



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.

VALID FROM 06/04/2005

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.

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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).

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- (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—

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- (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”).

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- (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

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(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.

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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.

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