Income tax treated as paid and reliefs

530 Income tax treated as paid etc.

(1) An individual or trustees who are liable for tax on an amount under this Chapter are treated as having paid income tax at the **[**[F15]savings rate**]** on that amount.

(2) The income tax treated as paid under subsection (1) is not repayable.

(3) The amount on which an individual is treated under subsection (1) as having paid income tax is reduced if subsection (4) applies.

(4) This subsection applies if the individual's total income is reduced by any deductions which fall to be made **[**[F16]at Step 2 or 3 of the calculation in section 23 of ITA 2007 (calculation of income tax liability)**]** from the part of the income charged to tax under this Chapter.

(5) The reduction under subsection (3) is equal to the amount of those deductions.

(6) An amount on which an individual is liable to tax under this Chapter is not charged at the starting rate.

(7) This section is subject to section 531.

Textual Amendments

F15 Words in s. 530(1) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1037, **Sch. 1 para. 535(2)** (with transitional provisions and savings in Sch. 2)

F16 Words in s. 530(4) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 535(3)**, (with transitional provisions and savings in Sch. 2)

531 Exceptions to section 530

(1) Section 530 does not apply to gains from the kinds of policies and contracts specified in subsection (3), except for the purposes of calculating relief under section 535 (top slicing relief).

(2) Subsection (1) is subject to—

section 532 (relief for policies and contracts with European Economic Area insurers), and

section 534 (regulations providing for relief in other cases where foreign tax chargeable).

(3) The policies and contracts are—

(a) a policy of life insurance issued or a contract for a life annuity made by a friendly society in the course of tax exempt life or endowment business,

(b) a foreign policy of life insurance that does not meet conditions A and B,

(c) a contract for a life annuity (other than one within paragraph (a)) which has at any time not formed part of any insurance company's or friendly society's basic life assurance and general annuity business the income and gains of which are subject to corporation tax, and

(d) a foreign capital redemption policy.

(4) In this section and section 532—

"basic life assurance and general annuity business" has the same meaning as in Chapter 1 of Part 12 of ICTA (see section 431F), and

"tax exempt life or endowment business" has the meaning given in section 466(2) of ICTA.

(5) Condition A is that the policy falls within paragraph (a) of the definition of "foreign policy of life insurance" in section 476(3) (policy issued by a non-UK resident company).

(6) Condition B is that the conditions in paragraph 24(3) of Schedule 15 to ICTA (conditions that are required to be met for certain policies issued by non-UK resident companies to be qualifying policies) are met throughout the period between—

(a) the date on which the policy was issued, and

(b) the date on which the gain arises.

532 Relief for policies and contracts with European Economic Area insurers

(1) Section 530 applies to a gain from a foreign policy of life insurance or a foreign capital redemption policy or to a gain from a contract for a life annuity (and accordingly section 531 and paragraph 109(2) of Schedule 2 do not apply) if a claim is made that conditions A to C have been met throughout the policy period.

(2) Condition A is that the company liable to make payments under the policy or contract ("the insurer") has not been UK resident.

(3) Condition B is that a comparable EEA tax charge has applied to the insurer (see section 533).

(4) Condition C is that no excluded reinsurance contract has been made in relation to the policy or contract.

(5) In this section—

"excluded reinsurance contract", in relation to a policy or contract, means any reinsurance contract—

(a) wholly or partly covering any of the insurer's obligations to pay any sum or to meet any other liability arising under the policy or contract, and

(b) relating to risk other than that the individual whose life is insured by the policy or the annuitant will die or suffer any sickness or accident,

"policy period"—

(a) in relation to a policy, means the period between—

(i) the making of the insurance or contract, and

(ii) the date on which the gain arises,

but excluding any period when the conditions in paragraph 24(3) of Schedule 15 to ICTA are met (conditions that are required to be met for certain policies issued by non-UK resident companies to be qualifying policies), and

(b) in relation to a contract for a life annuity, means the period between—

(i) the date the insurer entered into the contract, and

(ii) the date on which the gain arises,

but excluding any period when the contract fell to be regarded as forming part of a basic life assurance and general annuity business the income and gains of which were subject to corporation tax.

533 Meaning of "comparable EEA tax charge"

(1) In section 532 "comparable EEA tax charge" in relation to the company liable to make payments under the policy or contract under which the gain has arisen ("the insurer") means a charge that meets conditions A to F.

(2) Condition A is that the charge is imposed on the insurer under the laws of a territory outside the United Kingdom that is within the European Economic Area when the gain arises.

(3) Condition B is that the charge has applied to the insurer—

(a) as a body deriving its status as a company from those laws,

(b) as a company with its place of management there, or

(c) as a company falling under those laws to be regarded for any other reason as resident or domiciled there.

(4) Condition C is that the charge applies at a rate of at least 20% in relation to the amounts subject to tax in the insurer's hands, other than amounts arising or accruing in respect of investments of a description for which a special relief or exemption is generally available.

(5) Condition D is that the charge is made otherwise than by reference to the insurer's profits.

(6) Condition E is that the charge requires sums payable and other liabilities arising under policies or contracts of the same class as the policy or contract in question to be treated as falling to be met out of amounts subject to tax in the insurer's hands.

(7) Condition F is that the charge so requires them by disallowing their deduction in calculating the amount chargeable.

534 Regulations providing for relief in other cases where foreign tax chargeable

(1) This section applies if—

(a) apart from this section, as a result of section 531 or paragraph 109(2) of Schedule 2, section 530 would not apply to gains from a policy or contract (except for the purposes of section 535 (top slicing relief)), and

(b) the Board of Inland Revenue consider it appropriate to disapply section 531 and paragraph 109(2) of Schedule 2 in relation to such gains by reference to tax chargeable under the laws of a territory outside the United Kingdom in cases other than those where they are disapplied as a result of section 532.

(2) The Board of Inland Revenue may by regulations provide for section 530 to apply to those gains (and accordingly section 531 and paragraph 109(2) of Schedule 2 not to apply to them) if a claim is made that the conditions specified in the regulations are met in relation to any time.

(3) That time may be a time before the regulations are made or a later time.

535 Top slicing relief

(1) An individual is entitled to relief under this section for a tax year if—

(a) the individual's liability for the tax year, as calculated under subsection (3), exceeds

(b) the individual's relieved liability for the tax year, as calculated under—

section 536 (top slicing relieved liability: one chargeable event), or

section 537 (top slicing relieved liability: two or more chargeable events).

(2) The relief is given by a reduction in or repayment of income tax equal to the excess.

[[F17](2A) If the relief is given by a reduction in income tax, it is given effect at Step 6 of the calculation in section 23 of ITA 2007.**]**

(3) An individual's liability for a tax year for the purposes of subsection (1)(a) equals TL — **[**[F18]SRL**]** , where—

TL is the amount of the individual's total liability to income tax on income charged to tax under this Chapter for the tax year, calculated on the basis that no relief is available under this section and the highest part assumptions apply, and

[[F18]SRL**]** is the amount of income tax at the **[**[F19]savings rate**]** that the individual is treated as having paid under section 530(1) for the tax year.

(4) For the purposes of subsection (3) and sections 536 and 537, the highest part assumptions, in calculating liability to income tax on an amount, are that—

(a) the amount is the highest part of the individual's total income for the tax year, and

(b) any provision directing any other amount to be treated as the highest part is ignored.

(5) For the purposes of this section and sections 536 and 537, an individual's total income is treated as not including any amount which—

(a) is charged to tax under Chapter 4 of Part 3 (profits of property businesses: lease premiums etc.) as the profits of a UK property business, or

(b) counts as employment income under section 403 of ITEPA 2003 (payments and benefits on termination of employment etc.).

(6) For the purposes of this section and sections 536 and 537—

(a) any chargeable event under section 525(2) (chargeable events where annual personal portfolio bond calculations show gains),

(b) any gain treated as arising on the occurrence of such an event, and

(c) the amount of any liability to income tax arising on such a gain,

are ignored.

[F20(7) For the purposes of the calculations mentioned in subsection (1) any relief under Chapter 2 or 3 of Part 8 of ITA 2007 (which relate to gift aid and other gifts to charities) is ignored.]

Textual Amendments

F17 S. 535(2A) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 536(2)** (with transitional provisions and savings in Sch. 2)

F18 Words in s. 535(3) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 536(3)(a)** (with transitional provisions and savings in Sch. 2)

F19 Words in s. 535(3) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 536(3)(b)** (with transitional provisions and savings in Sch. 2)

F20 S. 535(7) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 536(4)** (with transitional provisions and savings in Sch. 2)

536 Top slicing relieved liability: one chargeable event

(1) To calculate an individual's relieved liability for the purposes of section 535(1) for a tax year for which the individual is only liable for tax on a gain from one chargeable event—

Step 1

Find the annual equivalent of the amount of that gain ("the annual equivalent") by dividing that amount by the number of complete years for which the policy or contract has run before the chargeable event ("N").

See subsections (2) to (8) for further provisions about calculating N.

Step 2

Find the relieved liability on the annual equivalent by—

(a) calculating the individual's liability (if any) to income tax on the annual equivalent, on the basis that—

(i) the gain from the chargeable event is limited to the amount of the annual equivalent, and

(ii) the highest part assumptions apply, and

(b) subtracting the amount of income tax at the [F21savings rate] on the annual equivalent which the individual is treated as having paid under section 530(1).

Step 3

Multiply the relieved liability on the annual equivalent by N.

(2) In the case of a calculation event that is not the first calculation event in relation to the policy or contract, for steps 1 and 3 in subsection (1) N is the number of complete years since the previous such event (but see subsection (6)).

(3) For the purposes of subsection (2), part surrender or assignment events are taken to occur at the end of the insurance year in which the surrender or assignment occurs.

(4) If, in a case where subsection (2) does not apply, the gain is from a policy of life insurance which is a new policy in relation to another policy, for steps 1 and 3 N is calculated from—

(a) the issue of the other policy, or

(b) if it also was a new policy in relation to an earlier policy, the issue of the earlier policy,

and so on.

(5) In subsection (4) "new policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA.

(6) Subsection (2) does not apply if the gain is from a foreign policy of life insurance or a foreign capital redemption policy.

(7) If the gain is from such a policy, for steps 1 and 3 in subsection (1) N is reduced by the number of complete years during which the policy holder was non-UK resident.

(8) If subsections (4) and (7) both apply, subsection (7) applies to N as calculated under subsection (4).

Textual Amendments

F21 Words in s. 536(1) step 2 paragraph (b) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 537** (with transitional provisions and savings in Sch. 2)

537 Top slicing relieved liability: two or more chargeable events

To calculate an individual's relieved liability for the purposes of section 535(1) for a tax year for which the individual is liable for tax on gains from two or more chargeable events—

Step 1

Calculate the total annual equivalent by adding together the annual equivalents for each of the chargeable events, found as specified in step 1 in section 536(1).

Step 2

Find the total relieved liability on the total annual equivalent by—

(a) calculating the individual's liability to income tax (if any) on the total annual equivalent, on the basis that—

(i) the total gains from the chargeable events are limited to the amount of the total annual equivalent, and

(ii) the highest part assumptions apply, and

(b) subtracting the amount of income tax at the **[**F22savings rate**]** on the total annual equivalent which the individual is treated as having paid under section 530(1).

Step 3

Multiply the total relieved liability on the total annual equivalent by the total gains charged to tax under this Chapter for the tax year in respect of all the events.

Step 4

Divide the result of step 3 by the total annual equivalent.

Textual Amendments

F22 Words in s. 537 step 2 paragraph (b) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 538** (with transitional provisions and savings in Sch. 2)

538 Recovery of tax from trustees

(1) This section applies if—

(a) immediately before a chargeable event the rights under the policy or contract, or the part of or share in them in question, were held on non-charitable trusts,

(b) an individual is liable for tax under this Chapter for the tax year on the gain from the event, and

(c) the income tax for which the individual is liable for the tax year, after any relief available in respect of the gain under section 535 (top slicing relief), exceeds that for which the individual would have been liable apart from the event.

(2) The individual is entitled to recover that excess from the trustees, subject to the restriction specified in subsection (3).

(3) The amount recovered must not exceed the total of—

(a) any sums received by the trustees because of the chargeable event, and

(b) the value of any benefits so received.

(4) If the individual's relief under section 535 for the tax year does not relate only to the gain from the event in question, for the purposes of subsection (1)(c) a proportionate part of that relief is taken to be relief in respect of that gain.

(5) An individual may require the Inland Revenue to certify an amount recoverable by the individual under this section.

(6) Such a certificate is conclusive evidence of the amount.

Deficiencies

[F23 539 Relief for deficiencies

(1) An individual is entitled to a tax reduction for a tax year in which a deficiency arises from a policy or contract on a chargeable event if—
   (a) the condition in subsection (2) is met,
   (b) the individual would (apart from this section) be liable to income tax at the higher rate or the dividend upper rate (or both) for the tax year, and
   (c) the individual makes a claim.

(2) The condition is that, if a gain had arisen instead on the chargeable event—
   (a) the individual would have been liable to income tax on the gain for the year, or
   (b) the individual would have been so liable apart from the requirement in section 465(1) that the individual must be UK resident in the tax year in which the gain arises.

(3) The tax reduction is given effect at Step 6 of the calculation in section 23 of ITA 2007.

(4) See section 540 for the cases in which a deficiency is treated as arising from a policy or contract on a chargeable event, section 541 for how the deficiency is calculated and section 469(5) for the apportionment of deficiencies in cases where two or more persons are interested in a policy or contract.

(5) The amount of the tax reduction is calculated as follows.

Step 1

Attribute to the amount of the deficiency an amount of the individual's income for the tax year which is liable at the dividend upper rate, so far as is possible.

Step 2

If there is an amount of the deficiency remaining after Step 1, attribute to the remaining amount of the deficiency an amount of the individual's savings income for the tax year which is liable at the higher rate, so far as is possible.

Step 3

If there is an amount of the deficiency remaining after Step 2, attribute to the remaining amount of the deficiency an amount of the individual's other income for the tax year which is liable at the higher rate, so far as is possible.

Step 4

Calculate the amount of the individual's preliminary income tax liability for the tax year (see subsection (6)).

Step 5

Calculate the amount of the individual's preliminary income tax liability for the tax year again, on these assumptions—

Assume that any income attributed to the deficiency at Step 1 is liable at the dividend ordinary rate.

Assume that any income attributed to the deficiency at Step 2 is liable at the savings rate.

Assume that any income attributed to the deficiency at Step 3 is liable at the basic rate.

Step 6

Deduct the amount found at Step 5 from the amount found at Step 4.

The result is the amount of the tax reduction.

(6) The individual's preliminary income tax liability is the amount found by calculating the individual's income tax liability in accordance with section 23 of ITA 2007, ignoring Steps 6 and 7 of that calculation.]

Textual Amendments

F23 S. 539 substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 539** (with transitional provisions and savings in Sch. 2)

540 When deficiencies arise: events following calculation events

(1) A deficiency is treated as arising from a policy or contract on a chargeable event ("the later event") if conditions A to C are met.

(2) Condition A is that the later event is an event within section 484(1)(a)(i) or (iii) or (b) to (e) (surrender of all rights, final participation in profits, death, maturity, or taking a capital sum as a complete alternative to annuity payments).

(3) Condition B is that a gain from the policy or contract has arisen on a calculation event other than a personal portfolio bond event, occurring in relation to the policy or contract in question before the later event.

(4) Condition C is that on the later event no gain is shown by the calculation in section 491(2) (calculation of gains for such events).

541 Calculation of deficiencies

(1) This section sets out how the amount of a deficiency treated as arising under section 540(1) on a chargeable event ("the later event") is calculated.

(2) If, when the calculation in section 491(2) is made for the later event, the total allowable deductions equal or exceed the total benefit value, the amount of the deficiency is equal to the total previous gains.

(3) If, when that calculation is made, the total benefit value exceeds the total allowable deductions, the amount of the deficiency is equal to the total previous gains, less that excess.

(4) In this section "the total previous gains" means the total amount of gains that—

(a) were treated as arising on calculation events (other than personal portfolio bond events) occurring in relation to the policy or contract in question before the later event, and

(b) formed part of the total income of the individual mentioned in section 539(1) for a tax year earlier than the tax year mentioned in that section.

[F24 Rebated or reinvested commission

Textual Amendments

F24 Ss. 541A, 541B and cross-heading inserted (19.7.2007 with effect as stated in s. 29(4) of the amending Act) by Finance Act 2007 (c. 11), **s. 29(3)**

541A Effect of rebated or reinvested commission in certain cases

(1) This section applies if—
- (a) a chargeable event within section 484(1)(a)(i) to (iii), (c) or (e) 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 in section 494 (total allowable deductions) for the chargeable event, the total amount of premiums under the policy or contract paid in the period mentioned in section 494(1) or (2)(b) 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 of premiums under the policy or contract paid 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) premiums under the policy or contract were paid 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 premiums under them paid in that relevant period exceeds the sum specified in subsection (3).

(7) In this section "relevant period" means—
- (a) the period beginning with the beginning of the tax year in which the chargeable event occurs and ending with the chargeable event, or
- (b) any of the 3 preceding tax years.

(8) 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".

541B Section 541A: further definitions

(1) This section supplements section 541A.

(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 this Chapter, or
  (b) treated by virtue of section 547(1) of ICTA 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.

(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 with a person within any of paragraphs (a) to (c).**]**

Supplementary

542 Replacement of qualifying policies

(1) A qualifying policy ("the replaced policy") and a policy of life insurance ("the replacement policy") which replaces the replaced policy are treated as a single policy for the purposes of sections 484 to 497 if conditions A to D are met.

(2) Condition A is that the replacement policy is also a qualifying policy under the rules in paragraph 17 of Schedule 15 to ICTA.

(3) Condition B is that the replacement results from a change in the life or lives insured.

(4) Condition C is that any sum becoming payable by the insurance company on or in connection with the termination of the replaced policy is retained by it and applied in the discharge of some or all of the liability for any premium becoming due under the replacement policy.

(5) Condition D is that no consideration in money or money's worth (other than the benefits for which provision is made by the replacement policy) is receivable by any person on or in connection with—

(a) the termination of the replaced policy, or

(b) the coming into existence of the replacement policy.

(6) The single policy is treated for the purposes of sections 484 to 497 as issued in respect of an insurance made at the time of the making of the insurance in respect of which the replaced policy was issued.

(7) So long as the replacement policy continues to be a qualifying policy, the single policy is also treated as a qualifying policy for those purposes.

(8) This section applies equally to a second or subsequent replacement policy.

(9) References in Schedule 2 (transitionals and savings) to—

(a) a policy of life insurance,

(b) the time of the making of the insurance in respect of which a policy of life insurance is issued, and

(c) a qualifying policy,

are to be read in accordance with this section.

543 Issue time of qualifying policy replacing foreign policy

(1) This section applies if—

(a) there has been a substitution of policies falling within paragraph 25(1) or (3) of Schedule 15 of ICTA (replacement of a policy issued by a non-UK resident company by a policy which is not so issued), and

(b) the new policy is a qualifying policy.

(2) The new policy is treated for the purposes of sections 484 to 497 as having been issued in respect of an insurance made on the day on which the insurance was made in respect of which the old policy was issued.

(3) References in Schedule 2 (transitionals and savings) to the time of the making of the insurance in respect of which a policy of life insurance is issued are to be read in accordance with this section.

544 Application of Chapter to policies and contracts in which companies 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 the corporation tax provisions.

(3) In subsection (2) "the corporation tax provisions" means—

(a) Chapter 2 of Part 13 of ICTA (which makes provision for corporation tax purposes corresponding to that made by this Chapter),

(b) paragraph 20 of Schedule 15 to that Act (replacement of qualifying policies), and

(c) section 79 of FA 1997 (payments under certain life insurance policies).

545 Minor definitions

(1) In this Chapter—

"charitable trust" means a trust established for charitable purposes only,

"contract of insurance" has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544),

"friendly society" has the meaning given in the Friendly Societies Act 1992 (c. 40) and includes a society which under section 96(2) of that Act is to be treated as a registered friendly society,

"insurance company" means an undertaking carrying on the business of effecting or carrying out contracts of insurance,

"market value" has the meaning given by sections 272 and 273 of TCGA 1992,

"non-charitable trust" means a trust other than a charitable trust, and

"policy" means a policy of life insurance or a capital redemption policy.

(2) References in this Chapter to a premium include a reference to—

(a) lump sum consideration, and

(b) property other than cash transferred to the insurance company in satisfaction of a premium.

(3) References in this Chapter to the amount of premiums paid include a reference to—

(a) the amount of lump sum consideration paid by way of premium, and

(b) the market value at the date of transfer of property other than cash transferred to the insurance company in satisfaction of any premium.

546 Table of provisions subject to special rules for older policies and contracts

(1) Column 1 of the table in subsection (4) specifies provisions of this Chapter which are subject to Part 6 or 7 of Schedule 2 (transitionals and savings), and column 2 of the table specifies the provisions of that Schedule to which they are subject.

(2) See also paragraphs 85 to 91 of that Schedule.

(3) The provisions of that Schedule referred to in subsections (1) and (2) are to be read as if they were in this Chapter.

(4) This is the table—

Provisions of Chapter 9	***Provisions of Schedule 2***
Section 467	paragraph 112 (pre-17th March 1998 policies and contracts) and paragraph 114 (pre-9th April 2003 policies and contracts)
Section 473	paragraph 96 (exclusion of pre-20th March 1968 policies and contracts) and paragraph 102 (exclusion of certain pre-26th June 1982 policies and contracts)
Section 476(3)	paragraphs 103 and 111 (certain pre-18th November 1983 and pre-17th March 1998 policies not foreign policies of life insurance) and paragraphs 104 and 113 (certain pre-23rd February 1984 and pre-23rd March 1999 policies not foreign capital redemption policies)
Section 480	paragraph 116 (pre-9th April 2003 policies)
Section 484	paragraph 99 (pre-10th December 1974 contracts for a life annuity: disregard of death)
Section 485(2) and (3)	paragraph 107 (pre-14th March 1989 qualifying policies)
Section 494(1)	paragraph 105(a) (pre-14th March 1984 policies: disregard of amounts deducted and repaid after tax relief by deduction from premiums abolished)
Section 500(c)	paragraph 97 (disapplication in relation to pre-27th March 1974 policies and contracts) and paragraph 102(9) (exclusion of certain pre-26th June 1982 policies and contracts)
Section 501	paragraph 102(9) (exclusion of certain pre-26th June 1982 policies and contracts), paragraph 108 (pre-14th March 1989 policies and contracts) and paragraph 115 (pre-9th April 2003 policies and contracts: loans to trustees)
Section 507	paragraph 100 (pre-14th March 1975 policies and contracts) and paragraph 105(b) (pre-14th March 1984 policies: disregard of amounts deducted and repaid after tax relief by deduction from premiums abolished)

Section 516	paragraph 119 (pre-17th March 1998 policies and contracts)
Section 525	paragraph 124(3) (pre-17th March 1998 policies and contracts) and paragraph 125(3) (pre-17th March 1998 policies and contracts)
Section 529	paragraph 106 (disapplication of section 529(1)(a) and (b) for certain pre-20th March 1985 policies) and paragraph 110 (disapplication of section 529(1)(c) for certain pre-17th March 1998 policies)
Section 530	paragraph 109(2) (disapplication for contracts for life annuities made in accounting periods beginning before 1st January 1992)
Section 531	paragraph 98 (pre-27th March 1974 policies and contracts: disapplication of section 531(3)(c)) and paragraph 118 (pre-1st January 2005 contracts for immediate needs annuities: income tax treated as paid)
[[F25]Section 539**]**	paragraph 109(4) (contracts made in accounting periods beginning before 1st January 1992)
Section 541(4)	paragraph 117 (pre-3rd March 2004 contract or policy: calculation of deficiencies)
Section 542	paragraph 101 (disapplication in the case of pre-25th March 1982 replacement policies)

Textual Amendments

F25 Words in table in s. 546(4) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 540** (with transitional provisions and savings in Sch. 2)

Status:
Point in time view as at 19/07/2007.

Changes to legislation:
There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 9.