



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XIV

MISCELLANEOUS SPECIAL PROVISIONS

CHAPTER IV

INSURANCE: BORROWING TO PAY PREMIUMS AND BORROWING AGAINST LIFE POLICIES

403 Interest on loans used for payment of premiums, etc.: disallowance as deduction for surtax

- (1) Subject to the exceptions contained in section 404 below, in computing for the purposes of surtax the total income for any year of assessment of an individual who has entered into a contract of assurance, no deduction shall be allowed in respect of any interest on any borrowed money which has been applied directly or indirectly to or towards the payment of any premium under that contract, or of any sum paid in lieu of any such premium.
- (2) Where the benefit of a contract of assurance entered into by any person has become vested in another person, being an individual, subsection (1) above shall apply in relation to that individual—
 - (a) as if the contract had been a contract entered into by him, and
 - (b) in a case where the benefit of the contract became vested in him by virtue of an assignment and any payment was made by him in consideration of the assignment, as if that payment were the payment of a premium under the contract, and
 - (c) in a case where, either as being the person in whom the said benefit is vested, or by reason of any agreement under or in pursuance of which the said benefit became vested in him, he pays any interest on any borrowed money, as if that money had been applied to the payment of a premium under 'the contract.

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- (3) The provisions of section 22 of the Taxes Management Act 1970 with regard to the delivery of particulars as to deductions claimed to be allowed shall be extended so as to enable the Board to require such particulars with respect to deductions and otherwise as they may consider necessary for the purpose of carrying this section and section 404 below into effect.
- (4) In this section and the said section 404—
- (a) " contract of assurance " means a contract of assurance or a contract similar in character to a contract of assurance, being in either case a contract under which a capital sum is expressed to be payable in the future in return for one or more antecedent payments, and " premium " means any such antecedent payment,
 - (b) " interest " includes any sum payable in respect of any borrowed money,
 - (c) any reference to borrowed money applied to or towards any payment shall be deemed to include a reference to borrowed money applied directly or indirectly to or towards the replacement of any money so applied, and
 - (d) any reference to a capital sum payable on death under a contract of assurance shall be construed as a reference to the actual capital sum assured on death, exclusive of any addition which has arisen or may arise from any bonus, share of profits, return of premiums or otherwise, and, in the case of a contract under which different capital sums are payable on death in different events, as a reference to the least of those sums.

404 Exceptions from disallowance for surtax

- (1) Subject to the provisions of this section, section 403 above shall not, where the interest is payable at a rate not exceeding 10 per cent. per annum, apply to—
- (a) interest on money borrowed mainly on the security of property other than a contract of assurance, if the premium in question either—
 - (i) is payable under a contract of assurance entered into in order to provide against the failure of a contingent interest in any property, and to serve as additional security for the loan and for no other purpose, or
 - (ii) is the first of a series of premiums payable under a contract of assurance entered into solely in order to provide for the repayment of the money borrowed and does not exceed 10 per cent. of the sum assured under that contract, or
 - (b) interest on borrowed money applied to or towards the payment of premiums under a contract of assurance which assures throughout the term of the contract a capital sum payable on death, if—
 - (i) neither the amount of the first premium under the contract, nor the amount subsequently payable by way of premiums thereunder in respect of any period of twelve months, exceeds one-eighth of the capital sum payable on death, and
 - (ii) it is shown to the satisfaction of the Board that it is exceptional for the individual in question to apply borrowed money to or towards the payment of premiums to which this paragraph applies, and that no such money has been so applied by him in any of the three years of assessment immediately preceding that in which he so applies the money on which the interest in question is payable, or

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- (c) interest on borrowed money applied to or towards the payment of premiums which—
 - (i) are not premiums such as those specified in paragraph (a), (d) or (e) of this subsection, and
 - (ii) are either premiums payable under a policy of life insurance which is a qualifying policy within the meaning of Part I of Schedule 1 to this Act or premiums each of which is one of a series of equal premiums payable at equal intervals of not more than one year,
 except so far as such interest exceeds in the year of assessment £100 in all, or
 - (d) interest on borrowed money applied to or towards the payment of any premium under a contract of assurance entered into before 15th April 1930 which assures a fixed capital sum payable either—
 - (i) on death only, or
 - (ii) on the expiry of a period of not less than ten years from the date of the commencement of the contract or on earlier death, or
 - (e) interest on money borrowed before 6th. April 1929, unless—
 - (i) the money was borrowed from an insurance company, and
 - (ii) the repayment thereof was secured on a contract of assurance, and
 - (iii) the premium in question was a premium under that contract.
- (2) In relation to—
- (a) interest on borrowed money applied to or towards the payment of premiums under any policy of life insurance falling within paragraph (a) or (b) of section 393(2) of this Act (mortgage repayments and sponsored superannuation schemes), and
 - (b) interest on money borrowed on or before 19th March 1968,
- subsection (1) above shall have effect with the omission of paragraph (b)(ii) and paragraph (c), but subsection (3) below shall apply.
- (3) Section 403 above shall not apply to interest—
- (a) which is payable at a rate not exceeding 10 per cent. per annum, and
 - (b) which is within subsection (2) (a) or (b) above, and
 - (c) which is interest on borrowed money applied to or towards the payment of premiums which—
 - (i) are not premiums such as those specified in paragraph (a), (b), (d) or (e) of subsection (1) above, and
 - (ii) are premiums each of which is one of a series of equal premiums payable at equal intervals of not more than one year,
 except so far as such interest exceeds in the year of assessment £100 in all.

405 Borrowings against life policies to be treated as income in certain cases

- (1) Where—
- (a) under any contract or arrangements made on or after 7th April 1949, provision is made for the making to any person, at intervals until the happening of an event or contingency dependent on human life, of payments by way of loan ; and
 - (b) under the contract or arrangements, the loans are secured upon a policy of life assurance which assures moneys payable on the happening of such an

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event or contingency and need not be repaid until the policy moneys become payable ; and

- (c) the amount of the moneys payable on the happening of the event or contingency is made by the policy to increase by reference to the length of a period ending on the happening thereof,

the payments by way of loan shall be treated for tax purposes as annual payments falling within Case III of Schedule D, or, if they are made to a person residing in the United Kingdom and the contract or arrangements were made outside the United Kingdom, as income from a possession out of the United Kingdom and, for income tax, as falling within section 122(1) of this Act.

- (2) The amount of the moneys payable under a policy of life assurance shall not be deemed for the purposes of this section to be made to increase by reference to the length of a period ending on the happening of an event or contingency dependent on human life by reason only that those moneys are to increase from time to time if profits are made by the persons liable under the policy.
- (3) This section shall not apply to any payments by way of loan if the Board are satisfied as respects those payments that it is not one of the objects of the contract or arrangements under which the payments are made that the recipient thereof, should enjoy the advantages which would, apart from any question of liability to tax, be enjoyed by a person in receipt of payments of the same amounts paid at the same times by way of annuity.